## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Message from Associate Dean (Research)</td>
<td>1</td>
</tr>
<tr>
<td><strong>Australian Research Council (ARC) Fellowship</strong></td>
<td>2</td>
</tr>
<tr>
<td>ARC Professorial Fellowship – Anne Orford</td>
<td>4</td>
</tr>
<tr>
<td><strong>Funded Research</strong></td>
<td>7</td>
</tr>
<tr>
<td>Grants Commencing in 2007</td>
<td>8</td>
</tr>
<tr>
<td>Selected Grants in Progress</td>
<td>10</td>
</tr>
<tr>
<td><strong>Centres and Institutes</strong></td>
<td>16</td>
</tr>
<tr>
<td>Asian Law Centre</td>
<td>18</td>
</tr>
<tr>
<td>Asia Pacific Centre for Military Law</td>
<td>22</td>
</tr>
<tr>
<td>Centre for Employment and Labour Relations Law</td>
<td>25</td>
</tr>
<tr>
<td>Centre for Comparative Constitutional Studies</td>
<td>28</td>
</tr>
<tr>
<td>Centre for Corporate Law and Securities Regulation</td>
<td>32</td>
</tr>
<tr>
<td>Centre for Media and Communications Law</td>
<td>35</td>
</tr>
<tr>
<td>Centre for Resources, Energy &amp; Environmental Law</td>
<td>39</td>
</tr>
<tr>
<td>Centre for Islamic Law and Society</td>
<td>42</td>
</tr>
<tr>
<td>Institute for International Law and the Humanities</td>
<td>45</td>
</tr>
<tr>
<td>Intellectual Property Research Institute of Australia</td>
<td>50</td>
</tr>
<tr>
<td>The Tax Group</td>
<td>52</td>
</tr>
<tr>
<td><strong>Academic Research Profiles</strong></td>
<td>56</td>
</tr>
<tr>
<td>Jennifer Beard</td>
<td>58</td>
</tr>
<tr>
<td>Beth Gaze</td>
<td>60</td>
</tr>
<tr>
<td>Matthew Harding</td>
<td>62</td>
</tr>
<tr>
<td>Stuart Kaye</td>
<td>64</td>
</tr>
<tr>
<td><strong>Published Research</strong></td>
<td>66</td>
</tr>
<tr>
<td>Journals, Magazines and Newsletters</td>
<td>78</td>
</tr>
<tr>
<td><strong>Journal Affiliations</strong></td>
<td>83</td>
</tr>
<tr>
<td><strong>Faculty Research Workshop Series</strong></td>
<td>89</td>
</tr>
<tr>
<td><strong>International Research Visitors Scheme</strong></td>
<td>94</td>
</tr>
<tr>
<td><strong>Student Research Prizes</strong></td>
<td>95</td>
</tr>
<tr>
<td><strong>Academic Staff</strong></td>
<td>96</td>
</tr>
<tr>
<td><strong>Graduate Research Student Profiles</strong></td>
<td>105</td>
</tr>
<tr>
<td>Yoriko Otomo</td>
<td>106</td>
</tr>
<tr>
<td>David Tan</td>
<td>107</td>
</tr>
<tr>
<td><strong>Graduate Research Degrees Completed in 2007</strong></td>
<td>110</td>
</tr>
<tr>
<td><strong>Graduate Research Degrees in Progress</strong></td>
<td>111</td>
</tr>
</tbody>
</table>
MESSAGE FROM THE ASSOCIATE DEAN (RESEARCH)

It is my great pleasure to present the research report for Melbourne Law School, 2007, the 150th anniversary year of Melbourne Law School. Continuing our fine historical tradition of world class research, the 2007 report demonstrates that the Law School is still making important, new contributions to legal research.

In 2007, four Australian Research Council funded projects commenced, including a professorial fellowship of Professor Anne Orford on the topic of *Cosmopolitanism and the Future of International Law*. Other exciting grant projects that commenced in 2007 include works on Chinese employment law, discrimination and religious freedom, and international operations and the Australian Federal police. The grants in progress are also outlined in the report. Thanks are due to Andrew Kenyon and Helen Rhoades who acted as faculty grant shepherds over the last year and whose support and guidance was crucial to our grant success.

The report also gives an overview of the exceptional work being carried out by our centres, institutes and research groups. These research groupings play a vital role in contributing to the intellectual life of Melbourne Law School through their research, organisation conferences and seminars, hosting international visitors, and provision of support for research students.

Four members of academic staff and two PhD students are featured in the research report this year. They provide a window into the breadth and depth of the research culture in the Law School and a wide variety of research interests that are pursued here.

Melbourne Law School produced approximately 150 publications over the course of 2007. This included 14 authored books and 12 edited books, as well as chapters and articles published in some of the world’s leading journals.

The research report also records the outstanding achievements of our students, including the winners of the prizes for student published work. We are particularly delighted to record the achievements of the 13 graduate research degree students who completed doctorates or masters of law by theses in the past year.

I would like to recognize the work of Associate Professor Christine Parker and Professor Gerry Simpson in their role as coordinators of the graduate research program.

Finally I would like to acknowledge the significant contribution of my predecessor, Professor Andrew Robertson, who was Associate Dean (Research) from 2005 until the middle of 2007 and oversaw many important developments in both research and research training. Particular thanks should also be given to the members of the research office: Mr Matt Randall (Manager), Ms Lucy O’Brien, Ms Mas Generis, Ms Sophie Garrett, and Ms Angela Hendley-Boys, who has taken primary responsibility for the production of this report.

Carolyn Evans
Associate Dean (Research)
Australian Research Council (ARC) Fellowships
Project Description and Aims

Institutional and political developments since the end of the Cold War have led to a revival of interest in the work of Immanuel Kant. This has intensified with the attacks on the United States of September 11, 2001, and the use of force against the territory and people of Afghanistan and Iraq carried out in response. Many scholars in law and the humanities have embraced a cosmopolitan vision of the future of international law in answer to the sense of crisis that these events have precipitated. They envisage a world organization capable of representing universal humanity and of operating as the agent of a unified and coherent system of international law. In UN reports, as in much international legal scholarship, the invocation of new threats, challenges and changes leads us beyond any already existing institutions. Even before the recent sense of crisis engendered by the eruption of the war on terror, cosmopolitan internationalists argued that international institutions are not strong enough to cope with the challenges facing them and must be remade to meet the needs of our ‘shared future, based upon our common humanity in all its diversity’ (UN Millennium Declaration 2000). Much recent support for a cosmopolitan revision of international law and institutions has explicitly turned to Kant as a source of guidance for the design of a new architecture to enable global organizations to represent the needs of a common humanity.

The adoption or advocacy of cosmopolitanism as a way of understanding the world, and as a programme for designing new institutions to reflect this understanding of the world as a cosmopolitan order, has been met with two major modes of critique. The first mode is to point to the dangers inherent in adopting a Kantian programme in our time. This critical tradition points to the close dependence of the Kantian vision of a universal history on the lessons generated by an 18th century European anthropology deeply complicit with the imperial project, and expresses concern at the messianic tendency of cosmopolitanism to overlook the damage done in the march of progress towards a better future for humanity. This line of critique questions the obsession with institutional renewal which Kantianism appears to create, and locates the Kantian project within a liberal capitalist tradition which foregrounds procedural norms of the rule of law and democracy while failing to notice the relations of domination or exploitation that are enabled in (or by) the process.
A second mode of critique has to date received little attention in the field of international law. This approach involves a close (and somewhat hesitant) embrace of the speculative aspects of Kant’s writings, and an appreciation of Kant as a theorist who was attuned to the questions that arise at the limit of the subject or the state under modern, secularizing conditions. This return to Kant treats him not as the generator of a pre-packaged programme of reform, but rather as an early theorist of the modern politics we now call globalization. In this tradition, Kant is of interest as a thinker who offers the capacity to resist ideological closure — the gift of the future.

The project will integrate and build upon this scholarship in the fields of international law, jurisprudence, history and social and political theory in order to:

1. engage in a historical investigation of those institutional and conceptual conditions of the Kantian vision which are relevant to international law;
2. analyse a series of institutional and doctrinal developments which have been either treated as manifestations of the Kantian project, or critiqued as failing to live up to the cosmopolitan promise — humanitarian intervention, economic globalization and refugee protection; and
3. explore the implications of the above analysis of the theory and practice of cosmopolitanism for the future of international law and institutions.

Part 1

Part 1 of the project, *The possibility of cosmopolitanism*, is designed to draw upon the two strands of critical engagement with Kant outlined above, in order to explore the conceptual and institutional conditions of possibility for cosmopolitanism. The goal of this first part of the project is to reflect upon how cosmopolitan law has arrived outside Europe and North America, and the ways in which a cosmopolitan vision has historically been sustained through relations with Europe’s (former) colonies. That initial component of the project is well under way. Professor Orford has begun to develop a methodology for framing questions about the meaning of cosmopolitanism historically. She has related the version of cosmopolitanism that appears in the work of Immanuel Kant to developments in European thought about the state and international relations from the sixteenth century onwards. She has also related Kant’s writing on law and politics to developments in European colonialism and Christianity, and the implications this had for European intellectuals of his generation.

Part 2

Part 2 of the project, *Practising cosmopolitanism*, looks to the implications of the contemporary return to cosmopolitanism. This component of the project will address three developments in international law and relations which have either been supported as manifestations of the Kantian project, or critiqued as failing to live up to the cosmopolitan promise: (1) humanitarian intervention; (2) the engagement of international law with economic globalization; and (3) shifts in the regime for the protection of refugees. This part aims to explore the tensions between these practices, the ways in which cosmopolitanism is used to account for these practices and the means by which cosmopolitan practice seeks to change international law and institutions. Professor Orford has begun work on the first of these developments — the emergence in law and politics of the related concepts of humanitarian intervention and of a ‘responsibility to protect’.

Part 3

Part 3 of the project, *The future of international law*, is designed to reverse the movement of much cosmopolitan literature — from a commitment to the ideal of humanity, through an interrogation of modern state politics, to a preoccupation with international institutional design. Instead, it will start with institutions as a question — what is at stake when those who seek to transcend state sovereignty are so regularly tempted to reproduce the image of a sovereign guarantor of law on the international plane? What is lost when the Kantian project is transformed into a programme rather than a provocation to thought? Inspired by Kant’s relentlessly critical approach to thinking about the paradoxes involved in the progress of secularism and modernity, this final aspect of the project will explore the ways in which cosmopolitanism creates a future for international law.

Outcomes to Date

1. International workshops at the University of Lund (2007) and the University of Helsinki (2009)

In September 2007, Professor Orford co-convened an international workshop at the University of Lund, Sweden, on the theme of *International Law and Wars of Religion*. The workshop was co-convened with two leading European international lawyers, Professor Martti Koskenniemi of the Erik Castrén Institute of International Law and Human Rights at the University of Helsinki, and Professor Gregor Noll at the University of Lund. The workshop explored the history of cosmopolitan international law as a modernizing and secularizing project. This interdisciplinary workshop brought together scholars from the US (Harvard, Cornell, Utah), Europe (Copenhagen, European University Institute, Helsinki, Lund), the

ARC Professorial Fellowship

Middle East (American University in Cairo) and Australia (Melbourne, Griffith). The workshop also allowed doctoral students from the three host universities to present their work and engage with leading scholars in the field, thus contributing to research training. A second workshop will be co-hosted by Professors Orford and Koskenniemi, planned for December 2009. This workshop will relate to the second and third case studies planned for this project (on perpetual peace through prosperity, and the free movement of peoples). It will be held at the Erik Castrén Institute of International Law and Human Rights, University of Helsinki.

2. Presentations

Professor Orford gave the following presentations related to this project during 2007:

- **Cosmopolitanism as the Future of International Law**, seminar presented by invitation at the University of Paris 1 (Panthéon-Sorbonne), 15 December 2007
- **The Responsibility to Protect and the Politicization of International Law**, seminar presented by invitation to the Oxford Public International Law Discussion Group, University of Oxford, 29 November 2007
- **The Cosmopolitan Turn in International Law**, roundtable seminar presented by invitation at the Research Institute of Law, Politics and Justice, Keele University, 27 November 2007
- **The Responsibility to Protect and the Politicization of International Law**, public lecture presented by invitation at the Faculty of Law, University of Uppsala, 8 November 2007
- **Legality, Legitimacy and the Responsibility to Protect**, guest lecture presented by invitation at the Faculty of Law, University of Stockholm, 3 October 2007
- **From Metaphysics to Politics? The Responsibility to Protect as a Theory of the State**, paper presented at an International Workshop on ‘International Law and Wars of Religion’, Faculty of Law, University of Lund, 19–21 September 2007

Professor Orford also took part in an International Expert Meeting on International Humanitarian Law and Gender, hosted by the Swedish Ministry for Foreign Affairs, the Swedish National Defence College and the Asia Pacific Center for Military Law, in Stockholm, October 2007. Participants at the meeting included senior legal advisers to NATO and to the militaries of the US, Sweden, Fiji, Sri Lanka and Ireland, legal advisers to the International Red Cross, representatives of the African Union mission to Darfur, and senior foreign office legal advisers from the Netherlands and Sweden. Professor Orford presented aspects of her work on the responsibility to protect.

3. Project-Related Publications


Funded Research
Grants Commencing in 2007

**Australian Research Council (ARC) Discovery Project Grants**

Sean Cooney, Sarah Biddulph and Yin Zhu (Department of Management, University of Melbourne) (2007–2009)

‘Enforcement of Chinese Employment Law: Regulatory Innovation and Wage Arrears’

Funding $140,000

Australia’s security and economic well being is closely bound up with China. It is in Australia’s interest that China develops a sound legal system as the foundation of a prosperous, humane and stable society. The pervasive failure to pay Chinese workers their correct wages tests the capacity and credibility of Chinese law. An assessment of the legal system’s response to the wage problem will provide specific insights on securing compliance with the employment law in China, benefiting Australian foreign policy makers, traders, investors and overseas development organisations. It will facilitate collaborative work between China and Australia on strengthening the regulatory capacity of Chinese institutions.

Carolyn Evans and Beth Gaze (2007–2009)

‘Non-Discrimination Laws and Religious Freedom: Current Conflicts and Future Directions’

Funding $162,000

Achieving the right balance between adequately protecting religious freedom while staying true to principles of non-discrimination is far from easy. This project will advance understanding and analysis of religious freedom and equal treatment in Australia, in principle, in law and empirically. In the context of community tensions along ethno-religious lines, it will benefit Australia to have the issues at stake described and clarified. The project will identify the relevant interests at stake and develop policy recommendations for their protection. The aim is to contribute to inter-religious (and inter-cultural) harmony, as an element of safeguarding Australia.

**Australian Research Council (ARC) Linkage Project Grants**

Bruce Oswald, Tim McCormack, Stuart Kaye and Helen Durham (2007–2010)

‘International Operations and the Australian Federal Police: Devising a Legal Framework’

ARC funding of $189,024, Partner funding of $271,110

Total funding: $460,134

Partner Organisation: Australian Federal Police

As a major player in the maintenance of regional peace and security, Australia is increasingly using Australian Federal Police (AFP) in a range of international operations. The extent of deployments and the expectations both governments and communities place on these operations is unprecedented. This project, in collaboration with the AFP, will draw upon recent experiences to provide a clear legal framework, advancing the capacity for AFP deployments to maintain their high commitment to the rule of law. The project is of international significance and will consolidate Australia’s reputation as innovative and influential in the planning, management and conduct of police in international operations.
Grants Commencing in 2007

**Faculty Small Grants Scheme**

**Michael Bryan** and **Matthew Harding**
‘Responding to Fraud in Land Registration Systems: A Comparative Study’

**Linda Haller**
‘Lawyer Discipline in New South Wales: A Statistical Analysis’

**Cally Jordan**
‘A New Regulatory Paradigm for International Capital Markets’

**Christine Parker**
‘Exploratory Study of Incorporation and Listing of Larger Law Firms in Australia, and their Ethical Implications’

**Jacqueline Peel** and **Lee Godden**
‘Developing a Governance and Regulation Framework for Addressing Issues of Climate Change’

**Melbourne Early Career Researcher Grant Scheme**

**Caron Beaton-Wells**
‘The Heavy Electrical Equipment Antitrust Cases of 1999–2000’

**Joo-Cheong Tham**
‘Parliamentary Protection of Human Rights in an Age of Counter-Terrorism’
Selected Grants in Progress

Chief Investigators: Andrew Christie and Kimberlee Weatherall (University of Queensland)

Researchers: Chris Dent and Fiona Rotstein

“... and by opposing, end them: A Comparative Examination of Opposition Processes in Patent Law”

ARC Discovery Project (2006–2008)

Project Description

The patent system is designed to encourage innovation. By giving inventors exclusive rights to exploit their invention, governments hope to provide incentives for research and development, and commercialisation of the outcomes of research. Recently, however, a controversy has arisen over whether the patent system is really achieving these aims. Increasingly people are aware that not only patent law, but also the system for granting patents, is crucial to the effectiveness of patents in promoting innovation. Two issues lie at the heart of this controversy. First, many observers are concerned that there are too many invalid patents being granted. Second, there is growing concern that patents and patent law are being used by firms in a predatory way – that is, in ways which hinder innovation and which, in particular, harm smaller firms.

One part of the patent system brings these issues together: opposition. In Australia, after the Patent Office (IP Australia) has examined and accepted an application for a patent, but before the patent is finally granted, other people may oppose the grant. If this happens, there will be a hearing in IP Australia, where the opposing party brings evidence and argues why the invention is not patentable. This project is the first to study this important part of the Australian patent system and will contribute a legally-focused, comparative and qualitative approach to an area which, to date, has been the almost exclusive preserve of economists.

Three methods are being used in this project:

1. Traditional documentary legal analysis: this method involves the collation and analysis of patent legislation, case law and procedure that informs opposition practices in Australia, the US and before the European Patent Office (EPO).

2. Quantitative analysis: based on the creation of a database that includes information from all Patent Office and court decisions relating to the opposition procedure from 1985 to 2005 in Australia. A range of variables is being collected, including information about the patent involved; the parties and counsel involved; and the decision.

3. Qualitative techniques: involving the interviewing of legal professionals who work in the area of patent law (lawyers and patent attorneys). The purpose of the interviews is to gain an understanding of the operation of the law in practice (in Australia, the US and before the EPO) and of the strategies and tactics employed by lawyers and their clients to protect or advance their intellectual property interests.

Current Findings

So far, the work on the project has focused on the background matters and the collection of the empirical data. A more detailed picture of the differences, in practice, between the procedures in the different jurisdictions has been revealed. Further, over 50, semi-structured, interviews have been conducted in Australia, Germany, the UK and the US – providing fascinating insights into the strategies employed by patenting firms and their competitors.
Selected Grants in Progress

Project Outputs
To date, the outputs of the project have focused on articles in refereed journals. There has been one published: C. Dent, ‘Patent Oppositions and the Constitution: Before or After?’ (2006) 17 Australian Intellectual Property Journal 217; and another accepted for publication: F. Rotstein and C. Dent, ‘Third Party Challenges in Europe, the United States and Australia: A Comparative Analysis’ (forthcoming, International Review of Intellectual Property and Competition Law). Three other articles have been submitted for publication in national and international journals. In addition, preliminary results from the interviews carried out in the UK were included in an oral submission to the Advisory Council on Intellectual Property’s review of Post-Grant Patent Enforcement Strategies.

Remaining Aspects
The balance of the project is to focus on the completion of the empirical data collection and its analysis. Another 20 interviews are to be carried out in Germany and another 25 are to be conducted in Australia. The latter interviews are aimed at gaining practitioner perspectives on issues raised in the overseas interviews. The work on the database will also be completed. This work will result in a number of refereed journal articles and a report to be circulated to the Patent Offices, and practitioners, that have provided support for this project.
Selected Grants in Progress

Chief Investigators: Andrew Kenyon and Andrew Christie
Research Fellow: Robin Wright and PhD Student: Emily Hudson

‘Cultural Collections, Creators and Copyright: Museums, Galleries, Libraries and Archives and Australia’s Digital Heritage’

ARC Linkage Project (2006–2009)

Project Description and Objectives

Digital communications technologies offer new ways for museums, galleries, libraries and archives to promote public access to their collections. However, they also offer substantial challenges to collecting institutions. Disseminating digital works can infringe copyright, and in seeking to use digital technologies, collecting institutions have responsibilities to creators as well as to the public. The project spans these concerns by focusing on current and emerging ways of publicly using digital collections and managing copyright and creators’ interests. It involves empirical research across Australian collecting institutions, creators and arts organisations about current and anticipated possibilities for using digital material, as well as empirical research with cultural institutions in the US and Canada.

The project aims to produce recommendations about changes to cultural sector practices under current law and possible law reform. This will support institutions’ efforts to digitise collections and the undoubted public interest in facilitating digital access while managing the use of copyright material. The project also aims to deepen the understanding of cultural sector practices within copyright law and policy. The central position of collecting institutions within the digital environment of creators and users makes them an excellent site to investigate wider copyright issues about digital rights and exceptions.

As well as the Australian Research Council, ten cultural organisations are collaborating in the project: Arts Law Centre of Australia, Australian Centre for the Moving Image, Australian Film Commission, Museum Victoria, Museums Australia, National Gallery of Victoria, National Library of Australia, National Museum of Australia, Powerhouse Museum, and the State Library of Victoria.

Andrew Kenyon and Andrew Christie are the Chief Investigators and Robin Wright is a full-time researcher on the project. The project also includes an APAI, with Emily Hudson being the PhD candidate. She is conducting empirical research into copyright and cultural institutions in the US and Canada.

Progress

The project has been divided into 5 stages. Stages One and Two have been completed or are in progress; the remaining stages will be conducted during 2008 and 2009.

Stage One identified and analysed relevant legal material, building on earlier research about converting analogue collections into digital form and drawing on legislation, case law, law reform reports and academic writing about disseminating digital material. The project’s examination of different models of copyright exceptions, as well as statutory and voluntary licences, was placed within the context of comparable international approaches. An article has been published from this stage:


Stage Two is developing insights from this analysis about uses of digital material and the interests that are likely to be central for collecting institutions, creators and other copyright actors. Existing copyright debates suggest that central concerns vary between institutions and creators. To capture the scope of divergent concerns, Stage Two includes focus groups with creators and informants from collecting institutions conducted in Sydney, Canberra and Melbourne. Focus groups with collecting institutions have explored: what digital material they would like to use, in what ways, now and in the future; how such uses would relate to their missions and funding; and how different approaches to law and sector practices would affect those uses. Focus groups with creators have investigated: their attitudes to the institutions; what uses they think are appropriate on paid or unpaid bases; their views about different approaches to managing copyright negotiation and payment (eg on the basis of individual or multiple works, by themselves or collecting societies); and what uses of material they would like to be consulted about in any event (which would develop understanding of creators’ moral rights concerns).
Future Work

Future stages may include a survey of creators to investigate the prevalence of views about key copyright issues, and will outline central policy issues about digital collections as revealed through the earlier research. From this analysis, copyright models for different types of material and uses will be developed. The aim is to produce a report about viable models for dealing with digital collections, which explains the key decisions on which proposed models are based and how they relate to the interests of collecting institutions, creators and other copyright actors. The analysis will consider Australian and relevant international approaches, and take account of the key findings from the APAI’s Canadian and US empirical research.
Selected Grants in Progress

Chief Investigators: Andrew Kenyon, Tim Lindsey, Tim Marjoribanks (Sociology Program – University of Melbourne) and Amanda Whiting

Research Fellow: Naomita Royan

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

ARC Discovery Project (2006–2009)

Project Description and Objectives

Defamation law in Indonesia, Malaysia and Singapore is commonly understood to chill media speech and restrain public discussion. However, in the context of political, economic and social transitions media content is diversifying and journalists and civil society groups are challenging defamation law’s chilling effect. This project combines legal research, media content analysis, and qualitative interviews to analyse how defamation risks are negotiated in print, broadcast and internet journalism practices in each of the three countries, and how local, Australian and international journalists and civil society organisations are mobilising a range of strategies to broaden media content and promote public debate.

The project is the first comparative, empirical examination of issues surrounding the chilling effect of defamation law in the ASEAN region. It combines legal and media studies research, media content analysis, and qualitative interviews by drawing on the research team’s expertise in: media law; media studies and sociology; the legal systems of Indonesia, Malaysia and Singapore; and the team’s strong links to mainstream and independent journalists within the region.

The project is developing detailed legal analyses of defamation in Indonesia, Malaysia and Singapore, taking into account each country’s media environment and wider framework of media laws. In 2008, these are being combined with comparative content analyses of print, broadcast and internet-based media to investigate the coverage of public issues by the media. In addition, the research team plans to undertake interviews with domestic, regional and international journalists, lawyers and civil society actors in each of the countries.

Project Outcomes

Publications and Conference Papers


‘Employee Share Ownership Plans: Current Practice and Regulatory Reform’
ARC Discovery Project (2006–2008)

Project Description and Objective
This project is a joint initiative of the Centre for Corporate Law and Securities Regulation, the Centre for Employment and Labour Relations Law and The Tax Group. The chief researchers on this project are Professor Ramsay, Professor Richard Mitchell and Associate Professor Ann O’Connell.

Employee share ownership plans (ESOPs) are important to the development of an economic culture of enterprise and innovation and the building of national wealth and savings in response to long-term demands of intergenerational equity. ESOPs require development through appropriate regulatory frameworks.

This project will subject the existing regime of tax, corporate and labour law to technical and empirical scrutiny. It will produce the first comprehensive analysis of how currently legal regulation structures and constrains the use of ESOPs in Australian enterprises. It will examine the current incidence and forms of ESOPs in Australia, the diversity of objectives that such schemes serve, the extent to which current corporate, tax and labour law inhibit ESOPs, and the case for reform of the regulatory framework. This will enhance the capacity of policy makers to evaluate and identify appropriate regulatory techniques to ensure the growth of efficiency of ESOPs at the national and enterprise level.

Project Outputs
Key outputs of the Employee Share Ownership Project to date include:

• Production of a comprehensive legal analysis of the legal framework governing ESOPs in Australia, in corporate, taxation and labour law. Research findings were initially published on the project website as four research reports. Associate Professor Ann O’Connell’s work on the taxation of employee share ownership has since been presented at the Australasian Tax Teachers Association Conference in 2007 and will be published in a forthcoming edition of the Journal of the Australasian Tax Teachers’ Association. An edited compilation of the four research reports has been accepted for publication in the UCLA Pacific Basin Law Review.

• A survey examining current objectives and practice in relation to broad-based employee share plans has been administered to over 1500 companies listed on the Australian Securities Exchange (ASX). The survey also elicited views as to the adequacy of the current regulatory regime in corporations and tax law. This survey was administered by telephone, internet and post in October and November 2007, with the assistance of 8 research assistants. The survey achieved a response rate of around 23%.

• Research has been undertaken on why employees participate in employee share ownership plans. This question has received relatively little attention in the academic literature, yet has important implications for understanding the outcomes of employee share ownership and for public policy. To examine this issue, semi-structured interviews have been conducted with HR managers and trade union representatives within a number of large publicly-listed companies with ESOPs. Drawing upon the data collected in these interviews, a conceptual framework on why employees participate or decline to participate in employee share plans has been constructed. The researchers plan to test this framework through administering a survey to employee shareholders and non-shareholders within several different companies.

• Comparative research has commenced on the regulatory frameworks for employee share ownership in a number of overseas jurisdictions.

The employee survey will be administered in 2008. Activities on the project in 2008 will also include hosting a number of workshops – involving key stakeholder groups, practitioners, regulators and academics – to present research findings; identify key regulatory obstacles in different sectors of the economy; and discuss proposals for reform.
Centres and Institutes
Asian Law Centre

The Asian Law Centre, an initiative of Melbourne Law School, commenced activities in 1985. It is the first Australian centre established to teach and undertake research on the legal systems within Asia. It is now the largest centre for the study of Asian legal systems in the world.

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

Objectives

The Centre’s objectives focus on Asian legal systems and comparative law:

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

Research Projects

Centre members are engaged in research on a diverse range of topics relating to Asian legal studies. Members of the ALC worked on the following research projects in 2007:

- SSHRC Grant, Canada: ‘Cross Cultural Dispute Resolution’ (2003–2007) (Biddulph, S, University of British Columbia, partner institution)

Publications

The following books were published by Centre members in 2007:


Australian Journal of Asian Law

The Asian Law Centre jointly publishes the Australian Journal of Asian Law (AJAL) with colleagues from the University of Washington at Seattle and the Australian National University. A peer-refereed scholarly journal, the AJAL is now a leading forum for debate for scholars and professionals concerned with the laws and legal cultures of Asia.

Asian Law Online

http://alc.law.unimelb.edu.au/bibliography

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

Comparative Law Seminar Series
In this series, internationally recognised scholars of comparative law and/or socio-legal theory, present on its application to Asia. Recent seminars include:

- ‘In Search of the Grundnorm: Coups and Constitution-Making in Thailand’, Professor Andrew Harding, Faculty of Law, University of Victoria, BC, Canada (12 September 2007)

Occasional Seminar Series
In this series, distinguished scholars and leading practitioners present on current Asian legal issues. Recent seminars include:

- ‘A Scenario of Chinese Crime: Towards a Thieving or Violent Society?’, Dr Borge Bakken, Department of Sociology, The University of Hong Kong (5 July 2007)
- ‘Violence in Southern Thailand: causes, Agents and Trajectory’, Mr John Funston, Executive Director, National Thai Studies Centre, Faculty of Asian Studies, Australian National University (with Centre for Islamic Law and Society) (8 October 2007)

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

- ‘The Recent Reform of Vietnamese Company Law and Corporate Governance Issues’, Mr Bui Xuan Hai, PhD candidate, School of Law, La Trobe University (22 March 2007)
- ‘Perda Syariat’: Its Implementation and Implication in South Sulawesi, Indonesia’, Mr Andi Amiruddin, PhD Candidate, Asia Institute, The University of Melbourne (with Centre for Islamic Law and Society) (18 April 2007)
- ‘Islamic Commercial Law Reform in Afghanistan: A First-Hand Account’, Mr Andrew White, PhD Candidate and Senior Fellow, Faculty of Law, The University of Melbourne (with Centre for Islamic Law and Society) (2 May 2007)
- ‘Cultural Diversity in the South of Thailand: Language, Policy and Reconciliation’, Thai Muslim Visitors (with Centre for Islamic Law and Society) (8 May 2007)
- ‘Citizen Lawyer: Lawyers, Civil Society and the Rule of Law in Singapore’, Ms Jothie Rajah, PhD Candidate, Faculty of Law, The University of Melbourne (15 May 2007)
- ‘Substantive Equality and Legal Pluralism in Indonesia: A Case Study of Joint Ministerial Decrees on the Construction of Worship Places’, Dr Nadirsyah Hosen, Lecturer, Faculty of Law, University of Wollongong (with Centre for Islamic Law and Society) (16 May 2007)
- ‘What Happens When A Comparativist Starts Listening to Stories?’, Mr Jeremy Kingsley, PhD Candidate, Faculty of Law, The University of Melbourne (with Centre for Islamic Law and Society) (11 July 2007)
- ‘Financial Sector Development in East Asia and the Role of Law’, Professor Douglas Arner, Associate Professor, Faculty of Law, University of Hong Kong (23 August 2007)
- ‘Responses of Local Women’s NGOs to Shari’a Implementation in Post-Conflict Aceh’, Ms Dina Afrianty, PhD Candidate, Asia Institute, The University of Melbourne (with Centre for Islamic Law and Society) (5 September 2007)
- ‘Water Pollution in China: Can Law Turn the Tide?’, Ms Rebecca Nelson, Lawyer, Blake Dawson Waldron (with Asialink) (22 October 2007)
- ‘The Chief Justice Saga and the Place of Judicial Activism in Pakistan’, Assistant Professor Sadaf Aziz, School of Social Sciences and Humanities, Lahore University (with Centre for Islamic Law and Society) (28 November 2007)
Asian Legal Dialogues
These seminars on Asian issues are conducted in Asian languages. Recent seminars include:
• ‘A Japanese Judge in Australia’ (In Japanese), Judge Eriko Kawajiri, Tokyo District Court, Japan (7 February 2007)
• ‘Justice for Munir?’ (In Bahasa Indonesia), Suciwati and Usman Chamid (28 February 2007)

Major Events
In 2007, the Centre hosted the following major events:
• Chuo Law School Melbourne Summer School (5–17 February 2007)
• Roundtable Discussion: ‘Corruption in Indonesia’ with Associate Professor Ross McLeod, Senior Fellow, Indonesia Project, Division of Economics, Research School of Pacific and Asian Studies, Australian National University (14 June 2007)
• ALC Symposium: ‘Legal Education in Asia: Professor Malcolm Smith, in Memoriam’ (9 July 2007)
• ALC/CAPI Conference: ‘New Courts in the Asia-Pacific Region’ (with Centre for Asia-Pacific Initiatives) (13–15 July 2007)

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

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

Supreme Court of Korea Overseas Research and Study Program
Each year since 2006, the Asian Law Centre has hosted a Judge from Korea as part of the Overseas Research and Study Program of the Supreme Court of Korea. The Program enables Judges from Korea to experience life in a jurisdiction outside Korea for a 6–12 month period and provides them with a valuable opportunity to study Australian law courses, access University resources and undertake research and training activities, including visits to Victorian courts and meetings with court personnel.

Chuo Law School Melbourne Summer School
Each year since 2005, the Asian Law Centre has hosted the Chuo Law School Melbourne Summer School. The Summer School continues the relationship with Chuo Law School that was developed – and originally taught – by the late Professor Malcolm Smith when he joined Chuo Law School as Professor of Law, in 2004.

The Chuo Law School students enjoy interacting with Melbourne Law School students who participate in the Summer subject ‘Issues in Japanese Law’. They have recently been accompanied to Melbourne by Chuo Law School academics, Professor Satoru Osanai, Professor Dan Rosen and Professor Hisaei Ito.
In 2007, the Centre hosted the following (selected) visitors:

- Judge Eriko Kawajiri, Judge, Tokyo District Court, Japan (12 June 2006–19 June 2007)
- Judge Sang Moo Lee, Judge, Pohang District Court, Republic of Korea, Korea (1 August 2006–31 May 2007)
- Judge Sang Ryeol Shin, Judge, Supreme Court of Korea, Korea (20 February–20 August 2007)
- Ms Shuan Chen Chou, Council of Labour Affairs, Taiwan, Taiwan (20 March–18 June 2007)
- Associate Professor Ross McLeod, Senior Fellow, Indonesia Project, Division of Economics, Research School of Pacific and Asian Studies, Australian National University, Australia (22 May–14 June 2007)
- Ms Jin Chun, School of Law, Kyoto University, Japan (23 June–31 August 2007)
- Miss Jin Sheng, PhD Candidate, Faculty of Law, University of Hong Kong, Hong Kong (1 June–30 September 2007)
- Judge Takamoto Hagiwara, Judge, Tokyo District Court, Japan (13 June 2007–11 June 2008)
- Professor Shoichi Tagashira, Graduate School of Law, Sophia University, Japan (4 August 2007–31 July 2008)
- Judge Cheol Min Jung, Judge, Supreme Court of Korea, Korea (21 August 2007–20 February 2008)
- Professor Andrew Harding, Professor of Asia-Pacific Legal Relations, Centre for Asia-Pacific Initiatives, University of Victoria, Canada (11–14 September 2007)
- Hanoi Law University Study Tour Delegation, Hanoi Law University, Vietnam (10–14 September 2007)

Staff
The Director is Professor Tim Lindsey (Indonesia, Islam). The Centre’s Associate Directors are Associate Professor Pip Nicholson (Vietnam; Director, Comparative Legal Studies Program), Dr Sarah Biddulph (China), Associate Professor Sean Cooney, Mr Andrew Godwin (Asian Commercial Law), Ms Stacey Steele (Japan), Dr Amanda Whiting (Malaysia). Manager of the Centre is Ms Kathryn Taylor and Ms Kelly McDermott is the Administrative Assistant.
The Asia Pacific Centre for Military Law (APCML) was established in 2001 as a collaborative initiative of Defence Legal in the Australian Department of Defence and the Melbourne University Law School, to facilitate cooperation amongst military forces of the Asia Pacific Region in the research, training and implementation of the laws governing military operations.

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

Its activities include:

- preparing and delivering training programs;
- organising conferences, workshops, seminars and lectures;
- promoting academic research;
- developing relevant relationships within the Asia Pacific Region;
- developing contacts and mutual exchanges with other academic/military centres and with leading subject matter experts; and
- providing support for deployments, particularly for peace operations.

The Director of the Centre is Professor Tim McCormack, Foundation Australian Red Cross Professor of International Humanitarian Law. In 2007 the Deputy Director was CAPT Dale Stephens CSM RAN. Bruce Oswald CSC (January to June), Professor Stuart Kaye (July to December) and LTCOL Paul Muggleton served as Associate Directors of the Centre. Other Melbourne Law School staff associated with the Centre are Dr David Blumenthal, Dr Helen Durham, Ms Alison Duxbury, Dr Andrew Mitchell, Mr John Tobin and Dr Tania Voon. Dr Bob Mathews is a Principal Research Fellow in the Centre. The Rt Hon Malcolm Fraser AC CH, Professorial Fellow of the University of Melbourne, is attached to this Centre.

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

Major Events in 2007

Civilian Policing in Peace Keeping Operations Workshop
7–9 May 2007

The APCML and the International Committee of the Red Cross (ICRC) held a joint workshop on ‘Law Enforcement in Peace Keeping Operations (PKO): Training Needs for Civilian Policing’ at the Melbourne Law School on 7–9 May. The aim of the seminar was to provide a means of consolidating the experiences of police forces from the Pacific and Asia gained in the framework of PKO in many civilian policing missions around the world.

Biosafety & Biosecurity Workshop
28 May 2007

The APCML hosted a visit coordinated by the Counter-Terrorism Branch of the International Security Division of the Department of Foreign Affairs & Trade (DFAT) on 28 May. Twelve regional scientists and technical experts from Indonesia, Malaysia, Thailand and The Philippines attended a presentation by APCML Director Professor Tim McCormack and APCML Principal Research Fellow Dr Bob Mathews on the obligations on States Parties to the Biological Weapons Convention and the importance of more effective national implementation to counter the regional threat of bio-terrorism.

International Humanitarian Law Expert Meeting – Stockholm
4–5 October 2007

An International Expert Meeting on International Humanitarian Law and Gender was held in Stockholm on 4–5 October. Co-hosted by the Swedish Ministry for Foreign Affairs, the Swedish Defence College, the Folke Bernadotte Academy and the APCML, the event brought together experts and senior military representatives from across the world to discuss issues relating to IHL and gender, including workshops on means of warfare, methods of warfare and detainees. Dr Helen Durham, APCML Senior Research Fellow, was a key-note speaker.
Malcolm Fraser Inaugural Professorial Lecture
25 October 2007
The Rt Hon Malcolm Fraser AC CH, Professorial Fellow of the University of Melbourne, attached to the APCML, gave his Inaugural Professorial Lecture on 25 October at the Melbourne Law School. In the remarks prefacing his lecture ‘Finding Security in Terrorism’s Shadow: the Importance of the Rule of Law’, Professor Fraser stated that he regarded it as both an honour and a privilege to be associated with the APCML.

Visitors in 2007
International Criminal Court (ICC) Prosecutor
Dr Luis Moreno-Ocampo
10 August 2007
The APCML was invited by the Department of Foreign Affairs and Trade to host a visit to Melbourne by ICC Prosecutor Dr Luis Moreno-Ocampo. The Prosecutor gave a public lunchtime seminar entitled ‘The New System of International Criminal Justice and the International Criminal Court’ at the Melbourne Law School on 10 August.

Dr Nils Melzer, Legal Adviser, International Committee of the Red Cross (ICRC)
22 August 2007
Dr Melzer gave a lunchtime seminar entitled ‘Civilians on the Battlefield: Victims or Participants?’ during his visit on 22 August. Since 2004, Dr Melzer has been responsible within the ICRC’s Legal Division for an expert process aimed at clarifying international humanitarian law relating to the issue of civilian participation in hostilities.

Professor Michael Schmitt, former APCML Sir Ninian Stephen Visiting Scholar
19–20 November 2007
Professor Schmitt, Charles H Stockton Professor of International Law at the Naval War College, Newport, Rhode Island made a brief return visit to the APCML. He gave a lunchtime seminar entitled ‘Direct Participation in Hostilities’ on 19 November in which he discussed the increasingly challenging issue of defining the circumstances in which civilians forfeit their non-combatant immunity by taking a direct part in hostilities.

Publications in 2007
Protecting the Internally Displaced in Armed Conflict: Do International Models of Intervention for Humanitarian Purposes Assist?
Elizabeth Cossor (APCML Monograph series)
A detailed examination of the international protection mechanisms currently available to the specific context of internally displaced persons (IDPs) in armed conflict, an issue that affects some 50 countries across the international community

Major Research Projects in 2007
International Humanitarian Law Series — Martinus Nijhoff Publishers
Martinus Nijhoff Publishers, based in Leiden, are the publishers of the International Humanitarian Law Series — the world’s first series of authored and edited volumes in the English language dedicated to the international legal regulation of armed conflict. The series seeks to explore the substantive issues of International Humanitarian Law. APCML Director Tim McCormack is editor-in-chief of the series with Professor Christopher Greenwood QC, Professor of Public International Law at the London School of Economics and Political Science. There are now twenty volumes in the series, of which the following six were published in 2007:

Vol 20 David Blumenthal and Tim McCormack (eds), The Legacy of Nuremberg: Civilising Influence or Institutionalised Vengeance?
Vol 19 Jose Doria, Hans-Peter Gasser and M. Cherif Bassiouni (eds), The Legal Regime of the International Criminal Court
Vol 18 Héctor Olásolo, Unlawful Attacks in Combat Situations
Vol 17 Frits Kalshoven, Reflections on the Law of War: Collected Essays
Vol 16 Ola Engdahl, Protection of Personnel in Peace Operations: The Role of the ‘Safety Convention’ against the Background of General International Law
Vol 15 Michael Schmitt and Jelena Pejic (eds), International Law and Armed Conflict: Exploring the Faultlines. Essays in Honour of Yoram Dinstein
Asia Pacific Centre for Military Law

ARC Grant: Australia’s War Crimes Trials Law Reports Series
The APCML has been awarded a 3-year grant by the Australian Research Council (ARC) to produce a series of Law Reports for Australia’s Post World War II War Crimes Trials, which were held 1945–1951 in eight locations in the Asia Pacific region. Professor Tim McCormack and Dr Helen Durham (APCML) will be working with Dr Gideon Boas (Monash University). The Partner organisations for the project are Defence Legal (partner investigator CAPT Dale Stephens) and the Australian War Memorial (partner investigator Dr Steven Bullard, Senior Historian). The project will start early in 2008.

International Humanitarian Law in Air & Missile Warfare Manual
The APCML, in conjunction with the Harvard Program on Humanitarian Policy and Conflict Research (HPCR), conducted the first International Humanitarian Law in Air and Missile Warfare Manual Regional Workshop in Sydney on 15–16 November. The Workshop was part of an international collaborative effort by the HPCR to produce a Manual on International Humanitarian Law Applicable to Air and Missile Warfare. Such a Manual has the potential to decisively influence global thinking on the conduct of aerial warfare and significantly shape operational policy in this area, and the Asia Pacific Region was selected to commence this review process, with further regional workshops planned for Africa and South America over the next year.

Contact the APCML
The Centre’s website can be accessed at: http://www.apcml.org
The Centre for Employment and Labour Relations Law was established in the Faculty of Law in 1994. Its broad aims are to consolidate the teaching of, and research into, labour law at the University of Melbourne, to contribute to the development of labour law teaching and research throughout Australia, and to engage with labour law scholars throughout the world. Centre Members are responsible for teaching labour law subjects in the undergraduate and graduate programmes in the Faculty of Law, with the graduate programme leading to both a Masters Degree and/or a Graduate Diploma specialising in labour law. The Centre’s work is guided by an Advisory Board, whose members represent the legal profession, academia and key stakeholders in Australian labour relations law. The Centre is fortunate to receive financial support from a number of law firms in Melbourne that act as its sponsors.

Centre Members
Mr Colin Fenwick (Director), Ms Anna Chapman, Dr Sean Cooney, Ms Jessica Cotton, Associate Professor Beth Gaze, Dr John Howe, Ms Ingrid Landau, Ms Shelley Marshall, Ms Charlotte Morgans, Mr Glenn Patmore and Dr Joo-Cheong Tham.

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

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

- Orly Lobel, Associate Professor of Law at the University of San Diego on ‘Legal Loyalties: Reconciling Employee Loyalty, Organisational Misconduct and Whistleblower Protection’ (18 December)
- Professor Sy Moskowitz, Professor of Law at Valparaiso Law School, Indiana USA on ‘Child Labour in the Contemporary United States: Statutory and Enforcement Problems’ (6 December)
- Dr Graeme Orr, Associate Professor at the University of Queensland Law School on ‘Mandatory Secret Ballots before Industrial Action: Practical Hurdle or Symbol of Strike Action as a Last Resort’ (29 November)
- Dr Anthony Forsyth, Senior Lecturer in the Department of Business Law and Taxation, Monash University; and Director of the Corporate Law and Accountability Research Group on ‘Freedom to Fire: Economic Dismissals under Work Choices’ (31 October)
- Ms Julia Gillard, Federal Member for Labor, the Deputy Labor Leader and the Shadow Minister for Employment & Industrial Relations and Social Inclusion, ‘A Fair and Balanced Industrial Relations Policy for Australia’ (24 September)
- Carolyn Sutherland, Lecturer in the Department of Business Law and Taxation at Monash University and a consultant at Moores Legal on ‘All Stitched Up? The 2007 Amendments to the Safety Net’ (31 August)
- Charles Woolfson, Professor of Labour Studies in the School of Law at the University of Glasgow on ‘Post-communism and the Regulation of Industrial relations in an Enlarged European Union’ (3 August)
- Dr Joellen Riley, Associate Professor in the Law Faculty at the University of New South Wales on ‘Developments in Employment Contract Law’ (6 July)
- Mark Wooden, Professorial Fellow and Acting Director of the Melbourne Institute on ‘Long Working Weeks in Australia: The Empirical Evidence’ (22 June)
Sponsors’ Seminar Series

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

- **Federal Magistrate John O’Sullivan**, on ‘Practicing Labour Law in the Federal Magistrates’ Court’ (6 September)
- **Mr Michael McDonald**, SC, Victorian Bar on ‘Damages for Breach of Employment Contracts: An Analysis of Recent Developments’ (17 May)
- **Mr Nicholas Wilson and Mr Alfred Bongi**, Office of Workplace Services on ‘Protecting Workplace Rights after Work Choices: The Role of the Office of Workplace Services’ (8 February)

Labour Law Policy Dialogue

Labour Law Policy Dialogue III
(12 September)

*Workchoices: Reform or Retrogression in Labour Relations? A View from the Other Side of the World* with Professor Richard Freeman, Harvard University

Professor Freeman examined the potential impact of Australia’s labour relations law on employee voice, work well-being and economic efficiency, with comparison to recent and proposed changes in United States and United Kingdom labour laws.

Labour Law Policy Dialogue II
(20 February)

*Challenging the Norms of Workplace Law*

This roundtable was designed to foster engagement between scholars, community, political and trade union groups and business, with a view to devising alternatives to Work Choices.

The roundtable explored several themes identified at the Centre’s first labour law reform roundtable held in June 2006: forms of engagement, security of engagement and work/life conflict.

Partnerships at Work Round Table Discussions and Seminar
(Thursday May 31 and Monday June 4)

Partnerships at Work is a research project, funded by the ARC, examining the interaction between several key factors in the creation and sustainability of ‘partnerships at work’. As a component of this research, the Centre for Employment and Labour Relations Law, in conjunction with the Centre for Corporate Law and Securities Regulation hosted a Round Table Discussion and a Seminar.

The Round Table Discussion considered the topic ‘Should Institutional Investors Use their Considerable Market Power to Influence the Human Resources Practices of Companies?’

The discussions were introduced by Michael O’Sullivan, President of the Australian Council of Superannuation Investors. Professor Ian Ramsay and Shelley Marshall presented 13 detailed case studies, with opinions and reactions invited from participants.
Speaking on the topic ‘Employee Participation in a Unionised Environment: What do Workers Want?’, Christina Cregan, Associate Professor in Industrial Relations at the University of Melbourne, presented findings of a study which investigated the willingness of workers in a unionised environment to be involved in employee participation in the form of a company’s joint consultation committee.

The Future of Discrimination Law in Australia (16–17 November)
Hosted by the Centre for Employment and Labour Relations Law with support from the Academy of Social Sciences in Australia and the ARC, this workshop provided an opportunity for discussion of discrimination and law in Australia, drawing on the expertise and perspectives of a range of researchers, practitioners and administrators working in the field, with a view to developing a better understanding of discrimination law in Australia and its future.

Fair Trade, Corporate Accountability and Beyond: Experiments in ‘Globalising Justice’ (19–20 December)
Hosted by the Centre for Employment and Labour Relations Law with the support of the Fair Trade Association of Australia and New Zealand, and the Centre for Governance of Knowledge and Development at the Australian National University, this two day workshop was a forum which enabled local and regional stakeholders and their international counterparts to come together in pursuit of three specific goals:

• to learn lessons from international experience in developing and implementing supply chain governance initiatives, with the aim of more clearly understanding what works and why in different contexts;
• to examine how the development of such initiatives is currently playing out within Australia/New Zealand and the Asia Pacific Region, and explore the opportunities and challenges particular to this local and regional context; and
• to lay the foundation for more effective and sustainable networks of collaboration and learning among companies, practitioners, activists and academics in Australasia and the Asia Pacific, as a means of promoting the expansion and strengthening of supply chain governance systems in this region.

Academic Visitors
Dr Anthony Forsyth, Senior Lecturer, Department of Business Law and Taxation, Monash University
Associate Professor Bill Hodge, Faculty of Law, University of Auckland, New Zealand
Associate Professor Orly Lobel, School of Law, University of San Diego
Professor Sy Moskowitz, Valparaiso University School of Law
Dr Bronwyn Naylor, Senior Lecturer, Faculty of Law, Monash University
Associate Professor Graeme Orr, TC Beirne School of Law, The University of Queensland
Professor Joellen Riley, Faculty of Law, University of New South Wales
Carolyn Sutherland, Lecturer, Department of Business Law and Taxation, Monash University

Working Papers
Tess Hardy
*Protection of Employees in a Transmission of Business: What is left in the Wake of WorkChoices and Subsequent Statutory Amendments*  
November 2007

Sally Weller
*Power and Scale: The Shifting Geography of Industrial Relations Law in Australia*  
June 2007

Contact CELRL
The Centre’s website can be accessed at: http://celrl.law.unimelb.edu.au/.  
The Centre can be contacted by email at: law-celrl@unimelb.edu.au.
Centre for Comparative Constitutional Studies

The Centre for Comparative Constitutional Studies (CCCS) is one of the Law School's eleven specialist research centres, and is a focal point for research, scholarship, teaching and information about Australian constitutional law and the constitutional law of other countries whose systems are most relevant to Australia.

The objectives of the Centre for Comparative Constitutional Studies are:

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

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

Key Research Activities

In 2007 Centre members were actively engaged in research work on key topics in Australian and comparative public law.

- Professor Cheryl Saunders resumed the directorship of the Centre in July 2007. During the first part of the year, she was extensively engaged in preparation for the VII World Congress of Constitutional Law, in her capacity as President of the International Association of Constitutional Law. In April she visited China as the guest of the China Law Society to deliver a series of lectures in universities and to professional groups on the themes of the Congress: Rethinking the Boundaries of Constitutional Law. Publications during the year included an analysis of the reasoning of the High Court in the Workchoices decision (with other colleagues in the Law School); an edited collection of essays in honour of Sir Ninian Stephen (with Tim McCormack); several articles and chapters on the use of foreign law by courts; and an introduction to the I.Con symposium on the work of Louis Favoreu. At the end of 2007, projects in train include a re-examination of the methodology of constitutional interpretation in federal systems, generally and with particular reference to Australia; a book on the Australian Constitution for the Hart series on Constitutions of the World; and an edited collection of essays on Global Values (with Dennis Davis and Alan Richter), also to be published by Hart. In March, Cheryl's academic achievements were recognised by her appointment to the position of Laureate Professor. This is one of the University's highest honours, awarded to its most distinguished academic staff.

- Associate Professor Simon Evans, former Centre Director (January 2006–July 2007), became Faculty Deputy Dean on 1 July 2007. In May he visited China and Hong Kong as a Universitas 21 Fellow. He gave lectures on “Attitudes to Proportionality in Constitutional Review” and “Recent Developments in Australian Constitutionalism” at the Law Institute of the Chinese Academy of Social Sciences and Peking University and People’s (Renmin) University.
Deputy Director Associate Professor Carolyn Evans visited the United Kingdom in April to give an invited lecture at the University of Cambridge on extreme speech. She also travelled to Hong Kong to talk on human rights and terrorism and to Vietnam to talk on religious freedom and public education. Carolyn also delivered papers in Athens, London, Oxford, Bristol and Liverpool on topics concerned with her two ARC research projects: Parliaments and Protection of Human Rights, and Religious Freedom and Discrimination.

Professor Adrienne Stone continued her research on freedom of expression, publishing an edited collection (with Dr Katharine Gelber) entitled *Free Speech and Hate Speech in Australia* and delivering a paper on *Freedom of Speech and Sedition at Law and Liberty in an Age of Terror* a major conference held at the University of New South Wales in July. She was awarded an ARC Discovery Grant to continue her work on Freedom of Expression for the period 2008–2012. Her research on judicial review produced an article entitled *Judicial Review without Rights* to appear in the Oxford Journal of Legal Studies in 2008. She also delivered a paper on the life of jurist and legal theorist Julius Stone at a Conference honouring his 100th Birthday at the University of Sydney and (with Simon Evans) delivered a paper on ‘Proportionality and Balancing in Constitutional Law’ at the IACL World Congress in Athens.

Dr Joo-Cheong Tham’s public law research included work on an Early Career Researcher grant aimed at examining the impact of a statutory bill of rights on Australian counter-terrorism laws. Under the auspices of a British Academy Visiting Fellowship based at King’s College, University of London, he is furthering this research by undertaking a comparative study of the enactment of control orders in Australia and the United Kingdom. In July, he gave an invited lecture at the Victoria University of Wellington on Australian political finance. Some of this lecture will be incorporated into a book on Australian political finance that will be published in 2009 by UNSW Press.

Professor Cheryl Saunders, Associate Professor Simon Evans, Associate Professor Carolyn Evans and Professor Adrienne Stone participated in the *World Congress of Constitutional Law* Conference held in Athens, Greece 11–15 June 2007. This event marked the end of Cheryl Saunders’ highly successful Presidency of the International Association of Constitutional Law which furthered the Centre’s connections with the global community in comparative constitutional scholarship.

**Legislatures and Human Rights**

Since 2004 a major ARC funded Centre research project, to be completed in 2008, has investigated how Australian parliaments protect human rights. The principal investigators are Associate Professor Simon Evans and Associate Professor Carolyn Evans.

Simon and Carolyn have spoken on topics related to this project throughout Australia and in many other parts of the world. They have published articles and chapters on aspects of the project in Australia, the United Kingdom and Europe. They also ran a major conference on Human Rights Acts which is discussed later in this report. The project is now finishing up with the publication of a book on Australian Bills of Rights (Lexis Nexis 2008).

**Conference**

The 2007 *Protecting Human Rights Conference*, co-hosted by the CCCS, was a very successful and well attended event. Over 170 people from government and legal fields including former Prime Minister the Rt Hon Malcolm Fraser, Shadow Attorney General, Senator Joe Ludwig, West Australian Attorney General, the Hon Jim McGinty and Mr Julian Burnside QC, listened to leading Australian and international speakers' analyses of Australian Human Rights Acts and the operation and future potential of the Charter and other Australian Human Rights Acts.

Public Lectures

10 September 2007 – Dean’s Public Lecture: ‘Salvaging the Constitution for Europe’, Professor Ingolf Pernice, Humboldt University, Berlin

Seminars and Roundtables

20 March 2007 – ‘The Rule of Law in Blair’s Britain,’ Professor Adam Tomkins, Professor of Public Law, the University of Glasgow, Scotland


24 May 2007 – ‘The German Federalism Reform (Part II – A New Distribution of Legislative Powers?),’ Dr Dirk Hanschel, University of Manheim, Germany

7 June 2007 – ‘Approaches to Interpretation of the Federal Provisions of the German Constitution,’ Dr Dirk Hanschel, University of Manheim, Germany

10 July 2007 – ‘Judicial Activism and Democratic Dialogue in Canada,’ Professor Kent Roach, University of Toronto Faculty of Law, Canada

7 August 2007 – ‘The Human Rights Act in the United Kingdom,’ Mr Rabinder Singh QC and Dr Angela Ward, the London Bar, the United Kingdom


18 September 2007 – ‘The Concept of Public Law,’ Professor Elisabeth Zoller, Universite Pantheon-Assas (Paris II), France


9 October 2007 – ‘An Analysis of the Office of Attorney General in Australia and Directions for the Future,’ Fiona Hanlon, PhD Candidate, CCCS, Melbourne Law School. Fiona has since been awarded the degree.

15 November 2007 – ‘The Mason Papers’, a selection of Sir Anthony Mason’s articles and speeches chosen and edited by Professor Geoffrey Lindell in consultation with Sir Anthony, launched by Professor Cheryl Saunders, Director CCCS.

20 November 2007 – ‘Bills of Rights and Decolonization: The Emergence of Domestic Human Rights Instruments in Britain’s Overseas Territories,’ by Dr Charles Parkinson and launched by Justice Hayne

Visitors to the Centre

Dr Amos Jones, Fulbright Postgraduate Award holder, Harvard Law School, 1 September 2006–31 May 2007

Dr Dirk Hanschel, Senior Research Assistant and the Chair of German and Comparative Public Law

International Law and European Law

Professor Kent Roach, University of Toronto Faculty of Law, Canada, 9–10 July 2007

Professor Christina Murray, The University of Cape Town, South Africa, 18 July–24 July 2007

Professor Elisabeth Zoller, Director of the Centre for American Law, Université Panthéon-Assas (Paris II), France, 19 September–25 September 2007

Professor Sandra Liebenberg, Harry Oppenheimer Chair in Human Rights Law, Department of Public Law, Stellenbosch University, South Africa, 24 September–30 September 2007
Publications

Centre members have published numerous books, articles and chapters on constitutional law during 2007. Some highlights include:

*International Refugee Law and Socio-Economic Rights: Refuge from Deprivation*, by Dr Michelle Foster. This is the first book to consider the cutting edge issue of refugee claims based on the deprivation of socio-economic rights and will be essential reading for refugee advocates, policy makers and refugee decision-makers.

*Work Choices: The High Court Challenge* published by Thomsons includes a comprehensive analysis of the constitutional and workplace implications of the decision by experts from the University of Melbourne’s Law School including CCCS Director Professor Cheryl Saunders, and members Associate Professor Simon Evans and Megan Donaldson. The other authors are CELRL Director Colin Fenwick and Joo-Cheong Tham.

*Hate Speech and Freedom of Speech in Australia* edited by CCCS member Professor Adrienne Stone and Katharine Gelber. This book examines questions and developments arising out of the decision by parliaments throughout Australia to pass anti-vilification laws.

Management

Director: Professor Cheryl Saunders AO
Deputy Director: Associate Professor Carolyn Evans
Administrator: Dr Madeline Grey

Contact the CCCS

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

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

The activities of the Centre include teaching (members of the Centre teach or coordinate the teaching of 39 specialist subjects), maintaining a strong research program, conducting conferences and seminars and publishing a monograph series.

The Director of the Centre is Professor Ian Ramsay.

Publications
In 2007, the following books and research reports were published by Centre members:

Books
• Hanrahan, P, Funds Management in Australia: Officers’ Duties and Liabilities, LexisNexis Butterworths (2007)

Research Reports
• Fenwick, C and Sheehan, K, Seven: The Corporations Act, Corporate Governance, and Termination Payments to Senior Employees, Centre for Corporate Law and Securities Regulation and Centre for Employment and Labour Relations Law (2007)


Members of the Centre for Corporate Law also published a significant number of journal articles in 2007.

**Seminars and Conferences**

A significant part of the Centre’s activities is the holding of seminars/conferences on important issues. In 2007 the Centre held the following seminars/conferences:

- **Financial Sector Development in East Asia and the Role of Law** *(23 August 2007)*
  
  Speaker: Associate Professor Douglas Arner Director, Asian Institute of International Financial Law (AIIFL), Faculty of Law, University of Hong Kong This seminar was co-hosted with the Asian Law Centre

- **The Takeovers Panel – Consequences of the Alinta Litigation** *(19 July 2007 Melbourne, 21 August 2007 Sydney)*
  
  Speakers: George Durbridge, Special Advisor, Freehills (Melbourne and Sydney); Norman O’Bryan QC, Commercial and Company Law Barrister, Victorian Bar (Melbourne and Sydney); Professor Cheryl Saunders, Director, Centre for Comparative Constitutional Studies, University of Melbourne (Sydney and Melbourne)

- **ASIC v Citigroup – The Decision and its Implications** *(17 July 2007 Melbourne, 18 July 2007 Sydney)*
  
  Speakers: Associate Professor Pamela Hanrahan, Deputy Director, Centre for Corporate Law and Securities Regulation, University of Melbourne (Sydney and Melbourne); Michael Schoenberg, Partner, Allens Arthur Robinson (Melbourne); John Warde, Partner, Allens Arthur Robinson (Sydney)

- **ASIC v Citigroup – The Issues and Their Significance** *(5 June 2007 Sydney, 7 June 2007 Melbourne)*
  
  Speakers: Associate Professor Pamela Hanrahan, Deputy Director, Centre for Corporate Law and Securities Regulation, University of Melbourne (Sydney and Melbourne); Michael Schoenberg, Partner, Allens Arthur Robinson (Melbourne); John Warde, Partner, Allens Arthur Robinson (Sydney)

- **Employee Participation in a Unionised Environment: What Do Workers Want?** *(4 June 2007)*
  
  Speaker: Associate Professor Christina Cregan, Associate Professor in Industrial Relations, Department of Management and Marketing, the University of Melbourne This seminar was co-hosted with the Centre for Employment and Labour Relations Law

- **Should Institutional Investors Use Their Considerable Market Power to Influence the Human Resource Practices of Companies?** *(31 May 2007)*
  
  Speakers: Professor Ian Ramsay, Harold Ford Professor of Commercial Law, Director of the Centre for Corporate Law and Securities Regulation, the University of Melbourne; Shelley Marshall, Research Fellow, Corporate Governance and Workplace Partnerships Project, the University of Melbourne

- **Public Enforcement of Securities Laws** *(29 May 2007)*
  
  Speaker: Professor Howell Jackson, Professor of Law, Harvard Law School, United States
No Seat at the Table – How Corporate Governance and Law Keep Women Out of America’s Boardrooms  
(7 May 2007) 
Speaker: Professor Douglas Branson, University of Pittsburgh 

Contesting Accountability and Legitimacy in Non-State Regulatory Regimes  
(4 April 2007) 
Speaker: Professor Julia Black, London School of Economics and Political Science 
This seminar was co-hosted with the Centre for Employment and Labour Relations Law 

2007 Corporate Governance Conference  
(16 March 2007) 
Speakers: Kevin Murphy, Professor of Finance and Business Economics, USC Marshall School of Business and Professor of Business and Law, USC Law School; Jeremy Cooper, Deputy Chairperson, ASIC; Eric Mayne, Chief Supervision Officer, Australian Stock Exchange Limited; Andrew Sisson, Managing Director, Balanced Equity Management; Ken Jarrett, Director CJT Capital; Richard Searby QC; Linda Nicholls, President, Australian Institute of Company Directors (Vic Div), Deputy Chairman, Healthscope Limited and Director, St George Bank and Sigma Pharmaceutical Group; John Brakey, Head of Alternative Investments, Macquarie Bank; Doug Little, CEO, Constellation Investment Management; Bob Van Munster, Tyndall Investment Management; Richard Phillips, Managing Director, Caliburn Partnership 
This conference was co-hosted with Institutional Shareholder Services 

Law and the Market: The Impact of Enforcement  
(12 March 2007) 
Speaker: Professor John Coffee, Adolf A Berle Professor of Law, Columbia University 

Corporate Law Judgments website 
The Centre also hosts the Corporate Law Judgments website, which contains corporate law judgments of the Australian State and Federal courts. As of December 2007, there were almost 5,500 judgments on the website. 

Contact the CCLSR 
The Centre’s website can be accessed at: http://cclsr.law.unimelb.edu.au/. 
The Centre can be contacted by email at: cclsr@law.unimelb.edu.au.
The Centre for Media and Communications Law (CMCL) is a centre for the research, discussion and teaching of all aspects of media and communications law and policy.

The Centre for Media and Communications Law:
- undertakes large scale research projects;
- holds public seminars about legal and regulatory developments;
- supports research visits from Australian and international academics, lawyers and policy makers; and
- supervises teaching and research in media and communications law within the Law School's teaching programs.

The CMCL has a team of Directors from the Law School, Associates from across the University of Melbourne, and Research Staff. It is assisted by an Advisory Board representing a wide variety of expertise in media and communications industries and legal practices, and receives support from the Law School as well as external sponsors and research partners.

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

**Staff**

The Director is Associate Professor Andrew Kenyon. The Deputy Directors are Associate Professor Megan Richardson and Professor Dan Hunter. Amy Harrington is the Centre Administrator and Jason Bosland, Naomita Royan and Robin Wright are Research Fellows.

**Current Research Projects**

In 2007, the CMCL was involved in four major research projects:

**Major Events**

Conference: ‘The Courts and the Media’ conference held jointly with the Australian Press Council which brought together lawyers, journalists and academics involved in the operation, reporting and analysis of the courts in Australia. Speakers on open justice, suppression orders, journalists’ sources and freedom of information included the Hon Justice Philip Cummins (Supreme Court of Victoria), Peter Gregory (Chief Court Reporter, The Age), Michael McKinnon (Seven Network), Professor Brian Murchison (Washington and Lee University, Virginia), and Justin Quill (Corrs Chambers Westgarth) (Friday 27 July 2007, Melbourne Law School)

International Conference: Australia and New Zealand Communication Association (ANZCA) 2007 Conference: Communications, Civics, Industry, held jointly with the Media Studies Program, La Trobe University. Featured topics included the role of public service media; new media distribution technologies in communication PR, advertising and civil society; and organisational, interpersonal and intercultural communication. The keynote speaker was Professor Toby Miller, (University of California Riverside) while Professor Cynthia Stohl (Department of Communication, University of California Santa Barbara) made a featured presentation. The conference also
included a plenary panel on the planned Research Quality Framework with Professor Mandy Thomas (Pro Vice-Chancellor ANU), Professor Graeme Turner (University of Queensland) and Professor Brad Haseman (Queensland University of Technology) (5–6 July 2007, Melbourne Law School; Associated Seminar: Public Service Broadcasting in Asia and the Pacific, 7 July 2007)

International Conference: LSAANZ — Law and Society Association of Australia and New Zealand 2007 Conference ‘Markings: sites of analysis, discipline, interrogation’, hosted jointly with the Institute for International Law and the Humanities. Plenary keynote speakers and panellists were: Sadaf Aziz (Lahore University of Management Sciences), Eve Darian-Smith (University of California Santa Barbara), William MacNeil (Griffith University), Shaun McVeigh (Melbourne Law School) and Rebecca Scott Bray (University of Sydney) (29–30 November 2007, Melbourne Law School)


Seminars


‘Know thine enemy as thyself’: Discerning friendly neighbour from terrorist foe’, Professor Clive Walker, Centre for Criminal Justice Studies, University of Leeds (29 June 2007, Melbourne Law School)

‘Making Copyright Safe for Parody and Satire’, Graeme Austin, J Byron McCormick Professor of Law, University of Arizona (2 July 2007, Melbourne Law School)


‘The distribution of everything: new p2p logics in production, governance, and property’, Michel Bauwens, presented by the CMCL and the Program in Media and Communications, Faculty of Arts, University of Melbourne (31 July 2007, Melbourne Law School)

‘Futures without Frontiers of Fuss: Ian Walden and Kim Anderson’, presented by the CMCL and the International Institute of Communications, Australian Chapter (9 August 2007, Baker & McKenzie, Sydney)


‘Workshop on Law and Ethnography’, workshop for research students, Eve Darian-Smith, Professor of Law and Society and Anthropology at the University of California, Santa Barbara (26 November 2007)

‘Marks of Disobedience’, Julian Burnside QC, Juliet Rogers, Associate Professor Peter Rush, Patrick Wolfe, seminar associated with 2007 LSAANZ conference (28 November 2007)

Selected Publications
The full list of publications is in the Published Research section of this report.


• Hudson, E, Kenyon, A and Christie, A, ‘Modelling Copyright Exceptions: Law and Practice in Australian Cultural Institutions’ in F Macmillan (ed), New Directions in Copyright Law, Edward Elgar (2007), 279–304


Presentations


Bosland, J, Richardson, M and Hunter, D, ‘Copyright and the New Street Literature’, presented at the Intellectual Property and Creativity/Innovation—Critiques and Alternatives Workshop, Bond University, Gold Coast, 29 November 2007

Kenyon, A, ‘Speaking of Journalism: Legal and Media Conceptions of Public Speech’, presented at the annual conference of the UK-based Media, Communications and Cultural Studies Association (MeCCSA) at Coventry University, UK, 11 January 2007


Wright, R, ‘Copyright in the Digital Age: Recent Changes to Australian Law’, Museum Shops Association of Australia 2007 Conference, Sydney


Research Visitor Program

The CMCL Research Visitors Program supports visits by academics, practising lawyers and media industry professionals. In 2007 the research visitors were:

- John Battle, ITN, London
- Professor David Caudill, Villanova University
- Professor Jane Ginsburg, Columbia Law School
- Associate Professor Sonia Katyal, Fordham University, New York
- Professor Brian Murchison, Washington & Lee University
- Michael Starks, Centre for Socio-Legal Studies, University of Oxford
- Professor Ian Walden, University of London
- Professor Clive Walker, University of Leeds
- Professor Jane Winn, University of Washington Law School

Media & Arts Law Review

The Media & Arts Law Review is a quarterly, refereed journal examining all areas of media and arts law, including: Communications, Contempt, Copyright, Cultural Heritage, Defamation, Digitisation, Entertainment, Free Speech, IP, Journalism, Privacy, and the Public Interest.

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

The Media & Arts Law Review is published by Lexis Nexis. Articles published in 2007 included:

- Banerjee, A, *Contempt of Court and Criticism of the Judiciary: Tales of Discord between Courts and the Media in India*
- Bond, C, *Reconciling Crown Copyright and Reuse of Government Information: An Analysis of the CLRC Crown Copyright Review*
• Cheung, A, The Regulation of Chinese Women’s Sexuality on the Internet
• Christie, A, Cultural Institutions, Digitisation and Copyright Reform
• Gould, K, The More Things Change, The More They Stay the Same … or do They?
• Johnston, M, Should Australia Force the Square Peg of Privacy into the Round Hole of Confidence or Look to a new Tort?
• Loveland, I, Reynolds Privilege Re-considered?
• Maxwell, E, The Waste Land: The Rights of Editors in Australian Copyright Law
• Morgan, O, Graffiti – Ownership and Other Rights
• Ng, Y, Global Soul, Local Seoul: The Ebb and Flow of Forces in Global Copyright
• O’Brien, D, Blogs and the Law: Key Legal Issues for the Blogosphere
• Ricketson, S, Trade Mark Liability Issues Arising out of Internet Advertising
• Sainsbury, M, Parody, Satire and Copyright Infringement: The Latest Addition to Australian Fair Dealing Law
• Sauer, A, Protecting the Copyright Balance in Cyberspace
• Selvadurai, N, Voices of Change — The Regulation of Voice over Internet Protocol Services
• Walden, I, Regulating Broadcasting in a Converging Environment: Without Frontiers and Without a Fuss

Contact the CMCL
The Centre’s website can be accessed at: http://www.law.unimelb.edu.au/cmcl.
The Centre can be contacted by email at: law-cmcl@unimelb.edu.au.
The Centre for Resources, Energy & Environmental Law (CREEL) was established in 1986. Until 1996 it was known as the Centre for Natural Resources Law, and the teaching program was focused upon laws relating to mining, petroleum and water resources; the legal structure and financing of major resources projects; and some aspects of environmental regulation.

In 1996 substantial changes were made to extend the program. Subjects were added to cover contemporary issues of national and international importance. These include production and distribution of energy; development of infrastructure; environmental impact of energy, resources and infrastructure projects; and indigenous rights over land and waters. Studies focus upon the inter-relationship of government policies, legal and regulatory regimes and administrative practices.

Many of the subjects are highly relevant to international students as well as Australian students. The increased scope of the graduate teaching program is also reflected in CREEL's research, publishing, seminars and related activities.

**Purposes and Objectives**

The purposes and objectives of CREEL are:

- to promote graduate teaching, research, publications and discussion about legal, regulatory and policy frameworks for:
  - the production and distribution of energy
  - the provision of infrastructure
  - the development of natural resources
  - protection of the environment
  - recognition of indigenous rights and interests in land and waters.

- to engage in these activities with respect to contemporary developments and issues in Australia, Asia/Pacific, and other selected regions;

- to extend the Law School's specialised collection of research and teaching materials relating to energy, natural resources, environmental law and native title;

- to strengthen existing links and establish new links with other centres in Australia and overseas engaged in equivalent activities (e.g., the Water Research Centre at the University of Melbourne or the Australian Mining and Petroleum Law Association); and

- to encourage persons from industry, professions, investment institutions, government and universities in Australia and overseas to participate in the Centre's activities.

**Members**

The members of the Centre in 2007 were: Professor Richard Garnett, Associate Professor Lee Godden, Associate Professor Maureen Tehan, Associate Professor Jackie Peel and Dr Amir Kordvani.

**Conferences/Seminars**

22 March 2007, The Centre hosted a seminar entitled: 'The Identifiability Bias in Environmental Law', presented by Professor Shi-Ling Hsu, University of British Columbia, Canada. The seminar explored the idea that people have stronger emotions regarding identifiable individuals or groups rather than abstract ones and that environmental regulation has been hindered by the high profile of individual victims of such regulation.

22 & 23 May 2007, the Centre hosted a conference entitled ‘Water, Energy and Climate Change Futures: Australia and China’. The Conference was a collaborative and interdisciplinary forum organised by the Centre for Resources, Energy and Environmental Law, the Asian Law Centre, and the Office for Environmental Programs at The University of Melbourne in conjunction with the Australia-China Centre on Water Resources Research. The Conference was opened by Mr Chris Bell, from the Environment Protection Authority Victoria, who is a member of the OEP Community and Industry Advisory Board. The focus of the first day was on ‘Energy’ and featured leading Chinese experts on energy and resources law, who are involved in the development of future regulatory frameworks on energy and the pressing issue of climate change.

Distinguished speakers from China included Professor Wang Mingyuan, Executive Director, Centre for Environmental, Natural Resources and Energy Law, Tsinghua University Law School, and Professor YE Rongsi, Chairman, Energy Law Academy, China Law Society.

The second day of the conference focused on ‘Water’. Professor John Langford opened with a joint plenary, together with the Chinese Director of the Australia-China Centre on Water Resources Research, Professor Xia Jun, from the Chinese Academy of Sciences. In this regard, the conference built on the initiatives developed at the first Australia-China Water Resources Workshop, held in February 2006 at the University of Melbourne. Leading Australian and Victorian water experts covered areas including: water allocation and conservation policies, groundwater, healthy rivers and integrated catchments management, made presentations throughout the day. Chinese delegates also visited the Latrobe Valley to view power generation and water storage sites. The conference was a collaborative endeavour working towards the sharing
of knowledge and experiences as both China and Australia grapple with the challenge of securing energy and water futures in both countries in light of climate change impacts.

23 August 2007, the Centre hosted a seminar titled ‘Energy Law and Sustainable Development’ presented by Professor Adrian Bradbrook from the University of Adelaide. The main idea of the presentation was to identify and establish sustainable energy as the central issue that must be addressed in the legal debate on sustainable development rather than leaving it at its periphery, where it has languished to date. It was further argued that in order to achieve this goal a comprehensive legal management regime for achieving a sustainable energy future needs to be devised.

Key Research Activities

Publications

- Peel, J, ‘When (Scientific) Rationality Rules: (Mis) Application of the Precautionary Principle in Australian Mobile Phone Tower Cases’ (2007) 19 Journal of Environmental Law 1–18

Conference/Seminar Presentations


Submissions to Government

- Godden, L and Jamieson, N, Submission to the Food Bowl Modernisation Project Steering Committee and Victorian Government Public Comment Process, 23 October 2007
Activities Associated with ARC Linkage Project

Associate Professors Lee Godden and Maureen Tehan are two of the chief investigators in the inter-disciplinary ARC Linkage Project: The Implementation of Agreements and Treaties with Indigenous and Local Peoples in Postcolonial States. The Industry Partners are Rio Tinto Pty Ltd and the Office of Indigenous Policy Co-ordination.

The following activities form part of the work in that project:

- **Mining, Petroleum, Oil and Gas Symposium: Indigenous Participation in the Resource and Extraction Industry – July 9 & 10 2007, Broome.**
  The Symposium focused on trends in Indigenous participation in the mining, petroleum, oil and gas industries. Participants included a group of indigenous and non-indigenous practitioners, scholars and industry and government representatives. Selected papers from the Symposium will be published in a special edition of the Energy and Natural Resources Law Journal in March 2008.

- **Indigenous Economic Development and Tax Policy Workshops – 28 August and 21 September 2007.**
  In August and September, the project convened two workshops, one hosted by the Melbourne Law School, inviting indigenous and non-indigenous practitioners as well as experts from the private sector and academia to participate in a discussion on Indigenous Economic Development and Tax Policy. Following on from these Workshops, a symposium on Indigenous Communities, Economic Development and Tax Policy Symposium will be held at the University of Melbourne in February 2008.

Visits

Associate Professor Maureen Tehan visited the Centre for Energy, Petroleum and Mineral Law and Policy at the University of Dundee in October 2007. The Centre is internationally renowned as a graduate school and research centre in the field of international business transactions and natural resources and energy law and policy. The main focus of the visit was to meet with researchers who are engaged in research relevant to the ARC funded research project of Associate Professor Tehan and other members of the Agreements, Treaties and Negotiated Settlements. Possible collaborations on research projects of common interest were discussed with members of the Centre including legal researchers, resource economists and public policy and governance researchers.

Database

The project has developed and maintains the Agreements Treaties and Negotiating Settlements (ATNS) database, a major public database of agreements between indigenous and non-indigenous entities in Australia and elsewhere. The database was recently awarded a Knowledge Transfer Award for excellence by the University of Melbourne.

Graduate Research Student

The project funds a doctoral student in the Law School, Angus Frith whose PhD is titled ‘Sustainable Indigenous entities for making agreements’. The thesis is examining the proposition that Aboriginal and Torres Strait Islander corporations are more effective, efficient and sustainable if their structures and operations mirror the laws and customs of the native title holding or other group that is seeking the benefits of incorporation.

Contact the CREEEL

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

The Centre can be contacted by email at: law-creel@unimelb.edu.au
The Centre for Islamic Law and Society (CILS) (formerly, Centre for the Study of Contemporary Islam (CSCI)) is a joint centre located in both the Law School and the Faculty of Arts (Asia Institute) at the University of Melbourne. Given global events over the last few years, Islam and Islamic studies have received renewed attention. The Centre aims to facilitate and support Islam-related research and education projects across the University, particularly those related to contemporary Islamic thought. It also aims to improve Australian understandings of Islam, both within the University and throughout the wider community.

Aims
The specific aims of the CILS include:

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

Research Projects
The CILS is associated with 3 major research projects:


Publications
The following books were published by Centre members in 2007:


Briefing Paper Series
The CILS publishes the CILS Islamic Issues Briefing Paper series, which is available in hard copy and on the CILS website.

Recent papers include:

Seminars

Islam Research Seminar Series
The CILS Islam Research Seminar Series are lunchtime seminars that are more informal and are often presented by postgraduate students.

- ‘The Dilemma of Equality in Traditional Societies: Kafa’ah in Marriage in Oman as an Example’, Mr Khalid Al-Azri, PhD Candidate, Asia Institute, The University of Melbourne (28 March 2007)
- ‘Perda Syariat’: Its Implementation and Implication in South Sulawesi, Indonesia’, Mr Andi Amiruddin, PhD Candidate, Asia Institute, The University of Melbourne (with Asian Law Centre) (18 April 2007)
- ‘Islamic Commercial Law Reform in Afghanistan: A First-Hand Account’, Mr Andrew White, PhD Candidate and Senior Fellow, Faculty of Law, The University of Melbourne (with Asian Law Centre) (2 May 2007)
- ‘Cultural Diversity in the South of Thailand: Language, Policy and Reconciliation’, Thai Muslim Visitors (with Asian Law Centre) (2 May 2007)
- ‘Religion and Legal Pluralism in Indonesia: A Case Study of Joint Ministerial Decrees on the Construction of Worship Places’, Dr Nadirsyah Hosen, Lecturer, Faculty of Law, University of Wollongong (with Asian Law Centre) (16 May 2007)
- ‘What Happens When a Comparativist Starts Listening to Stories?’, Mr Jeremy Kingsley, Research Assistant, Faculty of Law, The University of Melbourne (with Asian Law Centre) (16 May 2007)
- ‘Conflict and Conformity in Islamic Education: An Environmental Perspective’, Professor Saleem Ali, Associate Professor of Environmental Policy and Planning and Acting Associate Dean for Graduate Education, Rubenstien School of Environment and Natural Resources, University of Vermont, USA (25 July 2007)
- ‘Islamic Thought on Children’s Motivation In Education: Ibn Sahnun to Al-Ghazzali’, Mr Muhammad Eeqbal Farouque Hassim, PhD Candidate, Asia Institute, The University of Melbourne (8 August 2007)
- ‘Islam, Modernity and the Enlightenment: A New Perspective’, Associate Professor Samer Akkach, Founding Director, Center for Asian and Middle Eastern Architecture (CAMEA), School of Architecture, Landscape Architecture and Urban Design, The University of Adelaide (16 August 2007)
- ‘Tribal Law in Islam and in Saudi Arabian Law’, Dr Hossein Esmaeili, Senior Lecturer, School of Law, Flinders University (27 August 2007)
- ‘Responses of Local Women’s NGOs to Sharia Implementation in Post-Conflict Aceh’, Ms Dina Afrianty, PhD Candidate, Asia Institute, The University of Melbourne (with Asian Law Centre) (5 September 2007)
- ‘From Prohibiting Levirate to Mandating Conditional Talaq: The Interplay of Islamic Laws and Cultural Practices in Marriage and Divorce’, Ms Anisa Buckley, PhD Candidate, Asia Institute, The University of Melbourne (3 October 2007)
- ‘Violence in Southern Thailand: Causes, Agents and Trajectory’, Mr John Funston, Executive Director, National Thai Studies Centre, Faculty of Asian Studies, Australian National University (with Asian Law Centre) (8 October 2007)
- ‘Islamic Banking and the Tensions between Homo Economicus and Homo Islamicus’, Mr Imran Lum, PhD Candidate, Asia Institute, The University of Melbourne (with Asialink) (24 October 2007)
- ‘The Chief Justice Saga and the Place of Judicial Activism in Pakistan’, Assistant Professor Sadaf Aziz, School of Social Sciences and Humanities, Lahore University (with Asian Law Centre) (28 November 2007)

Other Events

- Forum Discussion: ‘The Voice of Australian Muslims’ (with Issues Deliberation Australia and Islamic Council of Victoria) (1 February 2007)
- ‘International Humanitarian Law and the Muslim World’ (with Australian Red Cross) (21 March 2007)
- Sixth Annual International Abraham Conference: ‘Shaping a Nation’s Values: The Abrahamic Tradition’ (with Australian Intercultural Society) (26 August 2007)
Conferences
The CILS hosts an annual conference on current issues relating to Islam. It also hosts an annual national postgraduate conference on Islamic Studies, which is open to students from throughout Australia.

The 2007 Colloquium, held on 12 November, 2007, was titled ‘Beyond Radicalism and Liberalism? Islamic Law in Southeast Asia’.

The Islamic Studies Postgraduate Conference was held on 13–15 November, 2007.

Visitors
In 2007, the Centre hosted the following (selected) visitors:

- **Dr Makruf Jamhari**, Executive Director, Center for the Study of Islam and Society, National Islam University (PPIM-UIN, Jakarta), Indonesia (11–12 November 2007)
- **Professor Mark Cammack**, Southwestern University Law School, USA (11–16 November 2007)
- **Associate Professor Michael Feener**, Department of History, Faculty of Arts and Social Sciences, National University of Singapore, Singapore (11–16 November 2007)
- **Dr Robin Bush**, Deputy Country Representative, The Asia Foundation, Indonesia (12 November 2007)
- **Mr Noor Huda Ismail**, Journalist and Researcher, Indonesia (12–15 November 2007)

Staff
Co-Directors: Professor Abdullah Saeed
Professor Tim Lindsey
Manager: Ms Kathryn Taylor
Administrative Assistant: Ms Kelly McDermott

Contact the CILS
The Centre’s website can be accessed at http://www.cils.unimelb.edu.au
The Centre can be contacted by email at: cils-info@unimelb.edu.au
The Institute for International Law and the Humanities (IILAH) is dedicated to integrating the study of international law with contemporary approaches to the humanities. It facilitates and promotes innovative scholarship and critical thinking on emerging questions of international law, governance and justice, and strengthens the role of the Melbourne Law School as a leading centre of research in this area. The director of IILAH is Professor Anne Orford and its administrator is Ms Vesna Stefanovski. Associate Professor Dianne Otto was acting director of IILAH for Semester 2, 2007.

Aims and Objectives

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

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

Public Lectures

22 February 2007: Allen Hope Southey Memorial Lecture: Why Refugee Law Still Matters, Professor James Hathaway (Law, University of Michigan, now Dean of Melbourne Law School)

International refugee law has come under increasing attack in recent years. In particular, it has been suggested that international efforts are best addressed to meeting the needs of at-risk persons still inside their own country, and that whatever external protection is granted should be strictly temporary. In this lecture, Professor Hathaway sought to open a debate on the wisdom of departure from traditional notions of asylum, and to suggest constructive ways that the human rights of involuntary migrants can best be reconciled to the legitimate concerns of receiving states.

6 June 2007: Sir Kenneth Bailey Memorial Lecture: Third World Approaches to International Law: Past, Present and Future, Professor B S Chimni (School of International Studies, Jawaharlal Nehru University, New Delhi)

Professor Chimni’s lecture took a sweeping look at the past, present and future of international law using a critical third world approach. Professor Chimni explored the alienation of international law from the people of the Third World as the thread that binds the disparate fragments of past, present and future of international law. In speaking of the future of international law, he discussed the slow transformation of international law into internal law and the emergence of a Global State. Finally, the lecture reflected on the role of international lawyers in creating a just world order.

This lecture revisited the controversial issue of human rights conditionality and international trade. It did so in light of recent empirical evidence of when conditionality may be effective and when it will not, allowing for a closer analysis of the promise and limits of recent developments with respect to voluntary codes of conduct/corporate social responsibility, as well as the evolution of GSP conditionality (preferences) and conditionality in Regional Trade Agreements (RTAs).

**Workshops**

23 February 2007: Protection Elsewhere: International Law and the Off-shore Processing and Protection of Refugees

This workshop was convened by Dr Michelle Foster and included prominent scholars, practitioners and advocates in Australian refugee law, including Justice Tony North of the Federal Court of Australia and President, International Association of Refugee Law Judges, as well as international visitors including Professor James Hathaway (University of Michigan, now Dean of Melbourne Law School) and Mr Rodger Haines QC (Deputy Chairperson, New Zealand RSAA). The workshop provided an opportunity for critical analysis of the key issues in the offshore processing and protection of refugees.

17 July 2007: Tracing the Contours of the Right to Regulate at International Law

This workshop, convened by Mr Jürgen Kurtz, provided an examination of the interplay between the imperatives and limits that shape the contemporary regulatory state. It took as its normative starting point the right of states to regulate at international law. This then allowed for close analysis and contrast on the scope, quality and institutional structure of interventions on that right in key areas of public interest. Key areas included national security, economic liberalism, development, the environment and human rights. The objective was to draw out the implications of these often conflicting interventions for regulatory autonomy and citizen welfare in the contemporary state. Speakers included Professor Robyn Eckersley (Politics, University of Melbourne), Professor Michael Hahn (Law, University of Waikato), Professor David Kinley (Law, University of Sydney), Mr Jürgen Kurtz (Senior Lecturer, Law, University of Melbourne), Professor Anne Orford (Law, University of Melbourne) and Professor Jeff Waincymer (Law, Monash University). Professor Robert Howse of the University of Michigan acted as the closing speaker.

19–20 July 2007: Current issues in Refugee Status Determination

The workshop, convened by Dr Michelle Foster, was designed for refugee decision makers and explored cutting-edge issues in refugee status determination. The participants were refugee tribunal members and judges from New Zealand (the RSAA) and Australia (both the RRT and Federal Court). Issues discussed included economic, social and cultural rights in the context of refugee determination, particularly in relation to the question of when the deprivation of socio-economic rights may amount to persecution.

19–21 September 2007: International Law and Wars of Religion, held at the Faculty of Law, University of Lund, Sweden

Professor Anne Orford co-convened this workshop with Professor Martti Koskenniemi (University of Helsinki) and Professor Gregor Noll (University of Lund). This workshop explored the history of cosmopolitan international law as a modernizing and secularizing project. International law is often represented as offering an answer to the resurgent discourse of religious warfare globally and to the challenge of civil warfare internally. In this vision, the turn to international law promises to perfect the elegant European solution to earlier periods of seemingly intractable religious warfare – the modern state. International legal rules and institutions would then represent a neutral and secular framework within which religious beliefs would be both protected and limited in their ambition. This workshop explored whether this familiar solution is really available to us. It asked whether the modern state and international law are in fact manifestations of neutral secularism, and to what extent practices such as the civilising mission, humanitarian intervention, promotion of universal values and the motivating force of images of suffering suggest the persistence of a Christian vision within international law. Is international law, in other words, an instrument to deal with the wars of religion, or perhaps a belligerent party itself? Participants included Professor Tony Anghie (Law, Utah), Dr Ida Auken (Theology, Copenhagen), Professor Nathaniel Berman (Law, Brooklyn), Dr Jenny Beard (IILAH, Melbourne), Associate Professor Ian Duncanson (Law, Griffith), Associate Professor Judith Grbich (Law, Griffith), Professor Werner Jeanrond (Theology, Lund), Professor Friedrich Kratochwil (Political and Social Sciences, European University Institute), Professor Philip Lorenz (English, Cornell), Dr Alejandro Lorite (Law, American University in Cairo), Dr Naz Modirzadeh (Humanitarian Policy and Conflict Research, Harvard) and Dr Pamela Slotte (Centre of Excellence in Global Governance Research, Helsinki). IILAH research
students Ms Yoriko Otomo and Mr Luis Eslava also presented at the workshop. The workshop was funded by the Australian Research Council, the Academy of Finland, IILAH and the Faculty of Law, University of Lund.

16 November 2007: *Seen and Heard: Priority for Children in the Legal Process*, 10 years on: Looking Back and Moving Forward

This workshop was co-hosted by Mr John Tobin (IILAH and the Melbourne University Human Rights Forum), Ms Tiffany Overall (Youth Law (Victoria)) and Mr James McDougall (the National Children’s and Youth Law Centre). As it is now 10 years since the release of the Australian Law Reform Commission’s report, *Seen and Heard: Priority for Children in the Legal Process*, the workshop provided a timely opportunity to (a) reflect on the extent to which the recommendations proposed in the report have been adopted and (b) consider the research and advocacy necessary to affirm, develop and expand upon the vision articulated in the report with respect to the treatment of children within Australia. The workshop brought together 40 government and community practitioners, researchers and academics, stimulating what is hoped will be an ongoing and collaborative discussion with respect to these issues.

Conferences

29–30 November 2007: *Markings: Sites of Analysis, Discipline, Interrogation*

IILAH co-hosted this international conference with the Centre for Media and Communications Law at the Melbourne Law School and the Law and Society Association of Australia and New Zealand. Plenary keynote speakers and panellists included Ms Sadaf Aziz (Lahore University of Management Sciences), Professor Eve Darian-Smith (University of California, Santa Barbara), Associate Professor William MacNeil (Griffith University), Associate Professor Shaun McVeigh (Melbourne Law School) and Dr Rebecca Scott Bray (University of Sydney).

Seminars

21 February 2007: *The WTO Panel’s Rulings in GMO/Biotech: A Conversation*

At over 1000 pages, the WTO Panel decision in the recent GMO/Biotech case is arguably one of the longest and most complex decisions issued by the international trade dispute settlement system to date. The decision deals with many important issues that touch not only on the interpretation of trade agreements (particularly the SPS Agreement), but also matters of public international law. In this seminar, convened by Associate Professor Jacqueline Peel and chaired by Professor Anne Orford, five panelists from Melbourne Law School discussed their different perspectives on key aspects of the Panel’s rulings. Speakers were Associate Professor Jacqueline Peel (on the background to the GMO/Biotech case), Mr David Morgan (on the scope of the SPS Agreement), Dr Tania Voon and Dr Andrew (on the use (and misuse) of public international law in the GMO/Biotech case) and Mr Jürgen Kurtz (on implications of the GMO/Biotech case for other regulatory regimes).

24 April 2007: *Unveiling the Political: A Postcolonial Theory Seminar*

This seminar was convened by Associate Professor Sundhya Pahuja. Speakers were Dr Stewart Motha (Kent Law School) on ‘Veiled Women and the Affect of Religion in Democracy’ and Dr Roshan de Silva-Wijeyeratne (Griffith Law School) on ‘On the (Im)possible Relation between the Universal and the Particular: Representation and the Limits of Relativism’. Associate Professor Peter Rush (Law) opened the seminar, and Dr Andy Schaap (Politics) led a general discussion following the papers.


This roundtable on the problem of sexual exploitation and abuse in UN peace support operations was co-convened by IILAH with the Law and Policy Project, Mailman School of Public Health, Columbia University. It was jointly organised by Associate Professor Dianne Otto (IILAH) and Professor Alice Miller (Columbia). The roundtable aimed to think through some of the complexities of the UN’s response to the problem of sexual exploitation and abuse, which has been to implement a policy of ‘zero tolerance’ with respect to all sexual activities between peacekeeping personnel and the host population. Participants included a mix of feminist scholars, UN policy-makers and NGO practitioners, all of whom had some involvement with these issues, but from quite different perspectives. Copies of the proceedings will be available, in due course, at http://iilah.unimelb.edu.au.

This seminar was presented by Professor Peter Drahos, Director of the Centre for Governance of Knowledge and Development and the Head of Program of the Regulatory Institutions Network at the Australian National University. The seminar, convened by Professor Anne Orford, Director of IILAH, explored the histories of patent law and patent office administration. Professor Drahos spoke about the emergence of modern patent administration in Europe and the US. He asked whether this regulatory history contains lessons as to how developing countries today might approach patent administration. Professor BS Chimni offered a response, drawing on the history of modern patent law and administration in post-colonial India.

14 August 2007: Afghanistan 2007: Women Liberated or a Continued Struggle for Fundamental Human Rights?

The seminar, convened by Associate Professor Dianne Otto, commenced with an introduction by Ms Olivera Simic, which drew parallels between women’s experiences of the war on terror in Afghanistan and the war in her home country, the former Yugoslavia. The speaker was Sohaila (a pseudonym), from the Revolutionary Association of the Women of Afghanistan (RAWA), who drew a bleak picture of the present lives of women in Afghanistan and of their future prospects for equality. She described extreme poverty, high mortality rates related to malnutrition, childbirth or suicide, and a culture of misogyny, and noted that security for girls is extremely poor, with kidnap, rape and murder occurring frequently.


At this seminar, Professor Elena Pariotti, IILAH Visiting Scholar from the University of Padua, Italy, argued for drawing a clear distinction between the ‘hard law’ (binding) obligations of transnational corporations (TNCs) and their ethical ‘soft law’ obligations. She defined TNC’s hard law obligations as encompassing the obligation to ‘respect’, which she emphasised is a negative obligation that attaches to all human rights, not just civil and political rights. She included the minimum essential core of every human right necessary for survival with dignity in her notion of the obligation to respect.


This seminar was presented by Dr Savitri Taylor (Law, LaTrobe), a visiting scholar at IILAH during 2007, and convened by Dr Michelle Foster. The seminar was attended by a diverse range of participants which included scholars, students, solicitors, and representatives of a number of non-governmental organisations with an interest in refugee protection. Dr Taylor examined the international legal framework governing the attempt by states to circumvent or transfer their protection responsibilities under the 1951 Refugee Convention. She then scrutinised Australia’s recent practices in returning asylum seekers to Indonesia and PNG in light of these legal obligations, concluding that there are serious concerns with Australia’s implementation of “protection elsewhere” policies.

Postgraduate Roundtables

26 February 2007: IILAH and the University of Melbourne Human Rights Forum co-hosted this postgraduate roundtable with Sir Nigel Rodley, Vice-Chair of the UN Human Rights Committee and a Professor of Law and Chair of the Human Rights Centre at Essex University. Postgraduate students from across the University of Melbourne gave brief (10 minute) informal presentations on human rights related research, which was then discussed in a roundtable setting. Sir Nigel also gave some insight into his work with the UN human rights treaty bodies and special procedures.

16 March 2007: Professor Anne Orford convened a postgraduate roundtable with Professor Antony Anghie (Utah) on New Thinking in International Law. Four research students working in the areas of critical theory and international law presented work-in-progress, and discussed their projects with Professor Anghie and audience members. Papers were presented by Ms Yoriko Otomo (IILAH), Mr Luis Eslava (IILAH), Mr Daniel Munu (IILAH) and Ms Nesam McMillan (Criminology).

7 June 2007: Professor Anne Orford convened a postgraduate roundtable on the theme of Power, Property and Possession. The workshop provided a forum for six postgraduate research students to present work in progress and receive feedback from visiting professors BS Chimni (Jawaharlal Nehru University, New Delhi) and Peter Drahos (Australian National University) and from audience members. Speakers were Mr Ed Mussawir (IILAH), Ms Cressida Limon (IILAH), Ms Yoriko Otomo (IILAH), Ms Luis Eslava (IILAH), Mr Daniel Munu (IILAH) and Ms Nesam McMillan (Criminology).
Institute for International Law and the Humanities

Book Launches and Discussions

16 February 2007: Beard, J, *The Political Economy of Desire: International Law, Development and the Nation State*. The book was launched by Professor Anne Orford, Director of IILAH.


29 August 2007: Conversation between independent journalist and author Paul Cleary, and faculty member Dr Jenny Beard about Paul’s new book, *Shakedown: Australia’s Grab for East Timor’s Oil*. Associate Professor Sundhya Pahuja chaired the event.

7 December 2007: Arts, K and Pinto Leite, P (eds), *International Law and the Question of Western Sahara*. The book was launched by Professor Stephen Zunes (University of San Francisco).

Publications

Selected publications by IILAH members in 2007 include:


Contact iILaH

The Institute’s website can be accessed at: http://iilah.unimelb.edu.au/
The Institute can be contacted by email at: law-iilah@unimelb.edu.au
Established in 2002, the Intellectual Property Research Institute of Australia (IPRIA) is one of the world’s few, and Australia’s only, multidisciplinary research organisation specialising in research on the law, economics and management of intellectual property. The Institute was established with the broad aim of increasing the understanding, creation, use and exploitation of intellectual property by Australian organisations and individuals. It is based at the University of Melbourne, comprising directors and staff from the Melbourne Law School, the Faculty of Economics and Commerce, and the Melbourne Business School.

IPRIA aims to produce world-class information and analysis on the operation and impact of intellectual property (IP) systems. IPRIA’s activities aim to:

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

A Selection of Research Projects undertaken by IPRIA Staff

- IP in the China-Australia Free Trade Agreement
- Quality of International Patent Examination
- Disharmony between the Quad Lateral Patent Offices
- Uncertainty and the Success of Innovation
- Comparative Examination of Opposition Processes in Patent Law
- IP Enforcement
- Quality in the Patent Application Process
- Fundamental Concepts in Copyright
- Settlement of Patent Litigation
- Employee Rights to IP
- History of Australian Patent Policy
- Protection Against Look-Alike Packaging
- The Role of IP Protection and its Use in Encouraging Innovation, Competition and Commercialisation
- The Effect of Interorganisational Personnel Flow on Firm Performance: An Examination of IP Lawyer Movement
- Knowledge Bridging by Biotechnology Start-Ups

Events

Seminars

- 1 November 2007, Knowledge Brokering: A Competitive Advantage for Biotech Start-Ups? Dr Kwanghui Lim, Research Fellow, IPRIA
- 2 July 2007, Making Copyright Safe for Parody and Satire, Professor Graeme Austin, J Byron McCormick Professor of Law, the University of Arizona College of Law (in association with the Centre for Media and Communications Law)
- 26 April 2007, Universities Innovation Showcase: Delivering Business Solutions. This event was a collaborative effort by all Victorian Universities
- 22 March 2007, Business Models and Patent Strategies for ‘Multi Invention’ Contexts, Dr Deepak Somaya, Assistant Professor, Robert H Smith School of Business, University of Maryland (in association with the Melbourne Business School)
- 7 February (Melbourne), 15 February (Brisbane), 20 February (Sydney), An Accounting Approach to Estimating the Return on Intangible Investments, Associate Professor Anne Wyatt, University of Technology, Sydney and Associate Professor Beth Webster, Associate Director, IPRIA

Short Courses

- 26 July 2007, IP Commercialisation Ventures and Taxation, Mr Cameron Rider, Partner, Allens Arthur Robinson
- 9 May 2007, Mastering the Patent System, Professor Andrew Christie, Director, Intellectual Property Research Institute of Australia, Mr Des Ryan, Consultant, Davies Collison Cave and Mr Geoff Mansfield, Griffith Hack
Significant Publications

Reports

Working Papers
- Chesbrough, H, Lim, K and Ruan, Yi, Open Innovation and Patterns of R&D Competition, IPRIA Working Paper No. 12/07
- Christie, A, Cultural Institutions, Digitisation and Copyright Reform, IPRIA Working Paper No. 09/07
- Dent, C, To See Patents as Devices of Uncertain (But Contingent) Quality: A Foucaultian Perspective, IPRIA Working Paper No. 05/07
- Christie, A and Rotstein, F, Duration of Patent Protection: Does One Size Fit All?, IPRIA Working Paper No. 04/07
- Dent, C, Patent Opposition and the Constitution: Before or After?, IPRIA Working Paper No. 01/07

Contact IPRIA
The Institute’s website can be accessed at: http://www.ipria.org
The Institute can be contacted by email at: info@ipria.org
The Tax Group

The Tax Group at Melbourne Law School is a focal point for excellence in tax research and education. Members of the Tax Group carry out a range of tax research projects with a technical and a policy focus and contribute actively to public debate on tax reform. The Tax Group brings together academic faculty and experienced tax professionals including members of leading law and accounting firms and leading members of the Tax Bar, to provide a comprehensive and detailed Tax Masters degree program.

Activities of the Tax Group include:

- academic research into tax law and policy;
- offering a diverse range of more than 20 advanced tax subjects in the Melbourne Law Masters and teaching in the LLB, JD and B.Com; and providing additional training programs to government officials in Australia and overseas;
- organising workshops, seminars and lectures on tax policy and law; and
- developing and maintaining relationships with leading tax academics and centres of tax research and teaching, including the Oxford University Centre for Business Taxation; the Institute for Tax Law and Policy Research at Monash University; and leading US institutions including the University of Michigan Law School and the University of Florida Levin College of Law.

Research Projects

Key research projects of the Tax Group in 2007 included projects on employee share ownership; tax reform processes in a globalized world; and international taxation rules.

Employee Share Ownership

Associate Professor Ann O’Connell continued work with Professor Richard Mitchell of the Centre for Labour Law and Professor Ian Ramsay of the Centre for Corporate Law and Securities Regulation on a 3 year ARC-funded research project, ‘Employee share ownership: current practice and regulatory reform’. Associate Professor O’Connell prepared a research report titled ‘Employee Share Ownership Plans in Australia: The Taxation Law Framework’ and at the annual Australasian Tax Teachers Association Conference held at the TC Beirne School of Law, University of Queensland in January 2007, presented a paper on ‘Employee Share Ownership Plans – Current Practice and Regulatory Reform’. Research Fellow Kerry Brewster began empirical research into small business and employee ownership.

Tax Reform and Globalization

Associate Professor Miranda Stewart and Senior Lecturer Sunita Jagarajan continued their research and publishing on the impact of globalization and international institutions on tax reform. Sunita Jagarajan carried out research into the influence of the IMF on tax reform, funded by a Melbourne University Early Career Researcher Grant. Miranda Stewart published a chapter on global tax policy transfer to developing countries, focusing on the example of Ghana. In her role as an International Research Fellow of the Oxford University Centre for Business Taxation at the Said Business School, Associate Professor Stewart presented on the politics of tax reform at an academic symposium held at Oxford University in June 2007.
The Tax Group

International Taxation

Senior Lecturer Dr Michael Kobetsky carried out research into unitary taxation of international enterprises, presenting a paper at the annual Australasian Tax Teachers Association Conference held at the TC Beirne School of Law, University of Queensland. A revised version of the paper was accepted for publication in the IBFD Bulletin of International Taxation. Dr Kobetsky also travelled to Tokyo, Japan to present a paper at the Asian Development Bank Tax Conference on ‘Transfer Pricing: Principles and Practice’. The conference was attended by tax officials from Asian developing countries.

Senior Lecturer Sunita Jogarajan attended the 4th Annual Asian Law Conference held at the University of Indonesia, Jakarta, where she presented a paper on the Indian tax system and foreign direct investment. In an exciting development, the recommendations of a 2006 Report on ‘ASEAN Tax Regimes and the Integration of the Priority Sectors: Issues and Options’, co-authored by Senior Lecturer Sunita Jogarajan with Ian Farrow of KPMG, were reflected in the Joint Ministerial Statement of the 11th ASEAN Finance Ministers’ Meeting in Chiang Mai, Thailand, 5 April 2007. These recommendations will help shape income tax and trade policy in ASEAN member countries over the next several years. The report was also developed into a chapter included in the book Brick by Brick: The Building of an ASEAN Economic Community (full publication details below).

Associate Professor Ann O’Connell presented a paper on ‘Combating Large Scale Tax Evasion – the Australian Experience’, with a particular emphasis on international tax evasion, at the annual Tax Research Network Conference held at Sheffield University in the United Kingdom.

Income Tax Law and Policy

Associate Professor Ann O’Connell participated in a conference hosted by the Centre for Public Policy (University of Melbourne) on the theme ‘From Welfare to Social Investment: Reimaging Social Policy for the Life Course’. Associate Professor O’Connell’s conference paper was on the topic, ‘The Proposed Superannuation Tax Changes: Good Policy or Electoral Pragmatism’.

Senior Lecturer Sunita Jogarajan attended the Australasian Tax Teachers’ Association Conference held at the TC Beirne School of Law, University of Queensland, where she presented a paper on the corporate consolidated groups tax regime, entitled ‘Purpose in Consolidation – No More Purpose?’, subsequently published in the Australian Tax Review.

Publications in 2007

- Farrow, I and Jogarajan, S, ‘ASEAN Tax Regimes: Impediment or Pathway to Greater Integration’ in D Hew (ed), Brick by Brick: The Building of an ASEAN Economic Community, Asia Pacific Press, Australia (2007), 132–143
- Stewart, M, ‘Tax Policy Transfer to Developing Countries: Politics, Institutions and Experts’ in F Schui and H Nehring (eds), Global Debates about Taxation, Palgrave Macmillan, United Kingdom (2007), 182–200
Visiting Teaching and Seminar Presentations

Members of the Tax Group were invited to teach or present seminars at a range of institutions during 2007.

- Associate Professor Miranda Stewart was a Visiting Professor at the University of Florida Levin College of Law during January and February 2007, where she taught the subject “Taxes and Government Spending” and ‘Taxation of International Business Transactions’ in the US Tax Masters program.

- Two members of the Tax Group, Senior Lecturers Dr Michael Kobetsky and Ms Sunita Jogarajan, visited the University of Tasmania, Faculty of Business to teach ‘Advanced Taxation’ to honours students.

- Associate Professor Ann O’Connell conducted a seminar for the School of Enterprise on Taxation Issues in the Commercialisation of Intellectual Property in July 2007.

- Sunita Jogarajan taught a seminar on ‘GST and Property’ at the State Revenue Office of Victoria in July 2007.

Knowledge Transfer and Contributions to Policy Debates

Members of the Tax Group participate in peak professional bodies, as Fellows of the Taxation Institute of Australia and members of the International Fiscal Association, in which they play a role in the development of tax law and policy. Tax Group members also work as special counsel to leading law and accounting firms, ensuring close links with the tax profession and an awareness of the problems of taxation in practice.

- Associate Professor Ann O’Connell was a member of the Advisory Panel to the Board of Taxation in Treasury, the peak federal government body concerned with taxation reform, and sat on the Education, Examinations and Quality Assurance Board of the Taxation Institute of Australia.

- Associate Professor Miranda Stewart worked as a Consultant to the National Inquiry by the Human Rights and Equal Opportunity Commission into Discrimination Against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits. The Commission reported in May 2007 and adopted the recommendations of Miranda Stewart in respect of discrimination in tax and superannuation laws.

Melbourne Law School Annual Tax Lecture

The Annual Tax Lecture series was launched by the Tax Group in 2005 with the purpose of placing the development of tax law in its historical context and to inform public debate on current tax issues. In April 2007, the Tax Group hosted the third Annual Tax Lecture by Professor John Tiley of Cambridge University, on the topic ‘Managing Tax Avoidance: Recent UK Experience’.

Previous Tax Lectures have been presented by Justice Young of the Federal Court of Australia and Mr Allan Myers QC of the Victorian Bar.

Seminars and Workshops


- Professor Malcolm Gammie QC, of the UK Bar and Leiden University, The Netherlands, spoke on ‘A UK perspective on international tax before the ECJ – Process and Outcomes’ at a branch meeting hosted jointly with the Tax Bar Association.

- Professor Lee Burns of the University of Sydney gave a presentation on ‘Harmonisation of the Anti-deferral Regimes and the Board of Taxation Discussion Paper’.

- Dr H David Rosenbloom, Distinguished Professor, New York University, spoke on ‘Transfer pricing/cost sharing and US practice’ in a meeting hosted jointly with the Tax Bar Association.

The Tax Group has also initiated a discussion group for tax academics in Victoria, to encourage cross-fertilization of research and teaching.
Management and Staff
In 2007, Ms Sunita Jogarajan was promoted from Lecturer to Senior Lecturer.
The Co-Directors of the Tax Group are Associate Professor Ann O’Connell and Associate Professor Miranda Stewart. Ms Kerry Brewster is Tax Group Coordinator and Research Fellow.

Contact the Tax Group
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Academic Research Profiles
Dr Jennifer Beard was appointed as a senior lecturer at Melbourne Law School in 2006 having already taught in the JD and LLM programmes as a Senior Fellow in 2005. Jennifer is also currently a Director of the Research Programme on Law and Development together with Associate Professor Sundhya Pahuja at the Institute for International Law and the Humanities. Jennifer has been a visiting fellow at the University of British Columbia Law School in Canada where she taught a PhD Seminar on Legal Theory and Interdisciplinary Approaches to Law; a teacher of International Law, Trade and Development in the LLM Programme in the Department of International Law and Human Rights at the United Nations University for Peace in Costa Rica; a visiting fellow at the University of Lund Law School in Sweden; a consultant to the United Nations High Commissioner for Human Rights; and has been admitted to practise at the Victorian Bar.

Jennifer is a graduate of the ANU where she completed an Arts/Law degree with Honours in 1995 before completing her Masters of Public International Law at the London School of Economics. Jennifer then worked as an international human rights lawyer for the Commonwealth Human Rights Initiative in New Delhi, India. During her work in India, Jenny became increasingly concerned about the conventional wisdom of working as a western lawyer in developing countries. This concern led her to undertake doctoral research at the University of Melbourne, which resulted in the publication of her first book: The Political Economy of Desire: International Law, Development and the Nation State (Cavendish-Routledge 2007). This book is an interdisciplinary analysis of the genealogy of Western socio-economic development and the roles that cultural identity, Christian theology, international law and the nation state have played in that history. Since writing that book, Jennifer has continued to focus her research on the relationship of law to society, belief systems, historical narrative and ethics. Jennifer has two further books due to be published in 2008. The first, Public International Law in Principle, is an academic text to be co-edited with Dr Andrew Mitchell and published by Thomson. The second is a critical analysis of the relationship between law and development and is to be co-authored with Sundhya Pahuja as part of the Routledge-Cavendish “Critical Approaches to Law” series.
Jennifer has published a number of articles on the theoretical nature and historical sources of law’s relationship to the concept of development in highly regarded Australian and international journals, all of which are refereed by an international body of scholars. Jennifer’s more recent research includes a continuing collaboration with Professor Gregor Noll, Professor of International Law at the University of Lund Law School in Sweden on an analysis of the refugee status determination processes of the Office of the UN High Commissioner for Refugees. Jennifer is also collaborating with Dr Hashim Tewfik, currently Ethiopia’s State Minister for Justice, on theories of rule of law development; as well as completing a critical history of the cab rank rule and the limits the rule places on legal ethics. Her research draws on post-colonial and post-structuralist theories as well the disciplines of history, geography, theology and development studies. Jennifer supervises a number of doctoral scholars in the fields of international law, law and development, international economic law, international human rights law, international refugee law and legal theory.
Beth Gaze joined the Law School in 2005 from Monash Law School. She holds degrees from the Universities of California (Berkeley) (LLM), Monash (LLB (Hons)) and Melbourne (BSc). Her current major research interests are in anti-discrimination law and in socio-legal issues arising from empirical studies of law in operation. She has published two books, *Law, Liberty and Australian Democracy* (with M. Jones) and another on computer software copyright, and many articles on issues in discrimination law, work and family issues, medical law, and privacy law. As a result of her work in discrimination law, Beth has recently been appointed a member of the Advisory Committee to the Victorian government’s Review of the Equal Opportunity Act 1995 which is being undertaken for the Department of Justice. It is hoped that this process may see reforms to the Act later in 2008.

Beth’s longstanding interest in the operation of Australian anti-discrimination law, both generally, and in relation to work and family issues has a personal dimension, since she has worked fractionally since the mid-1990s. From 2000–2005 she conducted a research project with Professor Rosemary Hunter that evaluated the impact of the transition from tribunal to court enforcement of discrimination claims in the federal anti-discrimination jurisdiction through collection of detailed empirical data from parties to complaints as well as their advisors. The detailed report of this project is currently awaiting publication by the industry partner on this project, the NSW Law and Justice Foundation. Some emerging findings have been published during 2005 in the *Australian Journal of Human Rights* establishing that from 2000–2004 there was not one successful case of racial discrimination brought by an indigenous person under the *Racial Discrimination Act 1975* (Cth), and that the one successful claim was against an Aboriginal corporation (2005, *Australian Journal of Human Rights*). Further findings from the data were presented in Beth’s paper to the 2007 Australian Law and Society Conference on “Legal Representation and Success in Federal Discrimination Claims,” establishing the strong correlation between lack of legal representation and failure in discrimination claims in federal courts.
Beth Gaze

Beth is currently working on several major research projects funded by the Australian Research Council. First, in partnership with the Victorian Equal Opportunity and Human Rights Commission, she has been supervising and advising on a project she devised and developed on Improving the Effectiveness of Australia’s Anti-discrimination Laws. A PhD student, Ms Dominique Allen, has undertaken surveys of parties and advisors to discrimination matters, and staff of the Commission with a view to identifying areas in which the law does not operate effectively and could be improved. Ms Allen has also examined the operation of anti-discrimination laws in UK, Ireland, South Africa and the USA. As part of this project, Beth organised a workshop in November 2007 on Australian anti-discrimination law and its future. The workshop was co-organised with Professor Margaret Thornton of the Australian National University, and was supported by the Academy of the Social Sciences in Australia and the Law School’s Centre for Employment and Labour Relations Law. It was attended by academics from law and social science disciplines, staff of anti-discrimination agencies in Australia and overseas, and lawyers in private and community legal practice who advise on discrimination matters. It provided a unique opportunity for cross disciplinary and cross-sector discussion among people with an interest in the operation of anti-discrimination law. This is an important step in Beth’s aim of supporting the development of a community of scholars and practitioners in the area of discrimination law in Australia, which until now has had little coordination. It is planned to produce a book of essays originating from the workshop during 2008.

Finally, with Professor Belinda Fehlberg, Beth is undertaking a research project examining the impact of recent welfare policy and process changes on the Social Security Appeals Tribunal. This project draws on her extensive experience of administrative law decision-making as a member of the Social Security Appeals Tribunal and Student Assistance Review Tribunal (from 1990 to 2002), and currently as a member of the Victorian Mental Health Review Board. This project will examine the experience of applicants to the SSAT and the impact of recent changes to policy and processes. Data collected will be analysed comparatively with that on the UK to contrast and evaluate the effect of changes that have flowed from increasing cost pressures on the tribunals and the tightening and narrow targeting of social security laws.

Beth is currently involved in two other major research projects. First with Associate Professor Carolyn Evans, she is carrying out a project exploring the conflict between non-discrimination and religious freedom, in law, principle, and practice. This is an emerging legal issue in many countries and involves many areas of activity, from access to and the treatment of employees in religious schools, to the contracting out of government welfare services to religious organisations. During 2008 data will be collected on the empirical components of the project.
Matthew Harding joined the Law School as a lecturer in 2005.

Matthew is a graduate of the Law School, having been awarded an LLB degree (with first class honours) in 1998. In addition, he holds a BA (also with first class honours) from the University of Melbourne, as well as a BCL (degree conferred with distinction) and a DPhil from the University of Oxford. While studying for the BCL in 2000–2001, Matthew was a Chevening Scholar, and while studying for the DPhil in 2002–2005, he held a number of awards, including a British government Overseas Research Studentship and a Clarendon Fund Bursary from the University of Oxford. During 2002–2003, Matthew held a research fellowship awarded by the Andrew Mellon Foundation in connection with ‘Theory and Politics of Civil Society’, a major international seminar series held in Oxford in that academic year.

Matthew’s research interests are wide-ranging and he has participated in seminars and conferences on jurisprudence, sociology and civil rights. However, his current research interests are primarily in the doctrines and remedies of equity, the law of property, and the law of obligations. His DPhil thesis, which was conferred in May 2007, examined the moral foundations of fiduciary law and specifically considered the frequently made claim that fiduciary relationships are grounded in trust. The thesis developed a theory of interpersonal trust and trustworthiness and considered principles of fiduciary law in light of that theory. The examiners – Professor John Gardner of Oxford and Professor Sarah Worthington of the LSE – were of the view that parts of the thesis, which made contributions both to moral philosophy and to law, promised to be of ‘lasting importance’.

Since completing his DPhil, Matthew’s research interests have turned to a number of topics. One is the relationship between the statutory principle of indefeasibility of Torrens title and the equitable principle that in certain circumstances a person ought to be liable for receiving property from, or assisting, a defaulting trustee. This research has been published as ‘Barnes v Addy Claims and the Indefeasibility of Torrens Title’ (2007) 31 Melbourne University Law Review 343. Another topic is the question of what precise obligations are owed by those occupying fiduciary roles, and Matthew’s research in this area has been published as ‘Two Fiduciary Fallacies’ (2007) 2 Journal of Equity 1. Both topics are of particular interest to private lawyers at present in light of recent High Court authority.
During 2007, Matthew also carried out research into the law of charities in England. That law has changed considerably in recent years owing to legislative reform. One consequence is that it is no longer certain how English courts will ascertain whether a trust for religious purposes is charitable in law. Matthew’s research, which will be published in early 2008 in the *Modern Law Review*, entailed a detailed analysis of the approaches that might be available to courts in light of existing case law and the jurisprudence relating to the European Convention on Human Rights that was introduced into England by the *Human Rights Act of 1998*.

Matthew’s research in 2008 will concentrate again on at least three different topics. The first is the way in which systems that confer land title by registration respond to fraud. This research, which Matthew will undertake with Professor Michael Bryan of the Law School and with the assistance of a Faculty Small Grant, will take the form of a comparative study of jurisdictions in Australia, New Zealand, Canada and England and will result in the presentation of a paper at the 7th SLS Conference on Property Law to be held in April 2008 at Queen’s College, Cambridge. The second topic is how the concept of desert figures in private law, taking as a case study the award of allowances to fiduciaries who have acted in breach of obligation but have nonetheless expended time, effort and skill in doing so. This research will result in a paper to be delivered at the Obligations IV Conference which will be held in Singapore at the end of July 2008. Thirdly, together with Dr Amir Kordvani of the Law School, Matthew will undertake a comparative study of the charitable trust and its analogue in Islamic law, the waqf khairi, with a view to demonstrating that the two institutions, although they emerge from different legal traditions, are nonetheless conceptually alike. Finally, Matthew has been invited to contribute in 2008 to the *Oxford Australian Legal Dictionary*. 
Professor Stuart Kaye’s area of research expertise is international law, particularly the law of the sea. He also has an interest in international humanitarian law, and is currently Associate Director of the Asia Pacific Centre for Military Law within the Law School, and is the Chairman of the Australian International Humanitarian Law Dissemination Committee for the Australian Red Cross.

Stuart graduated with a BA, an LLB(Hons) and an LLM(Hons) from the University of Sydney, winning the Law Graduates’ Association Medal. He also holds a doctorate in law (JSD) from Dalhousie University, where he was a holder of a J. Fielding Sherwood Award. He was appointed to a chair in law at Melbourne Law School in 2006, after having been Dean of Law at the University of Wollongong since 2002. He is admitted as a barrister in New South Wales, Queensland and Tasmania, and is a Fellow of the Royal Geographical Society.

Stuart’s research in the law of the sea has covered a range of areas, from questions of jurisdiction and enforcement of laws at sea, to maritime security and international environmental law. He has written a number of books including *The Torres Strait, Australia’s Maritime Boundaries*, currently in its second edition, and *International Fisheries Management* and over 50 other publications in relation to the law of the sea in international and Australian law journals. He is the only Australian member of the editorial board of *Ocean Development and International Law*, the leading international journal in the law of the sea.

Some of Stuart’s research has been directed at issues of maritime jurisdiction, particularly maritime boundary delimitation. This area deals with dividing jurisdictional control between States over extensive areas of ocean under national control – most notably the 200 nautical mile exclusive economic zone, and the continental shelf. Determining maritime boundaries is an essential concern of States, as they determine control over the resources of the sea, including fisheries and offshore oil and gas. Stuart is currently part of an ARC Discovery project considering the impact that maritime jurisdiction and boundaries have on regional stability and international trade through the Asia-Pacific. He has also worked with the Commonwealth Secretariat in capacity-building projects in the South Pacific and Africa in 2005 and 2007 respectively, looking at national legal and technical challenges in States successfully concluding maritime boundaries with their neighbours.
Stuart Kaye

An ongoing area of Stuart’s research relates to legal questions affecting Antarctica and the Southern Ocean. The Antarctic Treaty System establishes a complex series of international instruments designed to preserve the status quo in respect of territorial claims to the continent. These arrangements have come under increasing pressure in recent times due to greater levels of human activity in the Antarctic. Stuart is currently working on an ARC-funded project with researchers in Australia and Canada looking at issues in regulation in the Polar Regions. In 2000, Stuart was nominated by Australia to the list of arbitrators to deal with disputes under the Environment Protocol to the Antarctic Treaty, and he is also an Honorary CRC Fellow of the Antarctic Climate and Ecosystems Co-operative Research Centre at the University of Tasmania.

Stuart is also a legal officer in the Royal Australian Navy Reserve, providing advice in respect of operations and international law. This follows a tradition of the Navy using Australian academics to provide international law advice, which in the past have included the late Professor Dan O’Connell, Professors Ivan Shearer and Don Rothwell. In recent times, Stuart has been actively involved with the newly-established Border Protection Command, and in 2005 he chaired a major legislative review of maritime legislation for Australian Customs and the Defence Department, with a view to better coordination and rationalisation of enforcement powers offshore used by the new agency. He is also presently working as part of a trans-Tasman group looking at emerging issues in the burgeoning area of maritime security, particularly in relation to the legal responses to threats posed against installations, pipelines and cables offshore.
Published Research
Published Research

Books Authored


Books Edited


Books Authored


Books Edited


Books Authored


Published Research


Lindsey, T, ‘Legal Infrastructure and Governance Reform in Post-Crisis Asia: The Case of Indonesia’ in T Lindsey (ed), Law Reform in Developing and Transitional States, Routledge, United Kingdom (2007), 3–41


Orford, A, ‘Biopolitics and the Tragic Subject of Human Rights’ in E Dauphinee and C Masters (eds), The Logics of Biopower and the War on Terror: Living, Dying, Surviving, Palgrave Macmillan, United States (2007), 205–228


Stewart, M, ‘Tax Policy Transfer to Developing Countries: Politics, Institutions and Experts’ in F Schui and H Nehring (eds), Global Debates about Taxation, Palgrave Macmillan, United Kingdom (2007), 182–200

Stone, A, ‘How to Think About the Problem of Hate Speech: Understanding a Comparative Debate’ in K Gelber and A Stone (eds), Hate Speech and Freedom of Speech in Australia, Federation Press, Australia (2007), 59–80
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**Bosland, J** ‘Regulating for Local Content in the Digital Audiovisual Environment: A View from Australia’ (2007) 18 Entertainment Law Review 103–113


**Christie, A** ‘Cultural Institutions, Digitisation and Copyright Reform’ (2007) 12 Media and Arts Law Review 279–291

**Cooney, S** ‘China’s Labour Law, Compliance and Flaws in Implementing Institutions’ (2007) 49 Journal of Industrial Relations 673–686


Evans, A and Howe, J, ‘Enhancing Corporate Accountability through Contextual Ethical Exercises in Corporate Law Teaching’ 7 Journal of Corporate Law Studies 337–355


Richardson, M, ‘Candid Camera’ (2007) 66 Meanjin 83–87


Singh, H, Thomas, E, Petersen, L and Studdert, D, ‘Medical Errors Involving Trainees: A Study of Closed Malpractice Claims from 5 Insurers’ (2007) 167 Archives of Internal Medicine 2030–2036


Studdert, D and Mellow, M, ‘When Tort Resolutions are “Wrong”: Predictors of Discordant Outcomes in Medical Malpractice Litigation’ (2007) 36 Journal of Legal Studies S47–S78


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Fenwick, C and Sheehan, K, Share-Based Remuneration and Termination Payments to Company Directors: What are the Rules?, Centre for Corporate Law and Securities Regulation and Centre for Employment and Labour Relations Law, University of Melbourne, Melbourne (2007)


Reference Works

Journals, Magazines and Newsletters
Faculty Edited Journals, Magazines and Newsletters

Refereed Journals

The Australian Journal of Asian Law

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

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

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

Email: law-asianlawjournal@unimelb.edu.au.

Company and Securities Law Journal

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

Each issue of the Journal typically contains 2 or 3 articles, together with several casenotes and short ‘comments’ in specialist sections (including company law, directors’ duties and corporate governance, takeovers and public securities, corporate insolvency, corporate finance, securities industry and managed investments, accounting, current developments—legal and administrative, and overseas notes for six jurisdictions). Students are encouraged to submit casenotes and comments for the specialist sections. Article-length pieces from students will also be published if they are of particularly high quality.

Media & Arts Law Review

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

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

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

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

Melbourne Journal of International Law

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

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

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

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

Editors of the MJIL 2007 editions are Bronwyn Reddan, Natasha Sung and Rob Walker.

Website: http://mjil.law.unimelb.edu.au.

Melbourne Legal Studies

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

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


Melbourne University Law Review

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

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

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

Any enquiries regarding the 2007 editions of the Review or the AGLC should be directed to:

Katherine Cooke, Richard Hewett and Sze-Beng Tang (Editors)

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

Torts Law Journal
Professor Harold Luntz is the General Editor of the Torts Law Journal, which is published by LexisNexis Butterworths. The Journal commenced publication in 1993, and three issues are published each year. The Journal includes casenotes, articles, comments on legislation and law reform proposals, and book reviews on topics related to torts and alternative compensation schemes. The Journal aims to be of interest to both academics and practitioners; students may also find it useful. Contributions of sufficient scholarly quality from students are welcomed and have been published in the past.

Magazines
Right Now – Human Rights Law in Australia
Right Now aims to promote and strengthen human rights law discourse in Australia. By taking an innovative and creative approach to the communication of legal ideas and issues, Right Now will appeal to a wide audience and stimulate active and inclusive discussion of human rights in the broader, non-legal community. Publishing articles by persons of all different backgrounds and experiences, Right Now offers Melbourne Law School students unique opportunities to be involved in editing a publication and to have their research published in a refereed publication.
Right Now magazine can be downloaded from www.rightnow.org.au.

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

<table>
<thead>
<tr>
<th>Journal</th>
<th>Publisher Details</th>
<th>Member</th>
<th>Editorial Position</th>
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<tbody>
<tr>
<td><strong>Across the Board</strong></td>
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<tr>
<td>Member of the Editorial Committee</td>
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# Journal Affiliations

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<tr>
<th>Journal</th>
<th>Publisher Details</th>
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<tr>
<td><strong>Governance</strong></td>
<td>Governance Publishing and Information Services Ltd, Somerset, United Kingdom</td>
<td>Geof Stapledon</td>
<td>Asia Pacific Consulting Editor and Member of Editorial Board</td>
</tr>
<tr>
<td><strong>Griffith Law Review</strong></td>
<td>Griffith Law Review Association, Brisbane, Australia</td>
<td>Sir Zelman Cowen, Peter Rush</td>
<td>Members of the Editorial Board</td>
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<tr>
<td><strong>I.CON</strong></td>
<td>Oxford University Press, Oxford, United Kingdom and New Zealand</td>
<td>Cheryl Saunders</td>
<td>Member of the Editorial Board and Symposium Joint Editor</td>
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<tr>
<td></td>
<td></td>
<td>Simon Evans</td>
<td>Developments Correspondent, Australia</td>
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<tr>
<td><strong>International Construction Law Review</strong></td>
<td>Informa, London, United Kingdom</td>
<td>Doug Jones AM</td>
<td>Co-Editor in Chief</td>
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<tr>
<td><strong>International Criminal Law Review</strong></td>
<td>Brill Publishers, Leiden, The Netherlands</td>
<td>Tim McCormack</td>
<td>Member of Editorial Board</td>
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<tr>
<td><strong>International Journal of Comparative Labour Law and Industrial Relations</strong></td>
<td>Kluwer Law International, The Hague, The Netherlands</td>
<td>Colin Fenwick</td>
<td>Member of the Editorial Board</td>
</tr>
<tr>
<td><strong>International Journal of Information Policy and Law</strong></td>
<td>Inderscience, Geneva, Switzerland</td>
<td>Andrew Christie</td>
<td>Member of the Editorial and Advisory Board</td>
</tr>
<tr>
<td><strong>International Securities Regulation: Pacific Rim</strong></td>
<td>Oceana Publications, New York, United States of America</td>
<td>Ian Ramsay</td>
<td>Consultant Editor</td>
</tr>
<tr>
<td><strong>International Union Rights</strong></td>
<td>International Centre for Trade Union Rights, London, United Kingdom</td>
<td>Colin Fenwick</td>
<td>Member of the Editorial Board</td>
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<tr>
<td><strong>Intellectual Property Forum</strong></td>
<td>Intellectual Property Society of Australia and New Zealand, Perth, Australia</td>
<td>Sam Ricketson</td>
<td>Member of the Editorial Board</td>
</tr>
<tr>
<td><strong>Journal of Australasian Tax Teachers Association</strong></td>
<td>Australasian Tax Teachers Association, Internet</td>
<td>Miranda Stewart</td>
<td>Member of the Editorial Board</td>
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<tr>
<td><strong>Journal of Conflict and Security Law</strong></td>
<td>Oxford University Press, Oxford, United Kingdom</td>
<td>Tim McCormack</td>
<td>Member of the Editorial Board</td>
</tr>
<tr>
<td><strong>Journal of Corporate Law Studies</strong></td>
<td>Hart Publishing, London, United Kingdom</td>
<td>Geof Stapledon</td>
<td>Member of the Editorial Board</td>
</tr>
<tr>
<td><strong>Journal of Medical Ethics</strong></td>
<td>BMJ Publishing Group, London, United Kingdom</td>
<td>Loane Skene</td>
<td>Member of the Editorial Board</td>
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**Journal Affiliations**

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<tr>
<td><strong>Jurnal Hukum Humaniter</strong> <em>(Journal of Humanitarian Law)</em></td>
<td>Centre for the Study of International Humanitarian Law Trisakti University Law School, Jakarta</td>
<td>Tim McCormack</td>
<td>Honorary Editor</td>
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<tr>
<td><strong>Law and Critique</strong></td>
<td>Springer, Dordrecht, The Netherlands</td>
<td>Peter Rush</td>
<td>Member of the Editorial Board</td>
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<tr>
<td><strong>Law and Society Review</strong></td>
<td>Blackwell Publishing, Denver, United States of America</td>
<td>Christine Parker</td>
<td>Member of the Editorial Advisory Board</td>
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<tr>
<td><strong>Law in Context</strong></td>
<td>Federation Press, Sydney, Australia</td>
<td>Miranda Stewart</td>
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<tr>
<td><strong>Macquarie Journal of Business Law</strong></td>
<td>Macquarie University, New South Wales, Australia</td>
<td>Ian Ramsay</td>
<td>Member of the Editorial Board</td>
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<tr>
<td><strong>Media and Arts Law Review</strong></td>
<td>LexisNexis, Sydney, Australia</td>
<td>Andrew Kenyon</td>
<td>Editor</td>
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<tr>
<td><strong>Melbourne Journal of International Law</strong></td>
<td>The University of Melbourne, Melbourne Australia</td>
<td>David Brennan, Martin Davies, Alison Duxbury Colin Fenwick, Richard Garnett, Geoffrey Lindell, Tim McCormack, Ian Malkin, Anne Orford, Bruce Oswald, Dianne Otto, Sundhya Pahuja, Jacqueline Peel, Kristen Walker</td>
<td>Members of the Advisory Board</td>
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<tr>
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<td>Social Sciences Research Network, United States of America, Internet</td>
<td>Andrew Kenyon</td>
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<tr>
<td><strong>Melbourne University Law Review</strong></td>
<td>The University of Melbourne, Melbourne, Australia</td>
<td>David Brennan, Jenny Morgan, Ian Malkin</td>
<td>Faculty Advisors</td>
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<tr>
<td><strong>Ocean Development and International Law</strong></td>
<td>Taylor and Francis Ltd, London, United Kingdom</td>
<td>Stuart Kaye</td>
<td>Member of the Editorial Board</td>
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<tr>
<td><strong>Publius</strong></td>
<td>Centre for Study of Federalism, Pennsylvania, United States of America</td>
<td>Cheryl Saunders</td>
<td>Member of the Advisory Council</td>
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<td><strong>Regulatory Governance</strong></td>
<td>Blackwells, Melbourne, Australia</td>
<td>Christine Parker</td>
<td>Member of the Editorial Advisory Board</td>
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<td><strong>Michael Kobetsky</strong></td>
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<td>Bond University, Gold Coast, Australia</td>
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<td><strong>Review of Constitutional Studies</strong></td>
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<td>Armed Forces Law Association of New Zealand, Christchurch, New Zealand</td>
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<td><strong>Dianne Otto</strong></td>
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<td>Editor, Report from Asia</td>
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<td><strong>Yearbook of International Humanitarian Law</strong></td>
<td><strong>Tim McCormack</strong></td>
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<td>TMC Asser Instituut Press, The Hague, The Netherlands</td>
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Faculty Research Workshop Series
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<tr>
<td>5 March 2007</td>
<td>Professor Tim McCormack</td>
<td>‘How Not to Try a Former Head of State: Lessons from the Milosevic Trial’</td>
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<tr>
<td>12 March 2007</td>
<td>Professor Les Moran (Birkbeck University, London)</td>
<td>‘The Cultural Lives of the Judiciary’</td>
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<td>19 March 2007</td>
<td>Professor Adrienne Stone</td>
<td>‘Judicial Review without Rights’</td>
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<td>26 March 2007</td>
<td>Dr Jacqueline Peel</td>
<td>‘Ecologically Sustainable Development: More than Mere Lip-Service’</td>
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<td>2 April 2007</td>
<td>Associate Professor Carolyn Evans</td>
<td>‘Religious Hate Speech Directed at Women’</td>
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<td>16 April 2007</td>
<td>Professor Andrew Christie</td>
<td>‘Multi-disciplinary Research: Aspirations and Actualities’</td>
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<td>23 April 2007</td>
<td>John Waugh</td>
<td>‘Choosing the Dean: A Quasi-Democratic History’</td>
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<tr>
<td>30 April 2007</td>
<td>Associate Professor Megan Richardson</td>
<td>‘Art and Artifice in Unstaged Photography: Naomi meets DiCorcia’</td>
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<td>7 May 2007</td>
<td>Dr Ann Genovese</td>
<td>‘Taking Liberties: Australia in the 60s’</td>
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<td>14 May 2007</td>
<td>Bruce Oswald</td>
<td>‘The Law of Military Occupation: Imagining a Legal Paradise’</td>
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<td>21 May 2007</td>
<td>Joo-Cheong Tham</td>
<td>‘Limitations of a Charter of Rights in the Age of Counter-Terrorism’</td>
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<td>23 July 2007</td>
<td>Dr David Brennan</td>
<td>‘Replevin and the Paradox of English Chattel Property’</td>
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<tr>
<td>30 July 2007</td>
<td>Liz Cham (Senior Research Fellow in Philanthropy, University of Melbourne) and John Emerson (Partner, Freehills)</td>
<td>‘Charitable Law – Problems and Progress’</td>
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<tr>
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<td>6 August 2007</td>
<td><strong>Associate Professor Diana Sancho Villa</strong> <em>(Facultad Ciencias Uridacas y Sociales, Universidad Rey Juan Carlos)</em></td>
<td>‘European Transfers of Personal Data to Australia: An Introductory Approach to the Role to be Played by Corporate Binding Rules and Standard Contractual Clauses’</td>
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<td>13 August 2007</td>
<td><strong>Associate Professor Cally Jordan</strong></td>
<td>‘Revisiting Legal Origins: The Case of Corporate Governance’</td>
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<td>20 August 2007</td>
<td><strong>Associate Professor Di Otto</strong></td>
<td>‘Emergency Law: Cautionary Tale about Responding to International Terror and Peacekeeping Sex’</td>
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<td>27 August 2007</td>
<td><strong>Dr Matthew Harding</strong></td>
<td>‘Trusts for Religious Purposes: Three Approaches to the Question of Public Benefit’</td>
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<td>3 September 2007</td>
<td><strong>Associate Professor Maureen Tehan</strong></td>
<td>‘Indigenous/Settler Land Relations and the Property Paradox’</td>
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<td>10 September 2007</td>
<td><strong>Associate Professor Pamela Hanrahan</strong></td>
<td>‘Improving the Process of Regulatory Change in the Financial Sector – and what Butterflies, Bubble Skirts and Medieval Monks might have to do with it’</td>
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<td>1 October 2007</td>
<td><strong>Associate Professor Carolyn Evans</strong> and <strong>Associate Professor Andrew Kenyon</strong></td>
<td>‘RQF Update and ARC Grant Proposals’</td>
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<td>8 October 2007</td>
<td><strong>Mr Donal Nolan</strong> <em>(University of Oxford)</em></td>
<td>‘The Reach of Breach: Breach of Duty as a Control Mechanism in Negligence’</td>
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<td>15 October 2007</td>
<td><strong>Professor David Studdert</strong></td>
<td>‘Deconstructing Negligence: Do Medical Torts Hit the Mark?’</td>
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<td>22 October 2007</td>
<td><strong>Dr Helen Durham</strong></td>
<td>‘Women as Warriors – Men as Carers: Some Gender Reflections on the Law of War’</td>
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</table>
International Research Visitors Scheme Student Research Prizes
International Research Visitors Scheme

The International Research Visitors Scheme (IRVS) is designed to enhance collaborative work between international researchers and members of the Law School.

IRVS Recipient: Dr Gregor Noll, Associate Professor of International Law, Faculty of Law, University of Lund, Sweden
Period of Visit: January 2007
Project: Concerning True or False Penance: UNHCR Refugee Status Determinations and the Path to Reform
This visit enabled Dr Gregor Noll to work with Dr Jenny Beard.

IRVS Recipient: Professor Martha Bailey, Professor, Faculty of Law, Queen’s University, Canada
Period of Visit: 11 – 28 February 2007
Project: Accommodation of Religious Diversity in Family Law Regimes
This visit enabled Professor Martha Bailey to work with Professor Belinda Fehlberg and Dr Amanda Whiting.

IRVS Recipient: Professor BS Chimni, Professor, School of International Law, Jawaharlal Nehru University, India
Period of Visit: 5 – 8 June 2007
Project: Presentation at the 2007 Sir Kenneth Bailey Memorial Lecture
This visit enabled Professor BS Chimni to work with Professor Anne Orford.
Student Research Prizes

Student Published Research Prize 2007 Winners

The Student Published Research Prize is awarded annually for outstanding pieces of writing by students of the University of Melbourne’s Law School.

Two prizes are awarded, one to an undergraduate law student and the other to a postgraduate law student.

Undergraduate

Lachlan Harrison-Smith


Postgraduate

Caroline Henckels


Harold Luntz Graduate Research Thesis Prize 2007 Winner

The prize is awarded annually to the Melbourne Law School graduate research student judged to have presented the best thesis in the previous year provided that the nominee meets an overall level of excellence required for the award.

The Inaugural Harold Luntz Graduate Research Thesis Prize is awarded to:

Academic Staff
Academic Staff

Head of Department, Dean and Zelman Cowen Professor of Law
Brian Michael Lake Crommelin
Barrister-at-Law Queensland and the High Court of Australia, Barrister and Solicitor Victoria and Papua New Guinea, Legal Practitioner Northern Territory

Professors
Michael Bryan, MA Oxf. BCL. Oxf. PhD Lond.
Camille Cameron, BA Saint Mary’s LLB New Br. LLM Cantab.
Belinda Louise Fehlberg, BA Melb. LLB Melb. DPhil Oxf.
Barrister and Solicitor Victoria and the High Court of Australia
Richard Garnett, BA NSW/LLB NSW LLM Harv.
Solicitor New South Wales, Barrister and Solicitor Victoria, Solicitor of the Supreme Court of England and Wales
Dan Hunter, LLB Monash BSc Monash LLM Melb.
PhD Cantab.
Stuart Kaye, BA Syd. LLB. Syd. LLM Syd. JSD Dal. FRGS
Barrister of the Supreme Court of New South Wales, Supreme Court of Queensland, Supreme Court of Tasmania and the High Court of Australia
Ian Rael Malkin, BA Manit. LLB Manit. LLM Lond.
Barrister and Solicitor of the Queen’s Bench of Manitoba
Jennifer Jane Morgan, BA Syd. LLB NSW LLM Yale
Barrister and Solicitor Victoria
Staniforth Ricketson, BA Melb. LLB Melb. LLM Lond.
LLD Lond. FASSA
Barrister and Solicitor of the Supreme Court Victoria and Solicitor of the Supreme Court New South Wales
Andrew John Robertson, LLB QIT LLM QUT PhD ANU
Solicitor of the Supreme Court of Queensland and the Supreme Court of England and Wales
Cheryl Anne Saunders AO, BA Melb. LLB Melb. PhD Melb.
Barrister Queensland (Personal Chair in Faculty of Law)
Loane Skene, LLB Melb. LLM Monash
Barrister and Solicitor Victoria, Barrister and Solicitor of the High Court of Australia
Geofrey Peter Stapledon, BEcon Adel. LLB Adel.
DPhil Oxf.
Solicitor of the Supreme Court of South Australia and New South Wales
Adrienne Stone, BA NSW/LLB. NSW LLM Col. JSD Col.

Australian Red Cross Professor of International Humanitarian Law
Timothy Lloyd Hearnden McCormack, LLB Tas.
PhD Monash

Davies Collison Cave Professor of Intellectual Property
Andrew Frederick Christie, BSc Melb. LLB Melb.
LLM Lond. PhD Cantab.
Barrister and Solicitor of the Supreme Court of Victoria and Solicitor of the Supreme Court of England and Wales, Registered Trade Marks Attorney Australia

Harold Ford Professor of Commercial Law
Ian Malcolm Ramsay, BA Macq. LLB Macq. LLM Harv.
Solicitor of the Supreme Court New South Wales and the High Court of Australia and Member of the New York Bar

Associate Professors and Readers
Michael Anthony Kriton Lambiris, LLB Lond.
PhD Rhodes
Martin Nico Alphons Vrankis, LicLaw Leuven
PhD Leuven LLM Yale

Associate Professors
Solicitor of the Supreme Court of New South Wales, Barrister and Solicitor of the High Court of New Zealand
David Brennan, BComm Melb. LLB Melb. PhD Melb.
Sean Thomas Cooney, BA Melb. LLB Melb. LLM Melb.
LLM Col. JSD Col.
Barrister and Solicitor Victoria and the High Court of Australia
Manfred Paul Ellinghaus, LLB Melb. LLM Yale
Barrister and Solicitor of the Supreme Court of Victoria
Carolyn Evans, BA Melb. LLB Melb. DPhil Oxf.
Barrister and Solicitor of the Supreme Court of Victoria
Simon Charles Evans, BSc Syd. LLB Syd. PhD Cantab.
Barrister and Solicitor of the High Court of Australia, Solicitor New South Wales
Jeremy Gans, LLB ANU BSc ANU MA Tor. PhD NSW
Beth Gaze, BSc Monash LLB Monash LLM Berkeley
Barrister and Solicitor of the Supreme Court of Victoria and the High Court of Australia
Lee Godden, GradDipEd Melb. BLegS Macqu. BA Melb.
MA Melb. PhD Griff.
Barrister and Solicitor Australian Capital Territory, Solicitor Queensland
Senior Lecturers

Jenny Beard, BA ANU LLB ANU LLM Pub Intl L Lond Sch of Eco & Pol Sc. PhD Melb.

Caron Beaton-Wells, LLB Melb. LLM Melb. PhD Melb. Barrister and Solicitor of the Supreme Court of Victoria

Sarah Biddulph, BA Syd. LLB Syd. PhD Melb. Barrister and Solicitor of the High Court of Australia, Solicitor New South Wales

Gary Cazalet, BA Monash LLB Monash

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Colin Fenwick, BA Melb. LLB Melb. LLM Melb. Virginia Barrister and Solicitor Victoria

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Andrew Godwin, BA Melb. LLB Melb. LLM Melb.

Linda Haller, LLB Monash LLM Qld. PhD Qld.

John Howe, BA Monash LLB Monash LLM Temple PhD Melb.

Michael Kobetsky, BEcon USyd. LLB ANU PhD Deakin

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Wendy Larcombe, BA Melb. BLitt Melb. LLB Melb. PhD Melb.

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Bruce Oswald CSC, BBus RMIT ANU LLM Lond. MA Kent Barrister New South Wales

Glenn Anthony Patmore, BA Monash LLB Monash LLM Queens Barrister and Solicitor of the Supreme Court of Victoria

Joo-Cheong Tham, LLB Melb. LLM Melb. PhD Melb.

John Tobin, BA Melb. BComm Melb. LLB Melb. LLM Lond. Barrister and Solicitor of the Supreme Court of Victoria and of the High Court of Australia

Pamela Fay Hanrahans, BA Melb. LLB Melb. LLM Case Western Reserve University SJD Melb. Barrister and Solicitor of the Supreme Court of Victoria

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Megan Lloyd Richardson, BA Well. LLB Well. LLM Yale LLM Brussels Barrister and Solicitor of the High Court of New Zealand

Peter Rush, BA NSW LLB NSW MPhil Cantab. PhD Edin.

Miranda Stewart, BSc Syd. LLB Syd. Grad Dip ANU LLM NYU Barrister and Solicitor Victoria

Maureen Frances Tahan, LLB Monash BA Melb. LLM Melb. Barrister and Solicitor Victoria, South Australia, Western Australia and the High Court of Australia, Legal Practitioner Northern Territory of Australia

Kristen Louise Walker, BSc Melb. LLB Melb. LLM Melb. LLM Col. Barrister and Solicitor Victoria

Christian Witting, BEc Monash LLB Monash SJD Melb. Barrister and Solicitor of the High Court of Australia

Barrister and Solicitor of the Supreme Court of Victoria and the High Court of Australia

John Charles Waugh, LLB Melb. BComm Melb.
BA Melb. LLM Melb. MPhil Cantab.
Barrister and Solicitor Victoria

Lecturers
Matthew Bell, BA Melb. LLB Melb. LLM Melb.
Barrister and Solicitor Victoria

Helen Louise Bird, BComm Qld. LLB Qld.
Barrister and Solicitor Victoria

David Blumenthal, BA Melb. LLB Melb. PhD Melb.

Arlen Duke, BComm Melb. LLB Melb.

Matthew Harding, BA Melb. LLB Melb. BCL Oxf.

Michelle Herring, BComm Monash. LLB Monash
Barrister and Solicitor of the Supreme Court of Victoria

Jacqueline Horan, BA Monash. LLB Monash
LLM Monash. PhD Melb.
Barrister and Solicitor of the High Court of Australia, Barrister and Solicitor of the Supreme Court of Victoria

Jessica Howard, BA Melb. LLB Melb.

Enelia Jansen van Rensburg, BA Uni of Stellenbosch. LLB Uni of Stellenbosch. LLM Uni. of Capetown

Sunita Jogarajan, BComm Melb. LLB Melb.

Lisa Koralia Sarmas, BA Melb. LLB Melb. LLM Melb.
Barrister and Solicitor of the Supreme Court of Victoria

Michelle Sharpe, BA Adel. LLB Adel. PhD Melb.

Stacey Steele, BA Qld. MA Monash. BL ML Melb.

Michelle Taylor-Sands, BA Monash. LLB Monash

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Sarah Worthington

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Melanie Baker, Allens Arthur Robinson
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Intellectual Property Research Institute of Australia
Director
Professor Andrew Christie
Graduate Research Student Profiles
Yoriko Otomo

International law at the beginning of the 21st century continues to be dominated by the language of risk, evident particularly in relation to terrorism and trade. My doctoral research examines the implications of this for thinking about ethical relations between legal subjects.

The risk of terrorism; of nuclear war; the spread of genetically modified organisms; the risk of human rights abuses; climate change; mass migration, death: in the name of risk, we are witness and party to a raft of international treaties and interventions. Discussion of the concept and language of risk has taken place primarily within sociology and economics, figuring little in writings on law save in relation to doctrines such as the precautionary principle. In order to think about contemporary anxieties about the role of international law in addressing risk between sovereign states, I depart from previous discursive fields to undertake deconstructive readings of risk as it appears in key international law texts from the sixteenth century until the present day.

A parallel reading of key epistemological shifts in international law using critical legal theory’s bordering disciplines: psychoanalysis, gender theory and postcolonial theory, reveals a fraternity in constant crisis. Following the scientific revolution in the sixteenth century, states struggled over ensuing centuries to regulate war and trade in the absence of an unconditional guarantor. This led to their eventual adoption of *equality* – a fiction in terms of actual power relations but a necessary one for enabling mutual recognition of sovereign subjectivity – as the new foundation for the social contract.

This project undertakes a genealogy of sovereign fantasies by looking at key moments of fraternal crises, focusing on the post-war unconditional surrenders of Japan and Germany, and recent jurisprudence on risk by the World Trade Organisation. What emerges from this analysis is a critical account of international law which articulates how discourses of risk and rights operate in the fields of trade and occupation law to configure relations between subjects. The project concludes that if we are to retain politics at the heart of international law there is an urgent need, not only to think the state otherwise, but to articulate an ethics for legal subjects as an alternative to those prescribed by existing critical theories.
David Tan

David Tan enrolled in the PhD program at Melbourne Law School in 2006 to investigate the contribution of cultural studies to the laws governing the right of publicity. He also lectured Constitutional Law there in the second semester of 2007. David has been appointed Assistant Professor at NUS Law School (at the National University of Singapore) and will commence teaching there upon the completion of his PhD thesis.

David holds a Master of Laws from Harvard, and graduated with first class honours in law from the University of Melbourne as well as with a Bachelor of Commerce majoring in economics. In addition, he is an accomplished fine art fashion photographer who had staged several solo exhibitions over the last ten years, and had published coffee table books in association with luxury brands Cartier and Versace. David was named Singapore’s Outstanding Young Person of the Year in 1999.

David was the Director of Sports with the Singapore Government, from 2004-2005, responsible for developing policies to facilitate the sustainable development of competitive and recreational sports in Singapore. From 2002-2004, he was the Director of Contact Singapore, overseeing an international network of offices in North America, Europe, China, India, Southeast Asia and Australia.

In the area of law, David has been on the editorial boards of the Harvard International Law Journal, Harvard Human Rights Journal and Melbourne University Law Review. Some of his more notable publications are in the areas of cultural studies and the right of publicity, outer space environmental law, moral rights in musical compositions, fiduciary duties governing the doctor-patient relationship, and the impact of statutory business judgment rule on company directors.

The working title of the thesis is: ‘How Can Cultural Studies Contribute to Right of Publicity Laws Protecting the Commercial Value of the Celebrity Identity?’ The right of publicity is recognised in 28 states in the United States, through a farrago of common law and statutory regimes. The research project focuses on three key elements of a right of publicity claim that has generated much controversy since the Ninth Circuit handed down its decision in White v Samsung in 1992: (i) the most expansive interpretation of ‘indicia of identity’ to include anything could evoke a celebrity in the minds of the audience; (ii) the perfunctory treatment of the issue of the appropriation of the commercial value of the celebrity’s identity; and (iii) the cursory dismissal of First Amendment arguments in one paragraph. Since the contemporary celebrity is very much a cultural and social phenomenon, the thesis argues that an understanding of cultural studies is important for the principled development of right of publicity laws, and investigates how relevant cultural studies perspectives – for example, the writings of Richard Dyer, Graeme Turner, P David Marshall and Stuart Hall – can contribute to right of publicity jurisprudence. Some cross-jurisdictional comparison with UK and Australia experiences will also be engaged.
Graduate Research Degrees Completed in 2007 and In Progress
Graduate Research Degrees Completed in 2007

**Doctor of Philosophy**

**Boas, G**
The Milosevic Trial: Lessons for the Conduct of Complex International Criminal Proceedings  
*Supervisors: Tim McCormack and Carolyn Evans*

**Butt, S**
*Supervisor: Tim Lindsey*

**Gallen, M**
A Model Law for Anti-doping in Sport  
*Supervisors: Hayden Opie and Gillian Triggs*

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An Analysis of the Office of Attorney General in Australia and Directions for the Future  
*Supervisor: Cheryl Saunders*

**Harper, E**
(Re)constructing a Legal System in East Timor: Challenges to Introducing International Legal Norms and Principles into Post-Conflict States under UN Administration  
*Supervisor: Tim Lindsey*

**Kordvani, A**
International Law, Economic Liberalization and the Movement of Natural Persons  
*Supervisor: Anne Orford*

**Millar, H**
Standards for Effective Transitional Justice Decision-Making: Lessons from South Africa and East Timor  
*Supervisors: Tim McCormack and Helen Durham*

**Murphy, A**
Effective Public Participation in Major Projects  
*Supervisor: Lee Godden and Gillian Triggs*

**Nielsen, J**
An Intractable Problem: The Endurance of Settled White Privilege in Mainstream Work Cultures  
*Supervisors: Jenny Morgan and Irene Watson*

**Rogers, J**
Fantasies of ‘Female Genital Mutilation’: Flesh, Law and Freedom Through Psychoanalysis  
*Supervisor: Peter Rush*

**Steiner, K**
Are ‘Asian Values’ Universal? International Discourses on Human Rights Policies  
*Supervisor: Tim Lindsey*

**Doctor of Juridical Science**

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First World Convention and Third World Corruption: The OECD Convention on Bribery in International Commercial Transactions and Foreign Subsidiary Corporations in the Philippines  
*Supervisors: Pip Nicholson and Michael Tilbury*

**Sherman, T**
The Introduction of the Consolidation Regime into the Income Tax Assessment Act 1997 (Cth): An Analysis of the Effect on the Subsidiary Disposal Decision for a Corporate Group  
*Supervisors: Geof Stapledon and Cameron Rider*
Graduate Research Degrees in Progress

Doctor of Philosophy

Allan, S
The Regulation of Science: Research on Human Embryos, Cloning and the Law
Supervisors: Loane Skene and Christine Parker

Allen, D
Improving the Effectiveness of Australia’s Anti-Discrimination Laws
Supervisors: Beth Gaze and Jenny Morgan

Alneyadi, M
Surrogacy: It’s Legal Boundaries in UAE and Islamic Jurisprudence
Supervisors: Tim Lindsey and Michael Bryan

Barnett, K
The Aristotelian Principle of Distributive Justice
Supervisors: Michael Bryan and Andrew Robertson

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Sovereignty as a Tool of Colonialism: An Examination of the Historical and Jurisprudential Foundations of Sovereignty
Supervisors: Jenny Beard and Maureen Tehan

Becroft, R
The Development of a Standard of Review in World Trade Organisation Disputes
Supervisors: Richard Garnett and Andrew Mitchell

Bird, H
Conciliatory Enforcement of Australian Company Law: The Operation and Use of Enforceable Undertakings by ASIC, the Corporate Regulator
Supervisor: Ian Ramsay

Bird, J
Bioethics and Human Rights: Mapping the Boundaries of the Human Subject
Supervisor: Natalie Stoljar

Brophy, E
The Integration of Complementary and Alternative Medicine into Health Care: Regulating for Consumer Choice, Autonomy and Responsibility
Supervisors: Christine Parker, Harold Luntz, Vicki Kotsirilos and Marie Pirotta

Bulto, T
The Utility of Civil and Political Rights Protections in Enhancing Justicability of Socio-Economic Rights in the African Human Rights System
Supervisors: Dianne Otto and Colin Fenwick

Carson, R
Supervised Contact: A Study of Current Trends and Emerging Tensions since the Introduction of the Family Law Reform Act 1995 (Cth)
Supervisors: Belinda Fehlberg, Jenny Morgan and Grania Sheehan

Charwat, N
Contesting Global Governance: A Critical Examination of Amicus Curiae Briefs in the World Trade Organisation’s Dispute Settlement Body
Supervisor: Dianne Otto

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Evidence of Child Abuse in Non-Jury Criminal Trials
Supervisors: Andrew Palmer, Ann Genovese and Augustine Sinnapen

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Operation, Resistance and Jus ad Bellum: When is it Lawful to Forcibly Resist Foreign Occupation of a Sovereign State?
Supervisors: Tim McCormack, Michael Kelly and Michael Gillooly

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The International Court of Justice and Claims for Self-Determination
Supervisors: Tim McCormack and Tania Voon

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International Jurisdiction and Amnesty
Supervisors: Tim Lindsey and Tim McCormack

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Imposing International Criminal Law and the Individual Victims of Mass Violence: Help or Hindrance?
Supervisors: Tim McCormack and Helen Durham

D’Souza, A
John Locke and the Philosophy of Intellectual Property Rights
Supervisors: Robyn Eckersley and Andrew Christie
Graduate Research Degrees in Progress

Duxbury, A
The Participation of States in International Organisations: The Role of Human Rights and Democracy
Supervisors: Tim McCormack and Gerry Simpson

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Wildlife 'Ownership' and Management in the Northern Territory
Supervisors: Marcia Langton, Maureen Tehan and Steve Keen

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The Philosophical Foundations of Intellectual Property Law
Supervisors: Michael Bryan and Megan Richardson

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Islamic Liberalism and the Rule of Law: Rights and the Politics of Transition in post-Suharto Indonesia
Supervisors: Tim Lindsey and Abdullah Saeed

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How Prosecutors Shape International Criminal Law and Justice
Supervisors: Tim McCormack and Helen Durham

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Towards an Ecologically Sustainable Allocation of Water Resources? An Analysis of Recent and Ongoing Water Law Reform in NSW and Victoria, with Respect to their Capacity to Deliver Environmental Outcomes
Supervisors: Lee Godden and David Farrier

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Communicating Genetic Information to Family Members: Practical, Ethical, Legal and Social Implications
Supervisors: Mary Anne Aitken, Mary Delatycki, Loane Skene and Lisette Curnow

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Sustainable Indigenous Entities for Making Agreements
Supervisors: Maureen Tehan, Lee Godden and Marcia Langton

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From Convention to Classroom: The Long Road to Human Rights Education
Supervisor: Dianne Otto

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Domestic Violence in Timor-Leste: Is there a Place for Indigenous Justice Systems?
Supervisors: Tim Lindsey and Dianne Otto

Griffin, L
Development, Agency and Rights Beyond Borders: A Case Study of Basotho Domestic Workers in Bloemfontein
Supervisors: Salim Lakha and Jenny Beard

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Judicial Review for Substantive Unfairness: Prospects under Australian Constitution
Supervisors: Cheryl Saunders and Simon Evans

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Targeting During Armed Conflict: A Legal Analysis
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Copyright Law and the Cultural Sector: Lessons for Australia from the United States and Canada
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Supervisors: Ruth Beilin and Lee Godden

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Is Australia in Violation of the International Human Right to Non-Discriminatory and Equitable Access to Health Care Services of Aboriginal and Torres Strait Islander Peoples?: Possibilities and Limitations of National and International Legal Procedures
Supervisors: Carolyn Evans and Ian Anderson

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The Effectiveness of Justice and Reconciliation Initiatives in Timor Leste
Supervisors: Julie Evans and Dianne Otto

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Pancasila Society: Community Engagement in Lombok
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The Inner Logic of Socialism: Private Ownership and Liberal Irony
Supervisors: Lee Godden and Jenny Beard
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The EU and the Contemporary Notion of State Sovereignty
Supervisors: Anne Orford and Carolyn Evans

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Democratic Participation in Constitution Making: Emerging
Best Practice
Supervisor: Cheryl Saunders

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Israel’s Policy of Targeted Killing and International
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Supervisors: Anne Orford and Lee Godden

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Establishing an Optimal Framework for Online Privacy
Supervisor: Sam Ricketson

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The Role of Equity in Trusts Law: The Legislation and
Application of the Chinese Trust Code
Supervisors: Michael Bryan and Sarah Biddulph

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The Negotiation of the Chemical Weapons Convention,
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Supervisors: Tim McCormack and Stuart Kaye

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Prosecuting the Accumulated Evil of the Whole: Defining
an ‘Act of Aggression’ for the Purposes of the Rome
Statute of the International Criminal Court
Supervisors: Tim McCormack, Stuart Kaye and
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McGloine, D
The Role of the Defendant in Criminal Trials in Victoria,
Particularly in Relation to Sex Offence and Terrorism Trials
Supervisors: Peter Rush and Jeremy Gans

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Assessments and Regulation of Market Power in Australia
Supervisors: Geof Stapledon, Rachel Trindade and
Rhoda Smith

Mihalopoulos, A
The Granting of ‘Recognition Space’ to Indigenous Peoples
and Ethnocultural Groups with a Particular Emphasis on
the Concepts of ‘Self-Determination’ and ‘Legal Pluralism’
Supervisors: Beth Gaze, Lisa Sarmas and Victor New

Muru, D
Recognition, Redistribution and Protection: Assessing the
usefulness of Human Rights in the Task of Realising Better
Health in sub-Saharan Africa in the Context of Challenges
Posed by International Economic Actors
Supervisors: Anne Orford and Jenny Beard

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Administration of Religion in the Federal Structure of
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Supervisors: Carolyn Evans and Cheryl Saunders

Mussawir, E
Jurisdiction: The Expression and Representation of Law
Supervisors: Peter Rush and Anne Orford

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The Enactment of War Crimes Legislation in Australia
without Offending the Prohibition on Retrospective
Legislation
Supervisors: Tim McCormack, Wendy Larcombe and
Daniel Bethlehem

Oswald, B
The Application of International Law to United Nations and
Regional Peace Operations
Supervisors: Tim McCormack, Wendy Larcombe and
Daniel Bethlehem

Otomo, Y
The Changing Landscapes of Risk
Supervisors: Anne Orford and Jenny Beard

Parker, A
The Family Law Amendment (Shared Parental
Legislation on Judicial Determination of Shared Parenting
Cases
Supervisors: Belinda Fehlberg and Helen Rhoades

Parker, D
Lifting the Veil and Corporate Personality
Supervisor: Ian Ramsay
Graduate Research Degrees in Progress

Pausacker, H
In the Eye of the Beholder: Law, Pornography and Indonesia’s Islamic Defenders Front
Supervisors: Tim Lindsey and Abdullah Saeed

Pourpouras, J
Islamic Financing: The Use of Zakat and Non-Riba Transactions in Islamic Banks and Charities to Facilitate Terrorism Financing Practices
Supervisor: Tim Lindsey and Abdullah Saeed

Purcell, J
A Corrective and Distributive Justice Analysis of Creditor Entitlements in Bankruptcy
Supervisor: Michael Bryan

Ruschena, D
Litigation and Liability as Regulation to Reduce Tobacco Related Harm: Making the Polluter Pay for the Harm Tobacco Causes
Supervisors: Christine Parker, John Howe and Jonathan Liberman

Saboor, H
Blasphemy Law: A Violation of Right of Free Speech or a Protection against its Abuse
Supervisors: Carolyn Evans and Amanda Whiting

Saunthararajah, J
Constantly Colonised: Legal Containment of Minority Religions Legal Identities in Post-Colonial Singapore
Supervisors: Pip Nicholson, Abdullah Saeed and Li-Ann Thio

Saw, TG
Film Censorship in Malaysia and Australia: Judicial Control and Legal Remedies
Supervisors: Andrew Kenyon and Amanda Whiting

Schlesinger, N
Making International Criminal Law: Factors Influencing Judicial Behaviour at the ICTY and ICTR
Supervisors: Tim McCormack and Tim Marjoribanks

Sheehan, K
In Excess: Does Extended Disclosure of Executive Remuneration Expose the Links Between Company Performance and the Level of Executive Remuneration
Supervisors: Geof Stapledon and Chander Shekhar

Shi, C
Corporate Governance, its Theoretical Development and Issues of Chinese Corporate Governance
Supervisor: Tim Lindsey

Simic, O
Gender Based Violence and Human Rights Violations Committed by UN Peacekeepers
Supervisors: Dianne Otto and Michelle Foster

Storey, M
Statutory Property in Australia
Supervisors: Simon Evans and Lee Godden

Sugden, P
An Analysis of Remedies in International Property Law
Supervisor: Michael Bryan

Tan, D
How Can Cultural Studies Contribute to Right of Publicity Laws Protecting the Commercial Value of the Celebrity Identity?
Supervisors: Andrew Christie and Andrew Kenyon

Tassin, V
The Extension of the Continental Shelf
Supervisors: Stuart Kaye and Andrew Mitchell
(This project is being conducted under a cotutelle agreement with the Sorbonne University)

Tobin, J
Between Apology and Utopia: An Attempt to Map Out the Content of Article 24 of the UN Convention on the Rights of the Child
Supervisors: Anne Orford and Philip Alston

Ujvari, L
Supervisors: Violeta Schubert and Carolyn Evans

Vaitiekunas, A
The Court of Arbitration for Sport: Does it Make Law?
Supervisors: Hayden Opie, Gillian Triggs and David Wood

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The Regulation of Essential Service Insolvencies and the Public Interest: Case Studies of Australia’s Electricity Industry and Melbourne’s Public Transport Industry
Supervisor: Tim Lindsey
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Civil and Administrative Penalties and the Corporations Act
Supervisor: Ian Ramsay

White, A
Islamic Arbitration (Takhim) as an Answer to Demands for Shariah-based Dispute Resolution in the Context of Secular States. An Analysis of the Experience in Indonesia and a Proposed Framework for Implementation in the United States
Supervisors: Tim Lindsey and Abdullah Saeed

Wynn-Pope, P
The Responsibility to Protect against Crimes against Humanity and Genocide: Applying the Principle
Supervisors: Tim Lindsey and Tim McCormack

Yapao, G
State Participation in Mining and Petroleum Development in Papua New Guinea
Supervisors: Michael Crommelin, Lee Godden and Singh Bhalla

Young, C
The History of Judicial Dissent
Supervisors: Michael Bryan and John Baker

Doctor of Juridical Science

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Mediating Work and Family Responsibilities: A Comparative Study of Legislative Strategies
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Election Communication Law and Practice in Australia, the United Kingdom and the United States.
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Rome-Sievers, C
Commercial Fraud and Recovery of Assets
Supervisor: Michael Bryan

Master of Laws by Thesis

Brodie, M
Supervisors: Dianne Otto and Brian Burdekin

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Security and Liberty: Anti-terrorism Laws in Australia
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Lester, E
Realising the Economic, Social and Cultural Rights of Non-Citizens: Enhancing Rights and Remedies in Australia
Supervisor: Jenny Beard

Nel, E
Child Victim Witnesses of Sexual Offences in the Criminal Justice System
Supervisors: Jeremy Gans and Andrew Palmer
Graduate Research Degrees in Progress

**Parsley, C**  
Giorgio Agamben and the Failure of Law  
*Supervisor: Peter Rush*

**Testart, M**  
The Legal Duties that Teachers Owe to Students  
*Supervisor: Christian Witting*

**Thomas, T**  
Relationship Contracting for the Delivery of Major Infrastructure Projects: Panacea or Placebo?  
*Supervisor: Fred Ellinghaus*