ANU College of Law Celebrates Fiftieth Anniversary

ANU College of Law alumni gathered at The Boat House by the Lake in Canberra on 1 October 2010 to celebrate the College’s fiftieth anniversary.

Around 130 guests enjoyed pre-dinner drinks and the magnificent view of the sun setting over Lake Burley Griffin before sitting down to a three course meal in the formal dining room, where they were entertained with light classical music played by the String Trio and a presentation of photos taken over the last fifty years at the ANU College of Law. (Photo album)

The Law Dean, Professor Michael Coper officially welcomed the alumni and the guest speaker, Professor the Hon Gareth Evans AO QC (Chancellor, The Australian National University) who, in his address, recognised the contribution ANU alumni have made to the law field.

More photos

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Professor Michael Coper
Dean, ANU College of Law

Professor the Hon Gareth Evans AO QC
Hon Professorial Fellow, University of Melbourne Chancellor, ANU, President Emeritus, International Crisis Group, Co-Chair, International Commission on Nuclear Non-Proliferation and Disarmament

http://law.anu.edu.au
The Australian National University was given a top rating of five for the disciplines of law and legal studies in the first assessment of research quality across the Australian sector conducted by the Excellence in Research for Australia (ERA) initiative.

The Australian Research Council (ARC) administers the ERA initiative, which assesses research activity and quality within 41 higher education institutions in Australia. The objective of the assessment is to identify and promote excellence in research across Australia’s higher education institutions. Over a period of three years, ERA assessed research quality using a combination of indicators and expert review by committees of experienced, internationally-recognised experts.

With the top rating of five, law research at ANU was rated as well above the world standard. The ARC used a rating of three to define the world standard. Law research submitted for review came from both the ANU College of Law and the ANU’s Regulatory Institutions Network (RegNet).

At the ANU, almost 70 per cent of subjects rated at the highest possible level. Based on the outcomes of the ERA report across 25 disciplinary groupings, The Australian published a ratings table, which had the ANU in first place.

For related news: [From legal studies to crickets](#)

### ANU College of Law Staff Publications

**Sex Discrimination in Uncertain Times**

Edited by Margaret Thornton

This collection of essays, edited by Professor Margaret Thornton arose from a conference held to mark the silver anniversary of the Australian Sex Discrimination Act (1984).

The book is now available through ANU E Press.

**Mills, Mines and Other Controversies**

The Environmental Assessment of Major Projects

Edited by Tim Bonyhady and Andrew Macintosh

The book is now available through Federation Press.

**Cultural Difference on Trial**

The Nature and Limits of Judicial Understanding

By Anthony J. Connolly

Available through Ashgate.

This book will be the subject of a symposium at this year’s Annual Conference of the Australian Society of Legal Philosophy at the University of Queensland in July 2011.
The University of Cambridge has bestowed a high honour on two ANU College of Law professors, Peter Cane and Jane Stapleton, by electing them to the Arthur Goodhart Visiting Professorship of Legal Science, one of the most prestigious visiting chairs in the common law world. Cane and Stapleton, who are married, will hold the Professorship sequentially during the 2011–12 academic year. This is the first time that the chair has been held jointly.

During their time in Cambridge, Peter Cane will be a Fellow of Corpus Christi College and Jane Stapleton will be a Fellow of St John’s College.

‘It is a real thrill for a tort lawyer to be elected to a chair once occupied by intellectual giants of the subject such as Roger Traynor (once Chief Justice of California, who held the chair in 1974–75) and Guido Calabresi (Yale Law School and Second Circuit Court of Appeals, 1980–81),’ Stapleton said. But it is most especially exciting that we will be following in the steps of the great John Fleming (the first Dean of the ANU Law Faculty), who held the chair 1987–88 while on the faculty at UC Berkeley, where he went after a decade teaching in Canberra in the 1950s.

‘In the globalised environment of legal education, links between leading law schools on different continents are increasingly valuable and important,’ Cane said. ‘This is a great opportunity to strengthen ties between the law schools of two great research universities and to build on the links that ANU already enjoys with Cambridge through the International Alliance of Research Universities.’

In fact, ANU has a remarkably strong and altogether outstanding association with the Goodhart Professorship. Of the seven Australian holders of the chair to date, six (Professor Leslie Zines (1992–93), Sir Anthony Mason (1996–97) and Justice Paul Finn (2010–11) in addition to Fleming, Stapleton and Cane) have deep ANU connections. (The other Australian Goodhart Professor was Professor Cheryl Saunders (2005–06).)

The Visiting Professorship of Legal Science was established in 1971 in honour of Arthur Lehman Goodhart. Goodhart was born in New York but spent most of his adult life in England. He studied law at Yale Law School and arrived in Cambridge in 1912 intending to read economics, but was persuaded to read law instead. After serving in the First World War, he returned to Cambridge in 1919 as a fellow of Corpus Christi College and taught there for a decade, during which time he founded the Cambridge Law Journal and became editor of the Law Quarterly Review (a post he held for fifty years). Although primarily a common lawyer, Goodhart lectured in jurisprudence; and he was elected Professor of Jurisprudence at Oxford University in 1931. In 1951 he became Master of University College, Oxford.
Professor Marilyn Pittard, Faculty of Law, Monash University delivered the Annual Phillipa Weeks Lecture in Labour Law on 12 October 2010 at the ANU College of Law. Dean Professor Michael Coper and Cameron Roles from the ANU College of Law also addressed the audience.

The lecture, held annually in memory of Professor Phillipa Weeks, was attended by guests of honour, Phillipa’s family members.

Professor Pittard examined the extent to which the guard of minimum conditions has changed from tribunal to Parliament, the implications of the Fair Work Act’s reliance on Parliament to set basic labour conditions and considered whether this will enhance or impede the goals of fairness and flexibility.

Professor Pittard is Professor of Law in the Faculty of Law at Monash University, with responsibility for labour and employment law in both the undergraduate and postgraduate law programs.


Currently, Professor Pittard is working as chief investigator on an ARC Linkage grant project on employment of people who have a criminal record.

Phillipa Weeks Scholarship in Law

The ANU College of Law has created a scholarship in memory of the late Professor Phillipa Weeks. Phillipa was a significant contributor to the Canberra legal community and a member of the academic staff of ANU from 1979 until her untimely passing in 2006.

This scholarship supports students from regional and rural Australia who demonstrate academic achievement, leadership and community involvement. The award is intended to be held by the successful applicant for the duration of their law program. We have decided to endow this fund, so as to award the scholarship in perpetuity. Our goal is $500,000 as an endowment of this size will allow us to award a scholarship every year.

For more information on giving towards this scholarship, please visit: The ANU College of Law Phillipa Weeks Scholarship webpage.
The Centre for International and Public Law (CIPL) hosted the fifteenth Annual Public Law Weekend on 3–4 September 2010 at the Finkel Theatre, The Australian National University.

Academics and public law practitioners gathered from around Australia to consider the theme of the conference, Scarcity, Sustainability and Public Law. Friday’s session opened and chaired by Professor Kim Rubenstein, CIPL Director, ANU College of Law focused on policy issues involving scarcity of resources and sustainability in Australia and their relationship to public law. (audio)

Professor Bob Gregory, University of Adelaide discussed managing a sustainable population in a federal system. Gabrielle McKinnon, ACT Human Rights Commission delivered a talk on Rights and Resources and in her address, Niamh Lenagh-Maguire, Australian Government Solicitor considered Citizenship as Property: A scarce resource?

Dr Dominique Dalla-Pozza, ANU College of Law chaired the second session of the afternoon titled Water, Forests and Public Law. Danielle Forrester, from the Australian Government Solicitor discussed Water and the Constitution and Robyn Briese considered Water, Scarc Resources and Public Law in the Murray-Darling Basin. Brad Jessup, ANU College of Law concluded the afternoon session with his talk, Scarcity or Plenty in Tasmania’s Forests? A clash of legal and scientific understandings in the Wielangta forest dispute. (audio)

The 2010 Annual Geoffrey Sawer Lecture was held on Friday evening in conjunction with the conference. Jeff Bleich, US Ambassador to Australia delivered the lecture on The US Courts and International Law. (audio)

On Saturday morning the focus shifted to the analysis of recent High Court decisions, public law from across the Tasman and thinking regarding pluralism and law, concluding with an update on work from Parliament in its rethinking of our Federation. Leighton McDonald, ANU College of Law chaired the session on Updates from the High Court. Dr Trish Luker, University of Queensland discussed Osland v Secretary to the Department of Justice [2010] HCA 24 (23 June 2010) and Daniel Stewart, ANU College of Law presented his topic Saeed v Minister for Immigration and Citizenship [2010] HCA 23 (23 June 2010). In the final presentation of this session, Theresa Baw, NSW Bar considered Minister for Immigration and Citizenship v SZMDS [2010] HCA 16 (26 May 2010). (audio)

Moeen Cheema, ANU College of Law chaired the following session on Updates beyond the High Court (audio), which included:

- Dean Knight, Victoria University of Wellington, NZ Land of the Long White Fog: Judicial review in New Zealand
- Jamila Hussain, University of Technology Sydney More Than One Law for All: Legal pluralism in Australia?
- Dr Rosemary Laing, Clerk of the Senate Update from the Senate

http://law.anu.edu.au
Emeritus Professor Marian Sawer, School of Politics and International Relations, ANU and Vice-President of the International Political Science Association and Director-ANU of the Democratic Audit of Australia launched *Money and Politics: The democracy we can’t afford* by Joo-Cheong Tham (published by University of NSW Press).

The weekend concluded with a session on an Update on the 2010 election [audio](http://law.anu.edu.au) chaired by Professor Kim Rubenstein, ANU College of Law. Presenters included:

- Professor Don Rothwell, ANU College of Law
- Christine Wallace, Canberra Press Club
- Associate Professor Anne Twomey, The University of Sydney

*The Governor-General’s Role in the Formation of Government in a Hung Parliament*
On 9 August 2010, Professor Tim Bonyhady, Director, ANU Centre for Climate Law & Policy welcomed participants to a one-day conference at the ANU College of Law, organised by the ANU Centre for Climate Law and Policy and Baker & McKenzie, in conjunction with the ANU Climate Change Institute.

As suggested by its title, *After Copenhagen – Finding direction in climate law & policy*, the conference gave some of the world’s leading climate experts an opportunity to provide updates on the state of climate science and policy since the Copenhagen Climate Conference in December 2009 and to hypothesise about its future direction.

Ambassador David Daly, Head of the EU Delegation to Australia commenced proceedings with his address titled *A European Perspective*. Professor Warwick McKibbin, Director Research School of Economics, ANU College of Business and Economics followed with a discussion on *Managing Abatement Costs in the Face of Uncertainty: Building a rational carbon pricing scheme*.

In the next session, Dr Michael Raupach, Research Scientist, CSIRO Marine and Atmospheric Research considered *Separating fact from fiction: the state of climate science* and Mr Howard Bamsey, Deputy Secretary, Australian Department of Climate Change & Energy Efficiency delivered his talk on *Copenhagen to Cancun: Where are the international negotiations headed and is there a need for a new negotiating forum?*

Dr Frank Jotzo, Deputy Director, ANU Climate Change Institute & Fellow, ANU Crawford School of Economics and Government considered *Australia’s Commitment – Where are we now? in the afternoon session. Mr Martijn Wilder, Partner, Baker & McKenzie and Adjunct Professor, ANU College of Law followed with his discussion on The Investment Dilemma: How is political uncertainty affecting investment in carbon mitigation and carbon markets?*

The conference concluded with a roundtable discussion on *Energy Efficiency*. Contributors included Ms Meg McDonald, CEO, Australian Carbon Trust Limited; Dr Richard Denniss, Executive Director, The Australia Institute and Mr John Connor, CEO, The Climate Institute.

For details about the speakers please see the *After Copenhagen program*.

http://law.anu.edu.au
A conference, Protecting Civilians During Violent Conflict was jointly presented by The Australian Centre for Military Law & Justice, ANU College of Law, The School of Humanities & Social Sciences, University of New South Wales and the Centre for Applied Philosophy & Public Ethics (The Australian National University, Charles Sturt University and University of Melbourne) on 25–26 August 2010.

Gary Tamsitt, Associate Director of The Australian Centre for Military Law and Justice welcomed participants to the conference at ANU. Professor the Hon Gareth Evans AO QC gave the opening address. (audio)

In session one, Professor Igor Primoratz, Charles Sturt University discussed Civilian Immunity, Supreme Emergency and Moral Disaster. Dr David Whetham, King’s College, London followed with his address titled Remote Killing and Drive By Wars. (audio)

Rules of Engagement was the topic of session two and it featured Captain Rob McLaughlin, Royal Australian Navy who considered the topic from a legal officer’s perspective, while Major General Stephen Day, Australian Army provided a practitioner’s viewpoint.

Dr Helen Durham, Australian Red Cross and Professor Penelope Mathew, Freilich Foundation, ANU spoke in session three, which considered International Humanitarian Law. Dr Durham’s address was The Relevance of IHL in Complex Conflicts: Finding a definition for ‘direct participation in hostilities’ and Professor Mathew’s discussed the topic First Do No Harm: Refugee law as a response to armed conflict. (audio)

Session four focused on the protection of civilians with Professor William Maley AM, Asia-Pacific College of Diplomacy, ANU highlighting the dilemmas of civilian life in Afghanistan during war and Major General (retd) Michael Smith AO, Executive Director, Asia Pacific Civil-Military Centre of Excellence following him with a discussion on Protection of Civilians in Peacekeeping Operations. (audio)

Day one concluded with a public evening lecture by Professor Michael Schmitt, University of Durham & Visiting Fellow, ANU College of Law on The Principle of Military Necessity in International Humanitarian Law. (audio)

Dr Dean Cocking, University of New South Wales, ADFA began the second day of the conference focusing on Limiting Civilian Casualties: Collateral damage and was followed by Dr Stephen Coleman, University of New South Wales, ADFA who looked at Discrimination and Non-Lethal Weapons: Issues for the future military. (audio)

Professor Richard D. Rosen, Centre for Military Law & Policy, Texas Tech University explored the theme of session six, Protection of Civilians, in his address titled The Protection of Civilians During the Israeli-Hamas Conflict. (audio)

In the final session of the conference, which focused on ethics education, Professor David Lovell, University of New South Wales, ADFA discussed Educating for Ethical Behaviour? Preparing Military Leaders for Ethical Challenges and Mr Jamie Cullens, Centre for Defence Leadership and Ethics, Australian Defence College gave an address on Developments in Military Ethics Education in the ADF.

For more information about the speakers please see speakers’ biographies.
Australian higher degree research (HDR) candidates conducting comparative research, interdisciplinary research, and research on emerging areas of law that relate to contemporary policy challenges attended the 2010 National Graduate Law Conference at the ANU College of Law on 8–9 July.

Thirty HDR students, representing twelve Australian universities (Flinders, UTas, Macq, ANU (CoL, Medical School Fenner School), La Trobe, UQ, SCU, UNE, UNSW, USyd, Bond and Wollongong) presented papers and participated in lively discussions based on the theme of the conference, *The Other Side of the Law: Beyond legal research*.

Their work covered a diverse range of legal fields including criminal law, constitutional law, international law, environmental law, law reform, copyright, migration and refugee law, security, bioprospecting and legal practice. Non-law disciplines as varied as synthetic biology, psychiatry, philosophy, climate science, systems theory and Marxism were discussed in interdisciplinary work. The audience also heard about students’ comparative legal research on jurisdictions including Vietnam, Thailand, Europe, Indonesia, United States and Rwanda.

Delighted with the success of the conference, Dr Mark Nolan, Director of Higher Degree Research thanked the ANU College of Law, the Office of the ANU Pro-Vice Chancellor (research), and the Office of the Registrar for funding the conference, which enabled it to be offered free of charge to attendees, some of whom won travel bursaries, and competed for a best speaker prize.

The best speaker prize-winner as voted by the organising committee and the participants was Pornsakol Panikabutara Coorey who is an SJD student at UNSW Faculty of Law. Pornsakol’s paper was titled, *The Red Shirts: The intersection between law and politics in Thailand*.

Gusman Siswandi, a current HDR student representing the ANU College of Law, opened the conference, while Professors Kim Rubenstein, Director of the Centre for International and Public Law and Margaret Thornton, ARC Australian Professorial Fellow were guest speakers. Presentations were also given by ANU PhD alumni Annemarie Devereux (Office of International Law, Australian Government Attorney-General’s Department) and Nova Inkpen (ACT Restorative Justice Unit).

As a variation from the conference theme, some sessions related to the graduate research experience, including the international student experience, comparative and interdisciplinary research skills, and careers and research opportunities beyond the PhD. Participants particularly enjoyed the innovative careers session led by David Rockawin from the ANU Student Employment and Career Development Centre.

For more details please see the [Conference program](http://law.anu.edu.au).
The Honourable Sir Anthony Mason AC KBE delivered a seminar on *An Australian Bill of Rights: Constitutional questions* on 11 August 2010 at the ANU College of Law. Sir Anthony, who is currently a Distinguished Visiting Fellow at the College, discussed constitutional questions presented by the proposal for an Australian Statutory Bill of Rights. He addressed the following questions with reference to the Bill of Rights regimes in New Zealand, the United Kingdom and Victoria:

- the effect of the interpretive provision – in the light of constitutional and other considerations, how far does it go?
- would determination of the justification issue involve an exercise of judicial power?
- can the Courts be authorised to make a declaration of inconsistency (incompatibility)?
- could the High Court entertain an appeal from the making or the refusal to make such a declaration?

For details of ANU College of Law seminars see the [2010 Program](http://law.anu.edu.au) or the [Calendar of Events](http://law.anu.edu.au).

The Honourable Sir Anthony Mason AC KBE was a Justice of the High Court of Australia from 1972 to 1987 and Chief Justice from 1987 to 1995. He was Commonwealth Solicitor General from 1964 to 1969 and a Judge of the NSW Court of Appeal from 1969 to 1972.

Until recently, he was Chancellor of UNSW, National Fellow at the Research School of Social Sciences at the ANU, a Judge of the Supreme Court of Fiji and President of the Solomon Islands Court of Appeal.

In 1996–1997 he was Arthur Goodhart Professor in Legal Science at Cambridge University. Since 2001 he has been Distinguished Visiting Fellow at the ANU College of Law. Sir Anthony has been a non-permanent Judge of the Hong Kong Court of Final Appeal since 1997.

Sir Anthony holds Honorary Doctorates from The Australian National University and Sydney, Melbourne, Monash, Griffith and Deakin Universities, UNSW and the Universities of Oxford and Hong Kong.

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**Congratulations to Law Alumnus George Witynski**

The ANU College of Law extends its congratulations to alumnus, George Witynski who was appointed as the first Commonwealth Senior Counsel.

The appointment was announced by Attorney-General, Robert McClelland on 8 July 2010.

Mr Witynski is a graduate in Arts and Law from The Australian National University. [Press release](http://law.anu.edu.au)
The ANU College of Law congratulates Adjunct Professor Peter Bailey for receiving a 2010 ANU Vice-Chancellor’s Award for Career Achievement.

In her citation of Peter Bailey, Associate Dean Professor Fiona Wheeler describes him as ‘an Australian National University living treasure’. She believes what is truly remarkable about Peter’s ANU career is the fact that he commenced it at the age of 60 after retiring from a distinguished career at the highest levels of the Australian Public Service.

Peter’s first position at ANU was as a Visiting Fellow in the Faculty of Law ‘appointed to teach’ for two years from 1 July 1987. Since then, he has built a ‘post-retirement’ career as an inspirational teacher, distinguished scholar, passionate advocate for human rights, and generous and gracious colleague.

Over the past 23 years, Peter has taught at undergraduate and postgraduate level, primarily in the field of public law. He has convened the undergraduate LLB course Human Rights Law in Australia for many years and has regularly taught postgraduate courses in Legal Reasoning and Research, Executive Power, and Anti-Discrimination Law. In the early 1990s, he founded the Law School’s internship program, with great success. In 2010, Peter is again teaching two masters courses and Human Rights Law in Australia in the LLB/JD. Over his two decades at ANU, he has also supervised numerous honours students—a total of 11 in the past three years alone. Peter’s concern and respect for his students is legendary.

Alongside Peter’s achievements as an educator, he has distinguished himself as a scholar. His most recent book, The Human Rights Enterprise: In Australia and Internationally (a monumental 976 pages) was published in 2009 by leading international legal publisher LexisNexis. This weighty book joins his other works, including Human Rights: Australia in an International Context (1990), Bringing Human Rights to Life (1993) and the title entry Civil and Political Rights for Halsbury’s Laws of Australia (1998).

Peter’s passionate commitment to human rights and, in particular, his respect for the dignity of every human being, has informed his service to the ANU College of Law, the ANU and the wider community. He served as Chair of Toad Hall (1993–1994), taking up that position at a difficult period in the life of the residence. He was foundation convenor of the ANU Council Committee Against Sexual Harassment (1989–1995 and 1997) and served as Chair of the ANU Discrimination and Harassment Survey Committee (2000–2002). In the ANU College of Law, Peter has served in numerous administrative and committee positions, including as Co-Director of Teaching and Learning and Coordinator, Distinguished Visiting Fellow Program. Outside the University, he has served in many community organisations, including on the Board of Relationships Australia since 1990 and as President of the Canberra Branch of the International Commission of Jurists (1997–2001).

Peter’s achievements within the University go far beyond the formal roles he has occupied. Time and again he has spoken up in University forums for the disadvantaged and marginalised. In doing so, his tone has never been abrasive or sanctimonious; rather, Peter’s characteristic humanity has always prevailed in his dealings with others.

As a colleague, Peter is unfailingly generous, humble and self-effacing, always willing to lend assistance to others. At age 82 (going on 83), he is an inspiration to younger colleagues and an embodiment of why ‘ageism’ is wrong. As Peter rides into work on his mountain-bike, rushes off to play squash or dons his leathers to ride his motorcycle, we marvel at his many achievements.

http://law.anu.edu.au
Staff in the media

February 2011

Hilary Charlesworth  
*From legal studies to crickets*  
Julie Hare, Andrew Trounson  
*The Australian*, 1 Feb 2011

January 2011

Don Rothwell  
*Sea Stouishes with Japanese whalers could sink the legal battle*  
*The Age/National Times*, 13 Jan 2011

Marianne van Galen Dickie  
*Keeping it personal*  
ANU Media Release, 7 Jan 2011

December 2010

Don Rothwell  
*Julian Assange may be months in remand: expert*  
ANU Media Release, 8 Dec 2010

November 2010

Kerry Murphy  
*Asylum seeker decision tests Government sportsmanship*  
*Eureka Street*, 15 Nov 2010

Marianne van Galen Dickie  
*Asylum-seeker boat surge to spark blowout in refugee costs*  
*The Australian*, 10 Nov 2010

October 2010

Matthew Rimmer  
*Why is James Murdoch so angry?*  
*ABC Background Briefing*, 31 Oct 2010

Kerry Murphy  
*Refugees jammed in ASIO bottleneck*  
*Eureka Street*, 25 Oct 2010

Marianne Dickie  
*Processing ban on asylum lifted*  
Paul Maley & Lanai Vasek  
*The Australian*, 1 Oct 2010

September 2010

Don Anton  
*ASIL Insight: Whaling in the Antarctic (Australia v. Japan)*  
*American Society of International Law*, Sep 2010
Upcoming events 2011

March

10 March
ANU Law Fair
12–3 pm, Melville Hall, ANU
Further details

18 March
CIPL Lunchtime Seminar
James Popple
Freedom of Information Commissioner
Office of the Australian Information Commissioner
1–2pm, Phillipa Weeks Staff Library, ANU College of Law

31 March
ANU College of Law Book Launch
John Curtin School of Medical Research Foyer
6:30–7:30pm
More information to follow

June

23 June
Annual Kirby Lecture on International Law
To be presented by the Hon. Louise Arbour CC, GOQ
President & CEO International Crisis Group, Brussels, Belgium
Venue: Finkel Theatre, The John Curtin School of Medical Research, ANU
Further details

23–25 June
19th Annual ANZSIL Conference
The Promise and Limits of International Law
University House, The Australian National University
Call for papers

July

27–29 July
Workshop: Connecting International and Public Law
Security Institutions and International and Public Law
Call for Abstracts for Papers

To attend any of the College events, please contact
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