Welcome from Professor Ned Aughterson, Head of Law School

This is the second edition of the CDU Law School e-newsletter for 2014. I would particularly like to welcome students who are commencing their law degree in the second semester. I hope that your time at CDU is both productive and exhilarating. If you have any questions or issues, please raise them directly with staff members. You will find them supportive and committed to academic excellence.

I would also like to welcome two new academic staff members, Juliette McIntyre and Joseph McIntyre, and our new School Administrative Leader Chris Gordon. Chris has strong administrative experience, including in relation to law. Juliette and Joseph have completed post-graduate study at Cambridge University and most recently have been on the academic staff of a Canadian law school. They are valuable additions to the CDU Law School staff.

The Law School is well along the path to reaccreditation of its degree programs and, in that process, is appreciative of the advice and support provided by the School Advisory Board. The Board is comprised of a number of very senior legal practitioners as well as the Chair of the Legal Practitioners Admissions Board. The new degree programs will offer units and content reflecting both the needs of the profession and the emerging trends in legal education. This includes a greater emphasis on global and transnational issues. To that end, particular emphasis is being placed on the forging of links with relevant institutions and individuals around the world.

Best wishes and good luck for the second semester.

2014 School of Law Prize Giving Ceremony

On 27 May 2014 the annual School of Law Prize-giving ceremony was held at the Supreme Court in Darwin where overall and individual subject prizes were awarded to our top students. The prizes were presented by the Honourable Chief Justice Trevor Riley of the Supreme Court of the Northern Territory and by Professor Ned Aughterson. In total, more than 30 students were recognised for their hard work and achievements. It was a wonderful evening attended by students, staff and practitioners with many students and their families flying from interstate to attend the ceremony. Those who could not attend in person had the opportunity to watch and participate in the ceremony through Collaborate. This year was the first time the ceremony was broadcast live via Collaborate, allowing both internal and external students to be part of the festivities. A video recording of the ceremony can be viewed online in Learnline Law Central in a room entitled “2014 Law Prize Night (Supreme Court)”.

Contact Us
For news items please contact
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The top two awards, the Supreme Court Medal and the Attorney-General’s Medal were presented by the Honourable Chief Justice Trevor Riley and by the Attorney-General, the Honourable John Elferink MLA. This year the medals were awarded to Andrew Hahn and Joel Cockerell respectively, our two most outstanding students for 2013.

The School of Law would like to thank the Supreme Court of the Northern Territory, all of our sponsors for their generosity and everyone who was able to attend, both physically and virtually.

Congratulations to all of the award winners on their wonderful achievements from everyone at the School of Law. The full list of winners is set out at the back of this newsletter.

DILI CONFERENCE

From 10th to 12th of July 2014 the School of Law hosted a successful conference in Dili, Timor Leste in association with the Northern Territory Bar Association.

The theme of the conference was “Common Issues: Common Solutions”. It was hosted by Associate Professor David Price from the School of Law together with John Lawrence SC. Speakers from the School of Law included: senior law lecturer and customary law specialist Danial Kelly, principal human rights law lecturer Jeswynn Yogaratnam, environmental law specialist and law lecturer Ros Vickers, lecturer Felicity Gerry QC, CDU research scholar Salvador Soares, together with Professorial Fellow of Politics Dennis Shoesmith.

Associate Professor David Price and John Lawrence QC opened the event, followed by a keynote address from the Australian National University Centre for International Governance and Justice director Professor Hilary Charlesworth. Delegates also attended the Timor Leste Premiere of the Not My Life movie on human trafficking.

In the 3 short days issues ranging from domestic violence, maritime boundaries, espionage and customary law threw up some tough questions and brought together academics and practitioners from Australia and Timor Leste to think about the answers. CDU School of Law hopes to build on the connections made and to further engage with the Timor Leste legal community.
FORMER HIGH COURT JUSTICE THE HONOURABLE MICHAEL KIRBY AC CMG LECTURE ON NORTH KOREA

Former High Court Justice the Honourable Michael Kirby AC CMG gave a presentation to staff and students on 15 May at 9:30am at Charles Darwin University. In March 2013 he was appointed Chair of the United Nations Commission of Inquiry on Human Rights in North Korea and the topic of his talk will be ‘North Korea: International Human Rights Law meets Geopolitics’.

Seating was limited at the venue, but the presentation was streamed live and the recording was made available to students who were unable to attend.

This was a wonderful opportunity to hear first-hand one of Australia’s best known judges!

Michael Kirby was in Darwin for the Asia Pacific Out Games as Keynote speaker at the Human Rights Forum.

Congratulations to Felicity Gerry who was appointed Queen’s Counsel in England in April 2014!

KEYNOTE BY JESWYNN AT OUT GAMES HUMAN RIGHTS FORUM

CDU was the main sponsor of the 3rd Asia Pacific Out Games and Human Rights Forum which was held in Darwin in May 2014. Jeswynn Yogaratnam was one of the keynote speakers and spoke on the topic ‘Are we LGBTI enough to claim asylum?’ His talk featured the asylum processing system of LGBTI refugee claimants and the growing concern that it is fixated on sexual practice instead of sexual identity. He examined the position in Australia and the UK with reference to 2012 UNCHR Guidelines (Guidelines on International Protection No.9). He reviewed the decisions of the UK Supreme Court in *HJ(Iran) and HT(Cameroon) v Sec of State for Home Department [2010] UKSC 31* which applied the Australian High Court decision of *S395/2002 v MIMIA [2003] HCA 7.* Lord Hope in the HJ & HT case said that it cannot be reasonably expected of the applicant to modify their behaviour and act discreetly so as to avoid being persecuted even where the applicant was unwilling or unable to introduce this “discretion” in their daily life.

Felicity also ran a workshop at the Human Rights Forum of the Asia Pacific Out Games on legislative reform after Sochi.

ROADSHOW

In March CDU law lecturers Danial Kelly, Felicity Gerry QC, Ken Parish and Jeswynn Yogaratnam visited a number of Australian capital cities in order to meet with CDU law students in person. The events seemed to be well received by students who clearly appreciated meeting the academic staff in person. There was a great turn out by students which made the staff feel that the visit was worthwhile. A number of general matters were covered in the presentation, such as how to write a good law essay, but the events were also valuable just to spend some time chatting.
In addition to former High Court Justice Michael Kirby’s lecture at CDU on North Korea, we have recently been delighted to host two lectures from judges of the Northern Territory Supreme Court.

In early May, Justice Graham Hiley gave a lecture on native title and land rights. Justice Hiley was appointed to the Northern Territory Supreme Court last year and brings with him decades of experience in Aboriginal property law issues.


The next planned CDU Judge’s Lecture Series presentation is in August with Her Honour Jenny Blokland of the Northern Territory Supreme Court who will give a lecture on how Australian courts deal with international law when it arises in domestic law settings.

JESWYN YOGARATNAM GIVES A PRESENTATION AT HARVARD & THE GREATER BOSTON LEGAL SERVICES

Jeswyn presented on Australia’s position in relation to unauthorized maritime arrivals at Harvard Immigration and Refugee Clinic (HIRC), Harvard Law School and the Greater Boston Legal Services (GBLS) in November 2013.

This was also an exploratory visit to gauge the participation of HIRC and GBLS to assist developing a Refugee Law Clinical Program with CDU Law. After constructive meetings, both HIRC and GBLS have agreed to assist CDU Law capacity in building a program which would allow for exchange of students and collaborative research. Sabi Ardalan, Deputy Director of HIRC, will visit CDU in mid-August 2014 to facilitate training on developing a similar clinical programme at CDU School of Law.

WORLD REFUGEE DAY 2014

Jeswyn Yoganathan chaired the Symposium on ‘Resourceful Refugees: Unlocking Potential for Northern Australia’ organised by The Northern Institute of CDU. This was in conjunction with World Refugee Day on 21 June 2014. One of the highlights was the presentation of research by the keynote speaker, Professor Graeme Hugo AO, on cost-benefit on Australia’s refugee community. He emphasised that there is empirical evidence refugees are an economic gain to the country.

In March 2014, Jeswyn was commended by the Attorney General’s Department for his human rights education work through a Federal Government Grant. He worked with selected remote community schools to contextualise some aspects of human rights principles through Indigenous story-telling techniques. In particular, he worked with two schools in
Central Australia - Santa Teresa and the Homeland schools in Utopia. This project involved working with Indigenous elders – Rosalie Kunoth-Monks OAM, MK Turner and an urban elder – The Hon Michael Kirby AC CMG.

Upon acquitting the project in March 2014, Jeswynn received a letter of commendation from the Federal Government AG’s Department:

“We would like to take this opportunity to thank you for all your hard work in delivering the objectives of the project. We were very impressed with what you delivered with the amount of funding provided. You consistently delivered the project activities on time and within budget. We are grateful for the aptitude and personal dedication you have demonstrated in designing and delivering the project. The project you delivered was one of the best funded under the Program”.

FELICITY GERRY QC SPEAKS AT THE DEFINING THE SENSOR SOCIETY CONFERENCE AT UQ

Felicity Gerry QC presented a paper at the “Defining the Sensor Society” Conference on 9th May 2014 at the University of Queensland.

The Conference explored significant questions about the role of privacy, power and surveillance in the world of the ever-watching, ever-sensing, always-on interactive devices. Control over the sensing infrastructure, the databases, and the response platforms will play a crucial role in how information is used and who benefits. Felicity’s presentation was titled: “The Rule of Law Online: You can’t steal cakes that Google hasn’t baked”. She proposed a set of guiding principles for internet rights and responsibilities and thanks CDU students Genna Churches and Eric Withnall for their input.

ROS VICKERS PRESENTS A PAPER IN SOLVENIA ON CLIMATE CHANGE AND INDIGENOUS HUMAN RIGHTS

Ros attended a conference in Ljubljana, Slovenia in early June to present a paper on Climate Change, REDD projects and Indigenous Human Rights.

The opportunity allowed for networking of like-minded academics and the forging of connections with European universities.

Ros has also organised an environmental law workshop series in Darwin on behalf of CDU School of Law in conjunction with the Environment Defenders Office Northern Territory and the NT Law Society. The series will feature interesting panel discussions presenting environmental legal issues from a variety of viewpoints throughout the year.

FELICITY GERRY QC PUBLISHES A PAPER ON COMBATTING FEMALE GENITAL MUTILATION IN THE GRIFFITH JOURNAL OF LAW AND HUMAN DIGNITY SPECIAL EDITION ON WOMEN AND VIOLENCE

Felicity’s paper ‘Let’s talk about Vaginas…Female Genital Mutilation’, the failure of international obligations and how to end an abusive cultural tradition’ was published May 2014:

While the term “vagina” may be used in different contexts throughout social media, female genital mutilation (FGM) does not receive the
same social acknowledgement that it deserves. This article explores the history and culture of FGM and explains that tackling the practice of FGM has been affected by estimated data and the failure to implement decades of international obligations. Social convention associated with ideas of cultural relativism has been prioritised over protection, resulting in a lack of recognition. Simply making law is not the answer. Criminal prosecution combined with non-legal community and social media engagement can draw attention to the controversial topic of FGM and provide a voice for the women and girls who are victim to its practices. Women and girls should have the right not to be subjected to violence. This means not having their vaginas cut. Acknowledgment, debate, and enforcement of FGM’s truths can change how the world complies with international obligations, and can eradicate FGM.

The paper can be found at (2014) 2 Griffith Journal of Law and Human Dignity 1.

NEW COLOMBO PROGRAMME STUDY IN INDONESIA

In April 2014, 14 CDU School of Law students visited Indonesia as part of the New Colombo Programme. Students attended lectures at Universitas Indonesia in Jakarta and Universitas Gadjah Mada in Yogyakarta.

Fourteen of CDU’s School of Law students successfully completed a two-week study program in Indonesia as part of the New Colombo Programme. Half of the students attended lectures and activities at Universitas Indonesia in Jakarta, the other half spent two weeks in Universitas Gadjah Mada in Yogyakarta. The students studied a variety of subjects including International Law, Transnational Criminal law, Intellectual Property Law and Human Rights Law.

As well as attending lectures and organised visits by our partner universities in Indonesia, the students also had the opportunity to make the most of Indonesia’s cultural and historical sights.

The School of Law was commended at the Vice-Chancellor’s Advisory Group for its excellent work in strengthening ties with Indonesia.

DR JENNY NG APPOINTED AMBASSADOR OF THE AUSTRALIAN INTERNET GOVERNANCE FORUM

Dr Jenny Ng has been appointed as one of the seven ambassadors who will help lead discussions at the Australian Internet Governance Forum (auIGF) in Melbourne on 26 and 27 August, which will be held as a precursor to the global IGF in Istanbul, Turkey on 2-5 September. Jenny will be attending both the forums in Melbourne and in Turkey. auIGF ambassadors will contribute to the outcomes of domestic discussions. Jenny will be speaking in the session entitled ‘The Emerging Tort of Privacy’, along with a few other members in the panel.

The Hon Malcolm Turnbull MP – Minister for Communications, will officially launch the 2014 auIGF in Melbourne on 26 August. The auIGF is an initiative of .au Domain Administration Ltd (auDA). It is Australia’s premier annual forum for Internet-based policy and practice issues. Minister Turnbull’s opening speech will provide valuable insight into the Australian Government’s views on a range of critical Internet issues which are important both within Australia, as well as globally.
Students in Melbourne (or who will be in Melbourne on 26 and 27 August) who are interested in the following topics below are encouraged to attend the forum in Melbourne. Students will be able to attend for free as part of the special admission concession for students, academics and government officials. Jenny would be glad to meet you at the forum too. Registration can be made through the auIGF website at www.igf.org.au.

The following topics will be discussed in the auIGF:

- Haters, griefers, flamers and trolls – young people and the mobile mob
- Health and digital technology in Australia – what’s possible, who benefits and how can we help those who need it most?
- The emerging tort of privacy
- Internet access and delivery of services to regional and rural communities
- Accountability challenges facing Internet governance today
- Is the Digital Age facilitating global citizenship?
- Obligations, immunities and liabilities of online intermediaries

DR JENNY NG ALSO PARTICIPATES IN GOOGLE’S FORUM TO CREATE A SAFER INTERNET FOR AUSTRALIAN CHILDREN

Dr Jenny Ng was invited by Google to attend a forum to discuss online safety and Google. This forum was held at Google’s office in Sydney. The meeting also discusses the Government’s Public Consultation on “Enhancing Online Safety for Children” which was released in January 2014. The forum consists of mainly specialists in the field as well as relevant stakeholders.

It is a forum for an exchange of information which revolves around the discussion of Google Safety Tools, Tips and Tricks and the eSafety Commissioner’s proposal. Much focus was given to the topic of cyber-bullying. As set out in the Policy to Enhance Online Safety for Children, the Australian Government’s commitment is to improve the online safety of children in Australia which includes:

- the establishment of a Children’s e-Safety Commissioner
- developing an effective complaints system, backed by legislation, to get harmful material down fast from large social media sites
- examining existing Commonwealth legislation to determine whether to create a new, simplified cyber-bullying offence.

DANIAL KELLY WINS AN INNOVATION@CDU GRANT

Danial Kelly has won a CDU Innovation grant to investigate furthering collaborations with Indonesian universities in Bali. He will investigate potential links between CDU’s School of Law and the Law Faculty of Bali’s leading university, Universitas Udayana. The study will also examine the potential for broader collaborations involving other areas of both universities.
DR JENNY NG PUBLISHES IN A PUBLICATION EDITED BY THE ASSOCIATE DIRECTOR OF THE LSE, UNIVERSITY OF LONDON.

Dr Jenny Ng wrote and published a report as the Australian Correspondent for an international publication which was edited by Simon Davies, Associate Director of LSE, University of London. The publication was entitled ‘A Crisis of Accountability - A Global Analysis of the Impact of the Snowden Revelations’. Simon Davies is a privacy advocate and academic in London. He was voted as one of the world's 50 most influential people in technology policy in 2004 and 2005 by silicon.com. This publication was published in association with the Institute for Information Law, University of Amsterdam and Law, Science, Technology and Social Studies of Vrije Universiteit of Brussels in June 2014. Jenny’s Australian Report was with regards the Snowden revelations in Australia and reported on the position in Australia on matters such as privacy and surveillance. Jenny was cited by an Australian Professor a day or two after the publication of her Australian Report.

STUDENT NEWS

CDU students and staff at UGM university as part of the NCP short study programme.

CDU staff and students at UI university in Jakarta as part of the NCP short study programme in Indonesia.

Congratulations to CDU student Jenny LeRay who represented Australia at the 2014 Asian Dragon Boat Championship in Macau in May.

STUDENT OPPORTUNITIES

The Aurora Project offers Australia’s best opportunity for undergraduate law students to gain experience in the area of native title. This will be of high interest to anyone considering a future career related to social justice or Indigenous legal issues. CDU has had a number of law students undertake places in the Aurora Project but it is a competitive process. CDU has the only Australian School of Law that offers units in native title and Aboriginal customary law! You can increase your chances of success by discussing your intention to apply with Danial Kelly beforehand. He can help you to structure your application and also act as referee. The Aurora Project was established in 2006 as a result of a report into the professional development needs of lawyers at Native Title Representative Bodies. Over the years it has grown to encompass other projects in the broader area of Indigenous education and Indigenous affairs generally. Go to www.auroraproject.com.au
STUDENT EXCHANGE - INBOUND

Soleen Massonneau reports from Darwin:

I arrived in Darwin. I am from Paris and the two places are very different. The streets for example. Here the streets are so... green; full of grass. In France there is the pavement, sometimes a few trees and that’s all. I think it is due to the different climate. The vegetation is much more luxuriant in the tropical areas.

One major thing (except the old air cond) attracted my attention during the first day of class. The first student entered the lecture room and said hello to the lecturer by calling him by his first name. For me it was strange, I thought "maybe they known each other for a long time". If I did the same in France it would be seen as disrespectful. Then all the other students came calling the lecturer by his first name too. So I realised it was perfectly fine and normal to do such a thing. I just adapted myself and call my lecturers by their first names; it was really easy to adapt myself in this sense.

But in the end a student's life stay a student's life and the proud you feel when you've just finished all your work on time or the despair when you read four times a sentence in a textbook and it's still kind of unclear are universal.

STUDENT EXCHANGE - OUTBOUND

Matilda Stickels reports from Paris.

Changing from being an external student to any internal student is quite an adaption, let alone in a completely new country with a foreign language. I arrived in France last September for a semester exchange at Cergy-Pontoise University armed with too many suitcases and my high school French. Luckily, I was able to take all my classes in English as well as French language classes to help with the everyday interactions I faced. I undertook a variety of classes, including some from the law LLM program and learnt an incredible amount on the French and European legal systems. I also learnt how to have a lot more patience, since nothing in France happens quickly. But when you’re living so close to Paris (Cergy is a short train ride away), you can survive with the French way of life. It was amazing having the rest of Europe at my fingertips also, and visiting cities with my new international friends. It was a wonderful experience having the opportunity to live in France and study there – it’s one of those once in a lifetime things.
CDU Exchange Partners

Have you ever wanted to see Europe or explore the world whilst earning credit towards your law degree? With CDU’s exchange programme you can do both! You can study at an overseas university for up to a year, whilst paying domestic fees at CDU. There are lots of scholarships available, including the Endeavour Student Exchange Scholarship, worth $5000 to help with study expenses.

Canada

- The University of Windsor, Ontario

United States

- Northern Arizona University, Arizona
- University of Southern Florida, Florida
- University of Alaska - Fairbanks, Alaska

Europe

- Jonkoping University, Sweden
- Cergy-Pontoise University, France

Malaysia

- University of Malaysia, Sarawak
- Universiti Kebangasaan Malaysia

Indonesia

- Universitas Gadjah Mada
- Universitas Indonesia

Endeavour Student Exchange Scholarships

The Endeavour Student Exchange Program is part of the Australian Government’s Australian Scholarships. CDU has been awarded scholarships of $5,000 each for undergraduate students’ participation in eligible student exchanges. These scholarships are available to students who successfully apply for an exchange with a partner university. The number of scholarships are limited.

Eligibility criteria

To participate in the CDU exchange program you need to meet the following criteria:

- Have completed at least one year of full-time study (or equivalent) at Charles Darwin University
- Upon return from partner university have at least one semester of study left to complete in the current degree program
- Be enrolled in a full one semester load at Charles Darwin University (40 credit points)
- Be accepted by the host institution
- Have a sound academic record (with a grade average of at least 4.5)
- Provide two academic references
- Language proficiency required by the host university
- Faculty approval to obtain full credit for the overseas study towards a Charles Darwin University degree
- You will need to undergo a criminal history check
- Demonstrate that you have sufficient capital to cover expenses

Before you apply

- Discuss your application with your course coordinator and the CDU Exchange Officer in the Office of International Services
- Select the semester(s) that you wish to study abroad
- Seek transfer credit approval for at least eight units
- Make sure you have a current passport
- Make financial arrangements

Centrelink payments

If you are the recipient of a study allowance from Centrelink you are normally eligible to continue to receive that benefit even whilst you are undertaking overseas study as part of the Study Abroad & Exchange program. You should contact Centrelink for further information.
Lodging an application

The deadlines for applying are:

- 1 April for Semester 2 (July) in the same year
- 1 September for Semester 1 (March) the following year

SCHOOL OF LAW PRIZES 2014

The Supreme Court Medal sponsored by:
The Honourable Chief Justice Trevor Riley,
Supreme Court of the Northern Territory
Awarded to: Andrew Hahn

The Supreme Court Medal is presented to the student who, in the judgment of the School of Law of Charles Darwin University, has demonstrated outstanding professional promise through scholarship, character and leadership.

The Attorney-General’s Medal sponsored by:
The Honourable John Efferink MLA, 
Attorney-General and Minister for Justice, 
Minister for Correctional Services, 
Minister for Children and Families 
and Minister for Public Employment, Northern Territory Government
Awarded to: Joel Cockerell

The Attorney-General’s Medal is presented to the student who, in the opinion of the School of Law of Charles Darwin University, is the most outstanding graduand in the preceding academic year.

THE NORTHERN TERRITORY BAR ASSOCIATION PRIZE FOR ADVANCED TORTS (LWA216)
Recipient: Kiah McGregor

THE NORTHERN TERRITORY BAR ASSOCIATION PRIZE FOR ADVANCED CONTRACTS (LWA218)
Recipient: Penelope McIsaac

THE CLAYTON UTZ PRIZE FOR CORPORAATIONS LAW (LWZ315)
Recipient: Joel Cockerell

THE WILLIAM FORSTER CHAMBERS PRIZE FOR EVIDENCE (LWZ316)
Recipient: Phillip Monk

THE STRATON WARD KELLER PRIZE FOR CIVIL PROCEDURE (LWZ317)
Recipient: Sally Gooch

THE LEXIS NEXIS PRIZE FOR PROFESSIONAL RESPONSIBILITY (LWZ320)
Recipient: Sandra Markman and Adeline Tran

THE BOWDEN MCCORMACK LAWYERS+ADVISERS PRIZE FOR ENVIRONMENTAL & PLANNING LAW (LWA112)
Recipient: Joel Cockerell

THE SCHOOL OF LAW PRIZE FOR SUCCESSION (LWA325)
Recipient: Ellen Webster
THE MALEY & BURROWS BARRISTERS AND SOLICITORS PRIZE FOR FAMILY LAW (LWA213)
Recipient: Penelope McIsaac

THE WARD KELLER PRIZE FOR INTERNATIONAL LAW (LWA318)
Recipient: Stewart Bryson

THE SCHOOL OF LAW PRIZE FOR INTELLECTUAL PROPERTY LAW (LWA316)
Recipient: Caitlin Marshall and Roman Nosek

THE SCHOOL OF LAW PRIZE FOR INDIGENOUS PEOPLES AND THE LEGAL SYSTEM (LWB201)
Recipient: Rhani Jade Roberts

THE WILLIAM FOSTER CHAMBERS PRIZE FOR HUMAN RIGHTS LAW (LWB206)
Recipient: Judith Paterson and Natalie Stirling

THE LEXIS NEXIS PRIZE FOR RESEARCH PAPER (LWC304)
Recipient: Genna Churches

THE DIRECTOR OF PUBLIC PROSECUTIONS PRIZE FOR PRACTICAL ADVOCACY (LWS320)
Recipient: Adrian Albornoz

THE HUNT & HUNT PRIZE FOR TRADE PRACTICES (LWA328)
Recipient: Lisa Jennings

THE SCHOOL OF LAW PRIZE FOR CYBER LAW (LWA330)
Recipient: Claire Drummond

CDU delivers one of the most contemporary law degrees in Australia. With significant transnational opportunities and a focus on the Asia-Pacific region, CDU students, both on campus and fully online, gain the skills, knowledge and experience to prepare them for the law jobs of tomorrow.