

The Australian National University

Faculty of Law

Annual Report to Council 2003

Overview and Key Achievements

In 2003, the Faculty of Law continued to consolidate its position as one of Australia's leading law schools. The ANU's own market research revealed law to be ANU's best-known discipline area nationally, evidently a surprise to some but a sure testament to the high reputation of the Faculty generated by years of quality research and teaching and carried forward into the community by years of outstanding graduates.

This achievement is all the more remarkable given the Faculty's ongoing struggle with a comparatively poor student/staff ratio that puts considerable pressure on staff and inhibits the effective teaching of legal skills, which is best done in small groups. Small group experiences are facilitated in some areas, but in effect the Faculty is successful because its talented and dedicated staff 'box above their weight'. This is aided by a spirit of collegiality and community in the Faculty, the instrumental value of which is often, surprisingly, underestimated. Sustainability in the long term, however, requires inexorable growth in our resources, a task and a focus to which the Faculty is highly sensitive.

The Faculty's key achievements in 2003 in teaching, research and outreach are set out in this report. Highlights include:

- Appointment of Professor John McMillan, Alumni Professor of Administrative Law, as the 7th Commonwealth Ombudsman and the 3rd from the ANU Faculty of Law
- Election of Professor Hilary Charlesworth as a Fellow of the Academy of Social Sciences in Australia (FASSA)
- Award of the Reginald Smith Scholarship to pursue higher study at Cambridge to Mr Henry Mares
- Appointment of Professor Mick Dodson as the first Indigenous Professor of Law
- ARC Grants to Professor Andrew Byrnes, Mr Simon Bronitt, Dr Mark Nolan, Ms Miriam Gani, and Dr Pene Mathew (terrorism, security and international law), Mr Kent Anderson (Japanese legal reform), Professor Mick Dodson (Indigenous governance), and Dr Ann Kent (engagement with China)
- Establishment of the Australian Network for Japanese Law (ANJeL) cooperatively with the Universities of Sydney and New South Wales
- Appointment of Ms Peta Spender as Chair of the ACT Fair Trading Advisory Committee
- Appointment of Mr Simon Bronitt as Director of the ANU's National Europe Centre
- Publication of leading texts such as Mr Peter Bayne's *Uniform Evidence Law: Text and Essential Cases* (Federation Press, 2003)
- Continuation of a high level of conference activity, with leading national conferences in the area of environmental law, public law, international law, intellectual property law and commercial law, facilitated by the Faculty's Centres in these areas and the National Institute for Social Sciences and Law (NISSL)
- Innovations in teaching such as expansion of the law internship program, establishment of a clinical program, and further exploration of law reform and social justice issues in the curriculum
- Appointment of outstanding new academic staff following the Faculty's annual academic appointment round (Professor Tim Bonyhady, Dr John Williams, Mr Gregor Urbas, Dr Tom Faunce, and Mr Matthew Zagor).

- Consolidation of the hosting arrangements for the National Judicial College of Australia
- Further development of the on-line WebCT component of practical legal training (PLT) by Legal Workshop

The Faculty's medium-term goals have not changed: to enhance our connections with our students, to intensify our research effort, and to consolidate our external relations. As in 2002, working for us were the quality and collegiality of our staff, a culture supportive of research and the exchange of ideas, the quality of our students, and our high reputation nationally and internationally. Working against us were our high student/staff ratio and our almost oppressive workload.

Budget Performance

2003 saw the Legal Workshop amalgamated into the Faculty's budget. From 2002 Legal Workshop had a deficit of \$143,000. However, due to a large increase in student numbers, Legal Workshop finished the year with a surplus of \$270,000.

The Faculty continues with the challenge of how to manage a reasonably large one-off surplus in the ever changing environment of declining resources, rising costs, varying scenarios and projected operating deficits on a recurrent basis. The Faculty was able in 2003 to maintain its commitment to an annual academic appointment round. Staff movements (especially staff taking leave with out pay and new appointees being unavailable for immediate start) are a key factor in the management of the budget.

The Faculty's fees income remained similar to 2003. Legal Workshop performed particularly well in this area. On the expenditure side, salaries contributed over 90%. The Faculty continued to its commitment to a not insubstantial staff allowance.

During 2003 the Faculty became home to the National Institute of Social Science and Law and the National Institute for Indigenous Australia and thus has the added task of general oversight and administration of these budgets.

Gender Equity Performance

Faculty Academic Staff Profile (excluding Legal Workshop), as at 31 December 2003. Includes fractional appointments.

	MALE	FEMALE	TOTAL
Professors	4	3	7
Readers	3	3	6
Senior Lecturers	8	1	9
Lecturers	8	8	16
Associate Lecturers	2	1	3
Total	25	16	41

Significant Achievements in Research and Teaching

The Faculty publications include the *Federal Law Review*, the *Australian Year Book of International Law* and the *Law and Policy Series*. Further accomplishments include:

Commercial law:

Public lecture: Colin Neave, Australian Banking Ombudsman, presented a seminar on 'Industry Funded ADR and Voluntary Codes of Practice' at the Faculty of Law (17 June).

Executive Pay Forum: On Wednesday, 10 September 2003, the Centre for Commercial Law and the Australian Labour Law Association (ACT Chapter) hosted a forum on Executive Pay. The Forum addressed a range of regulatory and other issues that have emerged in light of the increased focus on executive remuneration and termination payments over the last few years.

The annual *Legal Edge Seminar Series* held between 5 August and 2 September was presented by: Professor Phillipa Weeks and Mr Anthony Forsyth, 'Arbitration revived? Recent experiences in the Australian Industrial Relations Commission'; Mr Peter Bayne, 'Examination in chief, cross-examination and re-examination under the regime of the *Evidence Act 1995*'; Ms Peta Spender, 'Discovery after

McCabe'; Ms Anne McNaughton, 'Legislative Responses to the Public Liability and Professional Indemnity Crisis'.

Environmental law:

Conference: The Australian Centre for Environmental Law (ACEL) jointly with the Centre for International and Public Law (CIPL), 20–21 November: **The Precautionary Principle in Environmental Regulation: 10 Years since *Leatch***.

International and public law:

Conferences: Eleventh ANZSIL Conference (4–6 July); Annual Public Law Weekend, 'The Australian Constitution in Troubled Times' (7–9 November); International Law Conference, 'The United Nations and State Building', (27 November).

Training courses: International Human Rights Law and the Proposed ACT Human Rights Act, for the ACT Department of Justice and Community Safety (8–9 and 15–16 September); Introduction to International Law for the Graduate Training Unit, Department of Foreign Affairs and Trade, (13–14 and 17–8 November).

Intellectual property law:

Teaching/training: The centre has established a series of training programs to raise the Intellectual Property skills base in the rural sector. The program will be delivered in rural and remote regions in NSW, Queensland, SA, Tasmania, Victoria and WA.

Conferences/Seminars: The Intellectual Property and Agriculture Symposium is the first in this series of events. The Symposium was opened by the Hon Judith Troeth, Senator for Victoria, Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry, speakers were Professor Brad Sherman, 'Genetic Use Restriction Technologies: Implications for Intellectual Property Policy Making'; Dr Matthew Rimmer, 'Franklin Barley: Patent Law and Plant Breeders' Rights'; Mr Bruce Drinkwater, Legal consultant to the Wine Industry, 'Geographical Indications: Current Issues in the Wine Industry'; Ms Lisa Filipetto, Assistant Secretary, Services and Intellectual Property Branch, Department of Foreign Affairs and Trade, 'International Negotiations — Geographical Indications'; Mr Peter Neilson, Australian Manager, Crop & Food Research Australia, 'Commercialisation of Agricultural Varieties and Intellectual Property Protection'; Mr Vince Logan, Executive Manager, Business Development, Grains Research and Development Corporation, 'Confessions of a Biopirate and Other Tales on the Commercialisation of Agriculture Research.

The Annual ACIPA Conference: 'Intellectual Property and the Life Sciences: Agriculture, Health and Trade' (21 November)..

Student Numbers

Postgraduate

POSTGRADUATE STUDENT ENROLMENTS 2003 (Including Legal Workshop and ISF Students)				
	at 31 March		At 31 August	
	Female	Male	Female	Male
Doctorate (Research)	11	8	12	9
Master (Research)	0	0	0	1
Master (Course-work)	109	76	81	64
Graduate Diploma (inc Legal Workshop)	224	162	248	158
Graduate Certificate	2	2	2	1
Cross-Institutional	2	0	0	0
Sub-Total	348	248	343	233
TOTAL	596		576	

Undergraduate

UNDERGRADUATE STUDENT ENROLMENTS 2003 BY COURSE, LEVEL OF COURSE, ATTENDANCE TYPE AND SEX as at 31 March 2003									
COURSE	FULL-TIME			PART-TIME			ALL ATTENDANCE TYPES		TOTAL
	Female	Male	Sub-Total	Female	Male	Sub-Total	Female	Male	
Law	22	11	33	7	2	9	29	13	42
Law (Graduate)	50	38	88	38	34	72	88	72	160
Actuarial Studies/Law	11	18	29	0	1	1	11	19	30
Arts/Law	390	186	576	25	9	34	415	195	610
Asian Studies (Sp)/Law	56	17	73	2	2	4	58	19	77
Asian Studies/Law	21	8	29	0	2	2	21	10	31
Commerce/Law	79	90	168	7	8	9	86	98	184
Economics/Law	24	49	73	1	6	7	25	55	80
Finance/Law	0	3	3	0	0	0	0	3	3
Information Technology/Law	0	1	1	0	0	0	0	1	1
Science (Psych)/Law	29	11	40	0	0	0	29	11	40
Science/Law	69	39	108	4	3	7	73	42	115
Science(REM)/Law	0	3	3	0	0	0	0	3	3
Cross Institutional Law	1	1	2	6	2	7	7	3	10
TOTAL	752	475	1227	90	69	159	841	544	1386

Attrition Report 2003					
Program Career	Program Type	Citizenship	Number Enrolled	Attrition (b)	Student Progress Rate
				Left ANU	
Higher Degree	Doctorate by Research	Domestic	18	5.6%	
		International	1	0.0%	
	Doctorate by Research		19	5.3%	
	Masters by Research	Domestic	2	50.0%	
		International			
	Masters by Research		2	50.0%	
Higher Degree		Domestic	193	9.3%	0.93
		International	16	6.3%	0.97
	Higher Degree		209	9.1%	0.93
Undergraduate	Bachelor's Pass	Domestic	1430	3.2%	0.93
		International	32	6.3%	0.89
	Undergraduate Bachelor		1462	3.3%	0.93

Completions 2002			
Program Career	Program Type	Citizenship	2002 Completions
Higher Degree Research	Doctorate by Research	Domestic	4
		International	
	Doctorate by Research Total		4
	Masters by Research	Domestic	1
		International	
	Masters by Research Total		1
Higher Degree Research Total			5
Postgraduate Coursework including Legal Workshop	Higher Degree Coursework	Domestic	46
		International	13
	Higher Degree Coursework Total		59
	Other Postgraduate Coursework	Domestic	158
		International	
	Other Postgraduate Coursework Total		158
Postgraduate Coursework Total			217
Undergraduate	Bachelors	Domestic	297
		International	3
	Bachelors Total		300
Undergraduate Total			300
Faculty of Law Total			522

Major Prizes, Honours and Awards for Staff and Students

Undergraduate Prizes and Scholarships

Alexander Phipps, Jacqueline Wootton, David Quinn and Zoe Guest were awarded University Medals on completion of the Bachelor of Laws degree in 2003.

Prize Winners for 20030

ACT Baha'i Community Prize in International Law
Allens Arthur Robinson International Trade Law Prize

Matthew Brine
Michael O'Neill

Ann Downer Memorial Prize in Law	Susan Dodsworth
Australian and New Zealand Association of Psychiatry, Psychology and Law Prize	Alexandra Chubb
Australian Network for Japanese Law Prize for Japanese Law and Society	Emma Saint
Australian Capital Territory Bar Association Prize for Evidence	Katherine Urbanski and Neil Arora
Bailey Prize for Human Rights	Cassandra Kennedy
Baker and McKenzie Prize for Intellectual Property	Philippa Bergin and Allister Higgins
B C Meagher Prize for Commonwealth Constitutional Law	Katherine Kim
Blackburn Medal for Research in Law	Jacqueline Wootton
Blake Dawson Waldron Prize for Corporations Law	Patrick Delaney
Butterworths Prize in Conflict of Laws	Philippa Bergin
Butterworths Prize in Equity and Trusts	James Hutton
Butterworths Prize in Income Tax	Intan Eow
Butterworths Prize in Indigenous Australians and the Law	Anthony McGregor
Butterworths Prize in International Dispute Resolution	Patrick Delaney
Butterworths Prize in Law and Sexualities	James Fleming
Butterworths Prize in Migration Law	Stuart Gregory
Butterworths Prize in Restitution	Anais D'Arville
Butterworths Prize in Special Law Elective 3: Sport and Law	Robert Dearn
Butterworths Prize Selected Topics in Torts	Matthew Bowd
Clayton Utz Prize for Administrative Law	Alison Hurst
Clayton Utz Prize for Torts	Jennifer Bowles
Commonwealth Attorney-General's Department Prize	Jacqueline Wootton, Alexander Phipps and David Quinn
Daphne Olive Memorial Prize in Legal Theory	Joanna Virtue
Elizabeth Allen Prize for Foundations of Australian Law	Jennifer Bowles
Farrar Gesini & Dunn Prize for Family Law	Kirinya Khamsone
Freehills Prize for Commercial Law	Justin Davidson
George Knowles Memorial Prize	James Hutton
Holding Redlich Prize for Labour Law	Benjamin Phi
Holding Redlich Prize for Property Law	Alexander Flecknoe-Brown
Jack Richardson Prize for Administrative Law	James Hutton
John James Memorial Prize for Health, Law and Ethics	Amelia Buchanan
Law Society of the Australian Capital Territory Prize for Contracts	John Altin
Lexmark Prize in Environmental Law	Alison McLennan and Kerry Mure
Mallesons Stephen Jaques Prize for Law Studies	James Hutton
Maree Ayers Prize for Criminal Justice	Alexander Phipps
Minter Ellison Prize in Litigation and Dispute Management	Jacqueline Wootton
Professional Careers Australia Prize for Lawyers, Justice and Ethics	Michael McIver
Senatore Brennan Rashid DFK Prize for Bankruptcy and Insolvency	Andrew Highfield
Sir Victor Windeyer Prize in Legal History	Alexis Knight
SoftLaw Prize in Expert Legal Systems	Simon Thornton
SoftLaw Prize in Information Technology Law	Christopher Pitson
Supreme Court Judges Prize	Jacqueline Wootton
Thomas Richards Scholarship	Christina Worrall
UNHCR Prize for International Law of Human Rights	Bonnie Allan and Carmen Miragaya
Dean's Merit List for 2003	
Dean's Prize in Consumer Protection and Product Liability Law	Naomi Glanville
Dean's Prize in Criminal Law and Procedure	Alison Gurr and Aparna Rao
Dean's Prize in Current Issues in Administrative Law	Justin Davidson, James Hutton and Cain Sibley
Dean's Prize in Contemporary Issues in Constitutional Law	Jacqueline Wootton
Dean's Prize in Feminist and Critical Legal Theory	Anna Dziedzic
Dean's Prize in International Criminal Law	Amanda Angus and Leah Ambler
Dean's Prize in International Environmental Law	Alexander Flecknoe-Brown
Dean's Prize in International Organisations – Geneva	Anthea Harvie
Dean's Prize in Law and Society in South East Asia	Jennifer Cavenagh and Michael Henao
Dean's Prize in Law Internship	Gregory Robinson
Dean's Prize in Restrictive Trade Practices	Timothy Browne

Dean's Prize in Australian-American Comparative Law (ANU)	Helen Gillespie-Jones and Sybilla Waring-Lambert
Dean's Prize in Selected Topics in Australian-American Comparative Law	Dominique Allen
Dean's Prize in Survey of US Law	Helen Bryson
Dean's Prize in Takeovers and Securities Industry Law	Janet McCarthy
Dean's Certificate in Environmental Law	Matthew Pudovskis
Dean's Certificate in Health Law, Ethics and Human Rights	Philippa Watson
ANU Honours Scholarship	Philippa Bergin, Hilary McGeachy and Joel Orenstein
H C Coombs Scholarship	Angeline Baker
Thomas Richards Scholarship	Christina Worrall

Staff Honours

Professor Hilary Charlesworth has been elected a Fellow of the Academy of Social Sciences in Australia; Mr Henry Mares received the Reginald Smith Scholarship to pursue PhD studies at Cambridge.

New Grants

Dr Ann Kent is a member of two teams which were awarded ARC seed-funding for their research projects. One project, convened by Prof Robin Jeffrey of La Trobe University comprises 27 specialists on China and Southeast Asia in Australia, and is entitled *Net work Asia: Maximising Australia's National Capacity in Inter-Disciplinary Research on Asia* and the other, convened by Dr Louise Edwards of the ANU's Faculty of Asian Studies and comprising 30 team members, is entitled *China's Asia-Pacific Century: Enhancing Australia's Engagement*

Robert Burrell and James Stellios, ANU Faculties Research Grant for a project on *Copyright and Freedom of Expression*

Dr Matthew Rimmer (with Prof Brad Sherman, Mr Robert Burrell and Mr Antony Taubman), ARC Discovery Grant 2003–2005 *Gene Patents in Australia: Options for Reform*

Dr Matthew Rimmer (with Prof Brad Sherman) ARC Linkage Grant 2003 *Protection of Botanical Innovation: A legal analysis of the scope and operation of national and international plant breeder's rights*

Professor Andrew Byrnes Mr Simon Bronitt, Mr Russell Hogg, Mr Mark Nolan, Ms Miriam Gani Dr Pene Mathew ARC Grant *Terrorism and the Non-State Actor after September 11: The Role of Law in the Search for Security*.

Future Directions

The Faculty addresses its goals and directions on a regular basis, by means, for example, of retreats, staff meetings, student forums, and exchange of ideas. The Faculty's main current goals have been set out earlier and are reflected in the overview of key achievements.

In general terms, the Faculty aims to establish, maintain and nurture a culture and working environment in which staff and students can realise their various and diverse aspirations, within a broad framework of shared values relating to the role and significance of legal research and legal education. These goals, values and directions are to be addressed, articulated and affirmed at a major Faculty retreat to be held in February 2004.

Involvement with National Institutes

Professor Michael Coper became the Convenor of the National Institute for Social Science and Law (NISSL). Members of the Faculty of Law are members of a wide range of the National Institutes, which in many ways cut across the discipline of law.

Many activities in the Law Faculty were organised in 2003 in conjunction with NISSL. For example, the Centre of International and Public Law (CIPL) organised in conjunction with NISSL:

- Professor Geoffrey Lindell, Public Lecture: 'The Australian Constitution and the Deployment of Military Forces in the Iraq War – On Whose Legal Authority?' October;
- International Law Conference 'The United Nations and State Building' November;

- The Sixth Geoffrey Sawer Lecture: Professor Christina Murray 'South Africa's Troubled Royalty: Traditional Leaders after Democracy November;
- Professor Hilary Charlesworth, Telstra Address National Press Club: 'Is International Law Relevant to the War in Iraq and its Aftermath?.

Professor Mick Dodson of the ANU Institute for Indigenous Australia (ANUII) gave a workshop for exchange students from Alabama and several guest lectures on Native Title and other leading issues.