Welcome back to the new semester and a special welcome to those students commencing in the 2nd semester of 2015. I hope that the time you spend with CDU is enjoyable and rewarding.

Mindful of the trend towards globalisation and the opportunities for graduates to be employed overseas as well as being involved in legal issues that have transnational dimensions, your Law School is expanding the links with overseas universities and the opportunities to study abroad. This year a number of our students attended intensive courses in Indonesia. Plans are under way for future intensives to be held in Beijing, Hong Kong and Manila, as well as Jakarta, Yogyakarta and Denpasar in Indonesia. They have been facilitated, and we hope will be in the future, by generous Commonwealth support under the New Colombo Plan.

The international engagement will be enhanced through hosting visiting academic staff and law professionals as well as students at CDU. As part of the developing relationship with De La Salle College of Law in the Philippines, two staff members of the CDU School of Law delivered an intensive course in international criminal law in Manila over May and June of this year.

We are looking forward to an ongoing and strong cooperative relationship with De La Salle.

Best wishes and good luck for the second semester!

ATTORNEY GENERAL THE HON JOHN ELFERINK HOSTS THE SCHOOL OF LAW AT PARLIAMENT HOUSE
PROFESSOR NED AUGHTERSON TEACHES INTERNATIONAL CRIMINAL LAW AT DLSU IN MANILA

As part of the ongoing collaboration between the School of Law at CDU and the college of Law at De La Salle University in Manila since the signing of an MOU on 19 November 2014, Professor Ned Aughterson taught the balance of the course in International Criminal Law over 4 days from 8 to 11 June, following an initial visit by Felicity Gerry QC. The course was an elective taken by students as part of their JD. In the Philippines the JD is a four year degree program (compare 3 years in the US and Australia), taken after the completion of an undergraduate degree in another discipline. The students are bright and actively engaged in the seminars. Excellent papers were produced and a prize giving ceremony held.

Professor Aughterson held a number of discussions with staff of the University and the College of Law, as well as law professionals. He also paid a visit to the Chief Justice of the Philippines, the Honorable Maria Sereno. The two schools are now working on a joint publicaton relating to human trafficking and forthcoming ASEAN integration.

LAW STUDENTS ASSIST IN RETTA DIXON CASE

Charles Darwin University students are assisting Piper Barristers and Solicitors, the leading law firm representing alleged victims of abuse at the Retta Dixon Home, run by the Aborigines Inland Mission from the 1940s until 1980. A class action was launched following hearings by the Royal Commission into Institutional Responses to Child Sexual Abuse in Darwin last year. Under the supervision of Ken Parish students received introductory training, which involved understanding confidentiality obligations and a range of other issues involved in working with vulnerable client groups. Mr Parish said “The students think it’s really worthwhile to be involved. It is important that students not only gain a thorough understanding of the law, but also have a social conscience and practice legal ethics. Law is a profession where we have an obligation to give back to the community.” he said. The students were based internally in Darwin, and externally in Melbourne and Adelaide.

LAW SOCIETY PUBLIC PURPOSES GRANT TO FUND INTERNATIONAL HUMANITARIAN LAW COURSE AND ACTIVITIES

Jeswynn Yogaratnam through the Australian Council for Human Rights Education has been awarded the highly competitive 2015 Law Society Public Purposes Grant. The grant will be used to facilitate International Humanitarian Law (IHL) activities and public education courses in Darwin. Jeswynn has channelled some of this funding to the CDU School of Law to facilitate an intensive course in IHL over summer semester for CDU Law students and the Darwin community. The NT IHL Division of the NT Red Cross will also be co-contributors to this program. It is expected that this course will be delivered by experts in the field who have both military and academic expertise in IHL. Jeswynn has previously been involved with IHL activities with remote community schools in the NT. He is grateful to the Law Society Public Purposes Trust for providing an opportunity for a tertiary level IHL course to be developed within the law program of CDU’s School of Law.
DR DANIAL KELLY WINS PRO VICE-CHANCELLOR’S PRIZE FOR DOCTORAL THESIS EXCELLENCE

Dr Giselle Byrnes, PVC has congratulated Danial Kelly on winning the Prize for Doctoral Thesis Excellence. He collected his prize for this major accomplishment at the annual Faculty Prize Giving Ceremony in May. Associate Head of Law Danial Kelly graduated with a Doctor of Philosophy degree at CDU’s most recent graduation ceremony in October. Danial’s thesis title was ‘Law from the earth, law from the demos and law from heaven: nature and intersections of authority of Madayin, Australian law and Christianity in Arnhem Land’.


ASSOCIATE PROFESSOR DAVID PRICE DIRECTS A WORKSHOP ON INTELLECTUAL PROPERTY LAW AT CAMBRIDGE

Felicity Gerry QC recently won a CDU / Menzies School of Health collaborative grant to research women’s health and the law in the NT with Dr Suzanne Belton of Menzies and Dr Virginia Skinner, Senior Lecturer and Course Coordinator in Midwifery at CDU. The team will focus on female genital mutilation, abortion and teenage pregnancy.

In 2015, Charles Darwin University (CDU) and Menzies School of Health Research (Menzies) will place emphasis on discovering, supporting and promoting research collaborations between the two institutions – drawing on existing research strengths – to open research frontiers and strengthen CDU and Menzies’ reputation for conducting high-value, high-impact research that rests on cross-disciplinary approaches to address pressing national and global problems.

The NT is multicultural environment where the study of reproductive health can lead to a novel and national contribution to knowledge and understanding in the field of policy, law and suitable responses to women’s health needs. The NT has the highest rate of teenage pregnancy in Australia, restrictive laws and dated practices in the context of termination of
pregnancy (TOP) and, despite decades of prohibitive legislation, no reliable research into female genital mutilation (FGM). In each of these health areas there is limited reliable data and health services struggle to provide care.

Good sexual and reproductive health is underpinned by attention and application of human rights. Australia is a signatory to international instruments relating to gender equality and the health rights of women. International Law requires effective and coordinated responses to the victimisation of women and girls through violence, poor health and sexual exploitation.

The NT has a high burden of sexual ill-health and poor reproductive health outcomes. Unwanted pregnancies, teenage pregnancy and female genital mutilation are issues faced by midwives, nurses, public health practitioners and lawyers in the NT and nationally. These issues cannot be improved by clinical or legal measures alone, highlighting the importance of this collaborative, multi-disciplinary research.

CDU SCHOOL OF LAW AND RED CROSS NT COMMEMORATE 70TH ANNIVERSARY OF HIROSHIMA BOMBING

The School of Law is collaborating with the Red Cross to commemorate the 70th anniversary of the bombing of Hiroshima during World War II on 6th August. The Red Cross has long campaigned for the prohibition of nuclear weapons through a binding international agreement. A free public event will take place at Darwin Waterfront from 5:30pm on 6 August. Sue Haseldine, a Kokatha woman from northern South Australia, will speak about the health effects of British nuclear weapons testing in the 1950s on the communities in that area. The event will also include a film screening and floating candles will be placed on the water in the lagoon as a mark of respect to the victims.

A similar event is also planned for Alice Springs on the evening of the 5th August.

The School of Law’s Jeswynn Yogaratnam has recently been appointed to the role of Chair of the Red Cross IHL Advisory Committee in the NT. To stay updated with the work of the Red Cross IHL program, subscribe to their e-newsletter at http://www.redcross.org.au/subscribe-wih.aspx.

OPEN DAY PRESENTATION ON HIGHER DEGREES

The School of Law, together with the NT Law Society is hosting a “Pathways to higher degrees” event on 28th of July. The event will be held at the NT Law Society headquarters on Cavanagh St and is already heavily subscribed. Attendees can learn about the professional and personal benefits of completing a postgraduate degree and hear some of our distinguished speakers share their experiences. Information on enrolment, scholarships and how to find a suitable supervisor will also be provided. The event will be repeated at the Open Day on the 23rd of August.

Currently, Charles Darwin University is offering the following degrees:

- Doctor of Philosophy (Law) (CDU); and
- Doctor of Philosophy (Law) under CDU/ANU agreement; and
- Masters of Law (by Research)(CDU)

If you would like to study for a higher degree in the School of Law at CDU, contact our HDR co-ordinator, Felicity Gerry QC.

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.
The plight of Mary Jane Veloso who faced the death penalty in Indonesia exposes the need to accept that some alleged criminals are human trafficked victims. Ms Veloso is a 30-year-old Filipino migrant worker. She was arrested at Adisucipto International Airport in April 2010 for attempting to smuggle 2.6 kilograms of heroin into Indonesia from Malaysia. She was sentenced to death by Sleman District Court in October 2010. She was in Malaysia having been recruited to work as a domestic helper, and was given two suitcases to carry to Indonesia. Concealed inside them were packs of heroin wrapped in aluminium foil. Ms Veloso maintains that she did not know the suitcases contained heroin and that she was the victim of deception and abuse of trust and abuse of vulnerability – a human trafficking victim. The classic exploited overseas worker.

On the 7th of April 2015, Ms Veloso’s family appointed the National Union of Peoples’ Lawyers (NUPL) in the Philippines as their new legal team led by Edre Olalia. The NUPL consulted Felicity Gerry QC on the 9th and over the next few days she supplied material on how to invoke human trafficking referral mechanisms. Complaints were filed against the recruiters in the Philippines by the NUPL on the 16th of April. This triggered an investigation as to how she was recruited in the Philippines. An amicus curiae brief was prepared by Felicity taken from a partly prepared paper by herself and Neil Boister, Professor of Law, University of Waikato, New Zealand and Julia Muraszkiewicz, a Ph.D Candidate, Faculty of Law, Vrije Universiteit Brussels, Nathalina Naibaho, University of Indonesia, Jakarta with additional research and contributions. This was requested by Edre Olalia on the 24th of April 2015 as the 72 hour countdown to execution began and he was taking a plane to Indonesia. The brief was provided on the 27th of April and set out the law. Just a few hours before the executions on 29 April 2015, Ms Veloso was granted a temporary stay. After a sustained campaign by Migrante International, protests by the Philippine people and a conversation between the Philippine and Indonesian presidents, the Indonesian President agreed to allow the reprieve in order that the trafficking claims be properly investigated. The reprieve was implemented 30 minutes before the proposed execution. It took 20 days to reprieve Mary Jane: Ms Veloso’s legal teams in Indonesia and the Philippines are still working to make the stay permanent and Felicity continues to assist remotely.

An ABC documentary on Mary Jane Veloso was broadcast on Tuesday 7th July on Foreign Correspondent. Details here
http://www.abc.net.au/foreign/content/2015/s4266494.htm


Felicity Gerry QC recently published the following:

DR JENNY NG GIVES A PRESENTATION AT A CDU LEARNING AND TEACHING SEMINAR

Dr Jenny Ng was invited to speak as part of a panel in a Teaching and Learning seminar at CDU on 8 May 2015. This panel discussion session allowed presenters to give a brief talk or presentation on techniques that they use to try to establish student collaboration. Following brief presentations by the panel members, there was an opportunity for a broader discussion of some of the associated issues. This included discussions on the importance of student collaboration, the issues in student collaboration and the methods that may address these issues. Dr Jenny Ng will also be publishing on teaching and learning in due course. In the field of teaching and learning, she is an experienced
and fully qualified lecturer who has taught both Australian and English law in several countries.

**Dr Jenny Ng** has recently published the following:

- **Trade Marks, Globalisation & Foreign Languages:** Cantarella Bros Pty Ltd v Modena Trading Pty Ltd (2015) 20 (1) Media and Arts Law Review 74
- ‘**International Cybercrime, Transnational Evidence Gathering and the Challenges in Australia:** Finding the Delicate Balance’ International Journal of Information and Communication Technology (forthcoming 2016)
- Furthermore, she has been commissioned by LexisNexis to write for the IP Bulletin. The feature article is forthcoming at this stage and will be published later in the year.

**AMNESTY INTERNATIONAL DEBATE IN THE NT**

*By NT Amnesty International*

The NT branch of Amnesty International (AI) together with its principal partners, the CDU School of Law and NT Council for Human Rights Education, collaboratively organised a debate on ‘tough love’ and ‘youth crime’ held at Charles Darwin University. “The AI organiser, Jeswynn Yogaratnam and his members put together a robust and vivacious debating team on both sides of the motion – “Tough love is required to manage youth crime in the NT”. With the aid of AI’s dedicated team and Jeswynn Yogaratnam from CDU, the event packed the lecture theatre with over 120 people from local government, NGOs, government agencies, and the Darwin community. The proponents to the debate were NT Attorney-General - The Hon John Elferink, Bronwyn Haack (Barrister, William Forster Chambers) and Nicole McIntosh (CDU Law student). They were challenged by the NT Children’s Commissioner, Colleen Gwynne, Jonathan Hunyor (NAAJA) and Terry Byrne (Senior Youth Justice Worker for NAAJA).

The debate highlighted the role of government in ‘channelling’ tough love, inter alia, through rehabilitative detention programs at correction centres. Accordingly, such programs are an effective method of managing youth crime and dealing with the behaviour of the juvenile. Candidly and poignantly, Jonathan Hunyor reminded the audience that the people did not refer nor depend on the government for ‘soft’ or ‘tough’ love or for “love of any sort”. He cautioned that if the government felt it had a place in ‘love’ when dealing with youth crime then there was also an obligation to deal with the subjective needs for love of those detained and their on-going vulnerabilities. The debate also highlighted Darwin Don Dale Juvenile Detention Centre, which has been subject to controversy with the escape of eleven detained youth since August last year. It was said that the administration of ‘tough love’ at such a centre continues to be juxtaposed with inadequately trained staff, especially when dealing with behavioural concerns of the youth detained. On this point, Children’s Commissioner emphasised the need to have the necessary professional personnel and support workers with the expertise in the field when dealing with youth crime individuals. This was critically important if such an ‘intervention’ is expected to have any rehabilitative impact on the youth in question. In adding personal context to the topic, the AG shared his personal experience as a victim of sexual abuse when he was teenager which was a stark reflection that youth involved in crime are victims themselves from their own traumatic life experiences. This revelation and observation reaffirmed the Commissioner’s call for an intervention that focuses on the well-being and welfare of the individuals.

While there was no announcement of the ‘winner’ to the debate the purpose of AI putting this event together was achieved – to kick-start a public debate based on informed views. AI intends to continue collaborating with CDU School of Law through Jeswynn Yogaratnam and community organisations on ‘youth justice’ and other social justice issues.

**SCHOOL OF LAW PILOTS AN INNOCENCE PROJECT IN SEMESTER 2**

The CDU pilot innocence project will be the first of its kind to accommodate both internal and external students in real case research in the context of criminal law. The proposal is based on the Innocence Project eventually being able to accommodate up to 20 students in the NT, locations across Australia and overseas.

There are innocence projects at Griffith University and at ECU in WA but their remit is restricted. We will be looking at the Griffith model which is useful in terms of structure, but it does not appear to accommodate online students and restricts the categories of the type of legal work they will take. The plan is to take the best practice examples and innovate. We also have the dubious advantage of being able to help tackle the specific issue of Aboriginal incarceration rates which are so appalling.
This Pilot innocence project is the first of its kind in the NT and will bring together lawyers, academics and law students working together to identify possible new grounds or new/fresh evidence to assist in freeing innocent persons who have been wrongly convicted.

The specific focus will be on appeals by prisoners convicted of serious crime covering 2 areas:

(1) Aboriginal prisoners in the NT. The NT rate of imprisonment of Aboriginal people (84% of inmates) is a national disgrace and such a project is sorely needed.

(2) Human Trafficking victims in prison as a result of offending.

The remit will be broad focusing on poor investigations, inaccurate scientific evidence, legal error, poor lawyering particularly where there has been cultural misunderstanding or other victimisation issues and miscarriages of justice generally – police failures, poor lawyering and scientific error are likely areas of inquiry. No one would be excluded from accessing the service. If you are interested in the project, please contact Felicity Gerry QC felicity.gerry@cdu.edu.au.

CDU law student participates in a Harvard Internship

Caitlin Marshall, a final year law student, has been selected to complete the inaugural CDU-Harvard immigration clinical program (HIRC) internship program in Boston, USA. Caitlin has shared her impressions after her first week:

**STAND FAST, STAND FIRM, STAND SURE, STAND TRUE**

By Caitlin Marshall

Over 200 years ago, Harvard alumni, and Boston, Massachusetts nobleman Harrison Gray Otis proclaimed these timeless words to his peers of businessmen, historical leaders and lawyers. Today, they still resound ‘firm and true’ within the academia, attorneys and interns of the Harvard Immigration and Refugee Clinical Program (‘HIRC’). In addition, these words have become my personal motto while representing Charles Darwin University on this exciting journey abroad.

**Stand Fast**

It is with great honour that I was selected as the inaugural Charles Darwin University law student and Harvard Law School intern to not only experience the tenacity and commitment of the team at HIRC but to also join them as they deal with a diverse and significant inventory of clients.

These clients are applying for non-refoulement protection under both the *Refugee Convention* and the *Torture Convention* because they have either suffered persecution in the past or have a well founded fear of persecution in the future on account of their race, religion, nationality or membership of a particular social group or political opinionshould they return back to their home countries.

In accepting this honour, I have not only been immersed within a close-knit team of lawyers, experts and academics of immigration and refugee law, but also with other dedicated student interns. Together we work directly with clients that are pending either an interview with an Asylum Officer or a hearing in the Boston Immigration Court, depending on their procedural position. These legal processes decide their futures here in the United States.

This immersion is not unlike a ‘baptism of fire’. Reading about what is done at the HIRC, and the stories of refugee status seekers that have evolved from case law and academic writings in my studies, only bears a minimal resemblance to the reality of personally dealing with those who have faced human rights atrocities in their country of origin. Textbooks cannot capture what they may risk if they were returned.

Very quickly I realised my limitations: I’m an inexperienced clinical intern from the ‘lucky country’ who only speaks English and has spent most of her legal education surrounded by books. Most of the other interns I am working with have a second or third language in which they can greatly assist the interview process for the lawyers, whether it be in Spanish or another language, and also have previous and precious clinical experience. Such is the diversity of the clients and the high quality of the Harvard interns in this fast paced but exciting program.

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2 *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987).

3 *Refugee Convention*, art 1A(2).
Stand Firm

Nevertheless, one cannot ponder one’s inadequacies for too long and by day 2 of my internship I was scheduled to meet with a troubled African mother who fled her home country to escape gender-based violence. She seeks asylum and withholding of removal from the United States under the Refugee Convention and the Torture Convention.

This particular case has been with HIRC for several years and is likely to be presented before an Asylum Officer before the year is out. There is great urgency to ensure the case is solid and crafted fluently and articulately so that the client’s future is given the greatest opportunity of success. It has not been without its troubles, however, as the mental and physical traumas of the client, since she was a young child, have left her with a complex and intertwined web of mental health issues to consider and balance with the legal process required in order to obtain a factual and accurate affidavit. A story that is not uncommon to most of those who seek help from the HIRC.

Stand Sure

It has not been an easy task entering as a stranger to the process in its final few months. Gaining the trust of the client, building a rapport, and asking difficult and mostly repetitive questions about her past, culture, beliefs and her tragedies are all obstacles I face. It is not comfortable to see the client react to questions, which are frankly very disturbing but need to be elucidated upon. This is a necessity of the job, to build a case, to draw from the client her story and to translate it into a legal representation of why she cannot be returned to her country. Such will be my task whilst I am here at the HIRC as I meet with her several times during my internship.

There are also many practical aspects to ensuring a case is ready for presentation to an Asylum Officer and that includes, by way of example, ensuring that full or partial disclosure of information controlled by the United States government is accessed via the Freedom of Information Act (‘FOIA’), 5 USC § 552. The system of accessing this information is confusing and convoluted and like any government process, full of bureaucracy, red tape, and constant amendment. I was tasked with ensuring the correct forms required were ready to be lodged with appropriate covering letters and to the applicable departments, of which there are no less than three requiring differing submissions. What I assumed would be simple became half a day of frustration in understanding the process and ensuring I submitted the forms correctly. I decided at that point to assist the clinic and build a procedure so that other interns would be able to follow a step-by-step guide, including hyperlinks back to relevant government websites, instruction guides and form location.

Stand True

As the next three weeks approach I will face more difficult and challenging interviews, edit more affidavits and research country conditions of the clients I will be working with. I will also assist in sourcing and interviewing those willing to provide corroborating affidavits to support the credibility of the clients and to ground their stories with consistency, no matter where they may be located in the world. Although challenging both professionally and emotionally, the experience is also incredibly rewarding, stimulating and thought provoking. I can only hope that my small contribution helps at least one person seeking peace and freedom by way of protection from human rights abuses in their countries of origin through the granting of asylum or withholding of removal. I am confident that if I ‘stand sure’ and ‘stand true’—I will.

ROS VICKERS SPEAKING AT ALTA CONFERENCE ON HER INNOVATIVE EFFORTS TO LAUNCH THE CLINICAL LEGAL PROGRAMME AT CDU

Ros Vickers won an innovation grant from Charles Darwin University to develop a pilot legal clinic program in the Environment and Planning Law subject last year. The program has developed in a law unit at CDU and Ros presented a paper to the Australian Law Teachers Association conference in Melbourne in July 2015.

The presentation covers the challenges in developing a social justice program with legal placement opportunities in the Northern Territory and across Australia encountered by Charles Darwin University Law School for both online and local Darwin students. The paper draws on theory and experiences of other legal clinic programs and outlines the unique access to justice issues facing the population of the Northern Territory detailing the experiences to date of the pilot programs. Some of challenges covered include the need for flexibility of a program in light of funding of pro bono legal organisations, technology issues to enable online student to participate; demography of the law student body, confidentiality issues; and appropriate assessment to include the students reflecting on

4 Note, to preserve confidentiality identifying factors of the client have been altered.
their experiences. The presentation concludes with a synopsis of the importance and value of the program and community engagement for both the law school and students.

**INSTITUTE OF GLOBAL LAW AND POLICY (IGLP) AND HARVARD IMMI

GRATION AND REFUGEE CLINIC (HIRC)**

In June 2015, Jeswynn Yogaratnam participated in the IGLP conference at Harvard Law School. This conference brought together researchers, academics and practitioners engaged in contemporary global law and policy research. The multi-disciplinary focus of law and policy in the context of formulating global and regional solutions was a core feature of interest throughout most sessions. Jeswynn participated in the stream which focused on, inter alia, state, sovereignty and immigration control. In particular, this stream focused on the use of private military and non-military contractors to manage asylum seekers during periods of detention. The discourse highlighted the heuristic methodology in emancipating states from ineffective public policy when dealing with refugee and asylum seeker issues when juxtaposed with legitimate claims of state sovereignty and border control.

Jeswynn also had meetings with HIRC to discuss on-going clinical and research collaboration in relation to the CDU-Harvard Internship program. Our CDU law student Caitlin Marshall was the inaugural ambassador at HIRC and we hope that such an opportunity and relationship with HIRC will continue growing from strength to strength. The feedback on the performance of our inaugural ambassador was one word - “terrific” candidate, which is testimony that CDU Law has high achievers who can perform transnationally to the standards, demands and values of other stellar academic institutions. We are very proud of Caitlin’s achievement, commitment and dedication during her internship term.

![Jeswynn Yogaratnam and Caitlin Marshall at HIRC with Phil Torrey - Clinical Instructor and the supervising attorney of the Harvard Immigration Project student practice organisation.](image)

**LAW RESEARCH OFFICER NADYA BERova PRESENTING AT TICLP CONFERENCE**

Nadya Berova is presenting a paper at the TICLP conference at Bond University in August. The theme of the conference is “Global Order and Disorder: Governance and Regulation in the 21st Century”.

Nadya’s paper is entitled *Maintaining global order: how to manage the use of Third Party Funding in International Commercial Arbitration*. The paper examines why international commercial arbitration is the cornerstone of economic global order and why it must be protected. It will also explore how third party funding is threatening the integrity of the arbitration process, why it should be regulated and the challenges of implementing a commercially viable cross-border regulatory regime.

Nadya is about to commence her LLM in International and Comparative Dispute Resolution at Queen Mary University of London. Her primary areas of research include international commercial arbitration and international trade law.
FROM CAMBRIDGE TO UGM

Associate Professor David Price will spend three months at the end of 2015 as a Visiting Professor at Universitas Gadjah Mada (UGM), Indonesia, at the invitation of the UGM Law Faculty. He will undertake the following collaborative academic and related activities, across research, teaching, and internal university engagement:

**Research:**

* in collaboration with Bu Dina Kariodimedjo and building on research already undertaken, on Indonesia’s protection regime (or its absence) for Traditional Knowledge (TK) and Expressions of Traditional Culture (TCE). The emphasis this year will be on the efficacy of utilising Indonesian geographical indications (GI’s) that are representative of tradition and culture as methods and tools of protection (such as Batik design and Kopi Luwak);

* in collaboration with Professor Hawin, Dean of UGM Law Faculty, on the international trade dispute before the World Trade Organisation (WTO) on tobacco plain packaging (in which Australia is the Respondent, and Indonesia is a Complainant), and the implications for both Indonesia’s and Australia’s intellectual property regimes;

* in collaboration with Professor Hawin, on Investor-state dispute settlement (ISDS) provisions in bilateral investment treaties (which include intellectual property) to which Indonesia is a party.

**Teaching**

* teaching into the UGM Faculty’s International Law program, directed by and co-taught by Professor Hawin.

**UGM Community Engagement**

* mentor/advisor to teams from the UGM Law Faculty competing in the William C Vis International Mooting Competition, Vienna, and Far East.

CDU OIL AND GAS LECTURER APPLAUDS PIPELINE PROPOSAL

In 2014 CDU Law School introduced its new unit “An Introduction to the Law of Oil and Gas in Australia”. The pioneer of the new unit, law lecturer Geoff James, is enthusiastically anticipating the likely construction of a new gas pipeline to link the gas production of the Northern Territory to the gas markets of Eastern Australia. The pipeline, to be called the North East Gas Interconnect (NEGI) will make it possible for Northern Territory gas producers to export their product to the east coast of Australia for the first time. Currently, planners are assessing the relative merits of 2 possible choices of route for the pipeline (see white bars on map below).

When constructed, the NEGI will transport Gas from the already proven gas fields in the Timor Sea and the Amadeus Basin to the hungry markets of the Eastern States. Substantial discoveries in the NT’s highly prospective Georgina and MacArthur Basins have been long anticipated but not regarded as economic in the absence of a pipeline. The NEGI option will render those fields economic.

CDU Law’s interest in the proposal is driven by the prospect of an explosion of petroleum industry employment opportunities for its graduates when the arrival of the NEGI makes expansion of the NT’s already substantial oil and gas industry possible. Lecturer Geoff James has a strong commitment to providing CDU Law graduates with the opportunity for an exciting and productive career outside of the mainstream of predictable professional activities. The Law School’s focus on energy law has been devised with that object in mind.
GREAT AUSTRALIAN DISSENTS WORKSHOP
9TH-10TH OF JUNE, UNSW

Judges disagree all the time. Occasionally, however, a judicial dissent takes on a special quality and assumes a mantle of greatness. What that quality is, though, is itself largely a matter of disagreement. In early June, leading academics from around Australia gathered together to reflect upon judicial dissents, to debate what makes a great dissent, and to explore the role of dissent to the modern judicial system. Hosted by the Gilbert + Tobin Centre for Public Law, within UNSW, this event invited legal academics from a range of disciplines to identify examples of dissents from Australian judges, and to argue why those dissents should be considered great.

Dr Joe McIntyre, whose research specialty is in judicial theory, attended the workshop and presented a paper examining the dissent of Bray CJ in *R v Brown and Morley* [1968] SASR 467. That case involved an appeal for a murder conviction, with the defendant Morley claiming he had been under duress when he had assisted Brown in murdering the victim by coughing to cover the sounds made by Brown. Dr McIntyre explored the way in which Bray CJ’s judgment – which later was highly influential in the Privy Council and House of Lords – illustrated the role of dissent in enhancing the quality of judicial decision-making and in furthering the development of the common law.

PETER BURDON, GABRIELLE APPELEY, REBECCA LAFOREGIA, JOE MCINTYRE AND NGAIRE NAFFINE, ‘REFLECTING ON HANNAH ARENDT AND EICHMANN IN JERUSALEM: A REPORT ON THE BANALITY OF EVIL’ (2014) 35 ADELAIDE LAW REVIEW 427

It is unusual for a book written fifty years ago to continue to provoke profound controversy and insights. Hannah Arendt’s *Eichmann in Jerusalem* is such a book. An account of the prosecution of Adolf Eichmann by the Israeli government in 1961 for war crimes and crimes against humanity for his role in administrating the Holocaust, the book not only examines issues of evil and the human psyche, but challenges issues of jurisprudence and the role of the public intellectual. In a project stretching over several years, Dr McIntyre has been involved in a review of this work – examining its continuing relevance to the modern legal academic. This process has resulted in the publication of a broad-ranging article published in the Adelaide Law Review which drew together legal scholars from a range of disciplines to give their take on the significance of the work for their particular field of research. Dr McIntyre’s contribution examined the way in which Arendt’s style challenges the legal theorist to present their work in a manner that is broadly accessible. He argues that theory must be not be abstract, but should invite people into a conversation about the issues; Arendt’s work is an example par excellence of this.

ACCESS TO EXTRA TERRITORIAL EVIDENCE – THE MICROSOFT CLOUD CASE AND BEYOND


A case involving Microsoft that is currently before the US courts has raised important issues between the respective legal regimes in the European Union and the United States, particularly in relation to the protection of personal data. The case in question has given rise to a degree of legal uncertainty and the outcome could have potentially serious implications for data protection in the EU. By seeking direct access to data held in the EU through the US judicial system, existing legal mechanisms for mutual assistance between jurisdictions could be effectively bypassed. There are fundamental issues at stake here as regards the protection of personal data that is held within the European Union. This is clearly an area where technological advances have taken place in a very rapid fashion. The right to privacy should be afforded maximum protection whilst ensuring that law enforcement agencies have the necessary mechanisms at their disposal to effectively fight serious crime.

Felicity’s article covers how Cambodia’s draft cybercrime law exposed the dangerous drift away from international human rights standards. It was developed from ILRC comparative research related to Cambodia’s Cybercrime Law prepared for the ABA Justice Defenders Programme by Felicity Gerry QC and Catherine Moore and teams of students from the School of Law Charles Darwin University and students from the University of Baltimore School of Law to be published in the same Journal in July.
STUDENT NEWS

FIRST YEAR LAW STUDENT PATRICK VAN ESCH PUBLISHES HIS ESSAY IN THE ALTERNATIVE LAW JOURNAL 40(2)

First year law student, Patrick van Esch, used one of his Contract Law research assignments as the basis for a law article that will be published by the Alternative Law Journal in their upcoming winter issue. The topic explores the extension of the unfair contract term provisions for standard form contracts to small businesses. It identifies several emergent key themes that require further investigation. These include: (1) the Commonwealth Government’s involvement to date, (2) jurisprudence, (3) current Australian legislation and (4) the law in other jurisdictions. Findings from the investigation identify and elucidate a number of gaps in the existing Australian legislation and provide three significant recommendations that could act as the foundations for potential law reform.

Patrick’s achievement is a reflection that even a first law student is capable of developing research skills to publish in a law journal. This should motivate more students to take their research paper assignments more seriously, improve research skills and seek guidance from their lecturers on publication tips.

BAIL PROJECT AT NAAJA DARWIN

By students Lindsay Allan-McConchie and Lee Campbell

The Social Justice NAAJA stream placement has been a highlight of our Bachelor of Laws at CDU. The role of the Social Justice ‘NAAJA interns’ was to assist with processing bail applications for Aboriginal persons represented by the Criminal Division. This included but was not limited to: cross-cultural training and working with interpreters; interviewing clients at the Darwin Prison; securing friends or family of the client for bail undertakings; providing summaries and documentation to the relevant solicitor; understanding court procedure; attending ‘Bush Court’; and, attending the Darwin courts in order to observe the applications being heard. Interns also partook in general office duties such as transcribing electronic recordings of interviews conducted by the Police.

The scope of clientele the interns worked with were accused of a vast array of crimes that stretched from minor crimes to murder. Whilst this may seem daunting, it was intensely humbling and edifying for students of CDU, such as ourselves, who have an interest in criminal law and social justice in the NT. Yet surprisingly one of the greatest challenges was overcoming the remoteness of many Indigenous Communities in which there was a need to contact a resident for a bail undertaking. A remarkable level of investigative techniques was developed from that experience. Furthermore, with the support of the lectures, the interns were able to grow both professionally and personally whilst also networking with the legal community.

Having an opportunity to implement the theoretical and practical skills gained via tertiary study into a work environment where students can be mentored by legal practitioners and correspond with clients has been immensely informative and rewarding.

ALUMNI PETER WHELLUM IS THE FIRST HONOURS STUDENT TO PLACE HIS PAPER IN THE CDU REPOSITORY

Alumni Peter Whellum’s first class Honours Paper on the law and history relating to Double Jeopardy is to be the first School of Law Honours paper to be placed in the CDU repository where it will be given a citation and available as part of the open access project. This is part of an ongoing project to publish high quality papers from CDU students and alumni. He is shown here being admitted to the ACT Supreme Court on 19 June 2015.

AURORA SCHOLARSHIP REPORT

By Caitlin Marshall

As featured in our last newsletter, CDU law student Caitlin Marshall was awarded an Aurora Scholarship. Her experience:

“In their Discussion Paper 82 on the Review of the Native Title Act 1993 (Cth) the ALRC stated that the law of native title

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is complex, it requires ‘progressively technical interpretation’, has high evidentiary burdens, requires high levels of resources, often takes many years and that reforms are needed to not only ensure claims are rigorously tested but that the central inquiry of the recognition and protection of native title is upheld.

This is native title and this is what inspired me to partake in an Aurora Legal Internship. This along with my university, Charles Darwin University (NT), that has an extensive history of dedication in delivering subjects on a diverse range of social justice and indigenous subjects and lecturers passionate and skilled to deliver them.

I was lucky to be placed with a small legal firm in Adelaide, Campbell Law, whose Principal has a long history of dedication and commitment to native title issues. I was even luckier to be placed with Campbell Law because they were (and remain) in the midst of one of South Australia’s largest native title claims on behalf of the Kaurna people.

Generally, my role was to assist the firm with the legal research component. This was a very important role because it formed a large part of the legal foundation of the argumentative direction.

Although research was vast it was never boring. I reviewed the upcoming ALRC’s recommendations to the Australian Government on the Native Title Act 1993 (Cth), studied a plethora of key cases identifying connectivity and extinguishment issues and formed opinions on where the law of native title is heading and the relativity of them to the nuances of the case specific. I created a time line of relevant statutes since South Australia’s inception and read applicable journal articles.

I looked at international jurisprudence, especially that of Canada. I read the mostly shocking historical accounts of what actually occurred and the irreversible impacts that has had on the individuals and cultures concerned. This heightened my understanding of the key legal implications of connectivity and extinguishment when trying to establish a native title claim. I also gained an understanding for the complexities of what is actually required from an anthropological perspective. The process is holistic.

It wasn’t all reading however! I attended the landmark South Australian Federal Court decision in which the Barngarla people were recognised as having native title (the story of extinguishment continues). I attended a conference between Campbell Law and the State Crown. I was allowed to attend the Case Management Conference at the Federal Court with the relevant interested parties and the Registrar of the Court and I had many wonderful debates and conversations with the solicitors of Campbell Law. Campbell Law generously allowed me to also attend a lecture provided by the Law Society of South Australia on Indigenous People and the Constitution. The Aurora Internship opened my eyes and broadened my mind. This is not an easy confession. It gave me the opportunity to push myself out of my normal areas of comfort. It created a fire in my belly to follow through on what I have learned and to remain attentive and keep abreast of the issues and changes to the law. The experience enlightened me to the cost and time of litigation and to the challenges of not only our Indigenous land owners but those who act in their capacity as legal professionals to assist in that fight on their behalf.

Campbell Law was incredibly generous to give me their time and experience through the Aurora Internship. They provided a pragmatic and practical approach to the legal issues but also shared and transferred their passionate approach to their work. I wish them all the best in continuing their work on this claim and to hearing about their successful outcome for their clients. It was a privilege to work with them and to contribute to their efforts.”

The Aurora Internship

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 is one of the only Australian Schools 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. Please visit http://www.auroraproject.com.au/about_applying_internship for more information on how to apply for a chance to partake in this valuable experience.
GLOBAL POLICY ON SEXUAL VIOLENCE NEEDED TO REACH G20 GOAL OF INCREASING WOMEN IN EMPLOYMENT

A global policy and uniform laws on sexual violence are needed to help reach the G20 goal of increasing the number of women in employment, according to a new paper which examines the links between sexual violence towards women and economic growth.

Authored by Catarina Sjölin, barrister and senior lecturer at Nottingham Law School in the UK, and Felicity Gerry QC, barrister in London and Darwin and Chair of the Research and Research Training Committee in the School of Law at Charles Darwin University, the paper sets out the case for empowering women by tackling sexual exploitation through legal uniformity, extra territoriality and corporate responsibility.

While definitions from the Geneva Conventions and the Rome Statute tackle serious forms of sexual violence in conflict, such as rape or enforced prostitution, the authors argue that the issue when it comes to the global economy and employment is sexual exploitation in all its forms.

Catarina Sjölin said: “It has been said that there are three key levers to achieve female workforce participation – changing stereotypes about work undertaken, policy changes in relation to incentives and childcare, and closing wage gaps and increasing the number of females in leadership positions. However, sexual violence in general, and domestic violence in particular, are also linked to female employment and education.

“Numerous studies show that as women enter the workplace they find themselves at higher risk of violence from an intimate partner, and women who experience economically controlling behaviour may be forbidden from getting a job, may have her earnings taken from her, or may be thrown out of the house. Poverty itself can also force women into high risk, poorly paid occupations such as sex work, making it harder for them to get into other, better employment.

“Even a fear of sexual violence oppresses women and leads to diminished self-esteem and a tendency to self-policing employment options to their detriment.”

To support the G20 target of bringing “more than 100 million women into the labour force in order to significantly increase global growth, and reduce poverty and inequality”, the paper suggests that there must be a uniformity of law between G20 states.

Felicity Gerry QC said: “Ultimately, certain violent and sexual acts are the same wherever they are committed, but the difference in the definitions of these acts and attitudes to women’s rights among the G20 countries is marked. Uniformity in legislative definitions, with agreements on issues such as extradition and historical offending, can allow global policy to progress.”

The paper also sets out the advantages of working across borders and using good practice in one country to improve practice in another.

“With a transnational policy all G20 members can focus on common rules on the basis of their common interests. Progress in one member state can therefore directly influence another state which has not yet made such progress. Instead of the drive coming from women’s groups or human rights groups, the drive can come from economic arguments” added Felicity.

With the rise of international ‘super corporations’ with economies which dwarf those of many countries, the paper also argues that these companies have a responsibility to impose a uniform ethical procurement strategy across the whole of their businesses. In addition, if there is uniformity in law and policy across the states in which they do business, as well as curtailing costs of complying with a number of regimes, they are on a level playing field with their competitors when it comes to not turning a blind eye to sexual exploitation in order to cut costs.

Summarising the paper, Catarina Sjölin said: “In highlighting the link between sexual violence and female employment which our paper seeks to demonstrate, it is hoped that the commitment by the G20 countries will stimulate a new impetus to tackling of sexual exploitation effectively globally. The implementation of uniform rules with extra-territorial effect at the personal and corporate level is likely to be more effective to achieve the G20 target and more.”
SCHOOL OF LAW ANNUAL PRIZE GIVING CEREMONY

The annual prize-giving ceremony was held at the Supreme Court on 19 May 2015, to celebrate the achievements of our outstanding students. We express our gratitude to the Chief Justice and Courts Administration for again allowing access to the Supreme Court for this function.

The recipient of the Attorney-General’s medal (presented by the CEO of the Department of Justice, Greg Shanahan) was Penelope McIsaac. Penny completed much of her graduate law degree online from Japan and achieved a GPA of 6.75, with 19 high distinctions, 4 distinctions and 1 credit. Throughout her course she won prizes in 6 individual subjects. She is now undertaking the GDLP, while caring for her 2 babies, born in 2014.

The recipient of the Supreme Court medal (presented by Blokland J) was Sally Gooch. Sally was born in Kenya and migrated to Australia with her family when she was 4 years old. She completed the graduate degree at CDU and achieved a GPA of 6.67, with 17 high distinctions, 6 distinctions and 1 credit. She won prizes in 2 individual subjects. Sally is now working as a lawyer at Sparke Helmore in Adelaide.

Very special thank you to all of our prize donors, without whom this evening would not have been possible. The presentation of prizes was followed by drinks in the foyer, to the music of the Darwin Chamber Players.

A full list of prize winners:

THE NORTHERN TERRITORY BAR ASSOCIATION PRIZE FOR TORTS (LWZ116)
Recipient: Amelia Tauber

THE CDU BOOKSHOP PRIZE FOR CONTRACTS (LWZ118)
Recipient: Tammy Higginbotham and David Isles

THE BILL HERD MEMORIAL PRIZE FOR EQUITY (LWZ210)
Recipient: Ann Marie Najjarin

THE TSOUKALIS LAWYERS PRIZE FOR TRUSTS (LWZ211)
Recipient: Tammy Higginbotham

THE AUSTRALIAN GOVERNMENT SOLICITORS PRIZE FOR ADMINISTRATIVE LAW (LWZ312)
Recipient: Penelope McIsaac and Natalie Saupin

THE DE SILVA HEBRON PRIZE FOR PROPERTY LAW (LWZ223)
Recipient: Kiah McGregor

THE CLAYTON UTZ PRIZE FOR CORPORATIONS LAW (LWZ315)
Recipient: Caitlin Marshall

THE WILLIAM FORSTER CHAMBERS PRIZE FOR EVIDENCE (LWZ316)
Recipient: Caitlin Marshall

THE WARD KELLER PRIZE FOR CIVIL PROCEDURE (LWZ317)
Recipient: Penelope McIsaac

THE LEXIS NEXIS PRIZE FOR PROFESSIONAL RESPONSIBILITY (LWZ320)
Recipient: Lisa Cochrane

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

THE SCHOOL OF LAW PRIZE FOR LEGAL INTERPRETATION (LWZ100B)
Recipient: Melanie Rumball

THE SCHOOL OF LAW PRIZE FOR FAMILY LAW (LWA213)
Recipient: Natalie Saupin

THE WARD KELLER PRIZE FOR INTERNATIONAL LAW (LWA318)
Recipient: Brooke Howard
THE ROUSSOS LEGAL ADVISORY PRIZE FOR INTELLECTUAL PROPERTY LAW (LWA316)
Recipients: Natalie Eldridge and Adeline Tran

THE SCHOOL OF LAW PRIZE FOR INDIGENOUS PEOPLES AND THE LEGAL SYSTEM (LWB201)
Recipient: Ann-Marie Najjarin

THE WILLIAM FOSTER CHAMBERS PRIZE FOR HUMAN RIGHTS LAW (LWB206)
Recipients: Sephyr Crook, Geoffrey Yao and Genna Churches

THE LEXIS NEXIS PRIZE FOR RESEARCH PAPER (LWC304)
Recipient: Luxmy Chandran

THE DIRECTOR OF PUBLIC PROSECUTIONS PRIZE FOR PRACTICAL ADVOCACY (LWS320)
Recipients: Genna Churches and Nicole McEldowney

THE HUNT & HUNT PRIZE FOR EMPLOYMENT LAW (LWA214)
Recipient: Natalie Stirling

THE ROUSSOS LEGAL ADVISORY PRIZE FOR LEGAL HISTORY AND JURISPRUDENCE (LWB205)
Recipient: Jean Lynch

THE LAW SOCIETY PRIZE FOR INTRODUCTION TO LEGAL STUDIES (LWZ100A)
Recipient: Kathryn White

THE CDU BOOKSHOP PRIZE FOR CRIMINAL LAW (LWZ114)
Recipient: Kerrie Schenscher

THE NT SOLICITOR GENERAL PRIZE FOR CONSTITUTIONAL LAW (LWZ312)
Recipient: Elisha Harris

THE HUNT & HUNT PRIZE FOR DISPUTE RESOLUTION (LWS221)
Recipient: Jeremy Gitsham

THE MINTER ELLISON PRIZE FOR VENDOR AND PURCHASER (LWA29)
Recipient: Alison O’Neill

THE NT SOLICITOR PRIZE FOR INTRODUCTION TO PUBLIC LAW (LWZ202)
Recipients: Jean Lynch and Jillian Lawson

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