Welcome

On behalf of the organising committee, I would like to welcome you to the ANU College of Law National Graduate Law Conference 2012.

Through this conference we aim to bring together students who are working in related fields, to build connections between doctoral students and legal scholars, and to further the strong and dynamic research culture at the ANU College of law. Postgraduate students are the future of legal research in Australia, and the College is delighted to host a conference which may play a role contributing to that future.

We hope you enjoy the conference, and hope that your participation will assist you in the completion of your postgraduate studies.

Leighton McDonald
Director, Higher Degree Research
ANU College of Law
Due to late changes, the conference program has been updated. Please see changes in timetable below.

Thursday 18 October 2012

Venue: Rooms 3.02 and 2.02

Sir Roland Wilson Building

The Australian National University

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<tr>
<th>Time</th>
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<tr>
<td>9.00 am</td>
<td>WELCOME – Room 3.02</td>
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<td>&gt; Organising Committee</td>
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<tr>
<td>9.25 am</td>
<td>OPENING REMARKS – Room 3.02</td>
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<td>&gt; Professor Stephen Bottomley</td>
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<tr>
<td>9.45 am</td>
<td>ISSUES IN PUBLIC AND INTERNATIONAL LAW – Room 3.02</td>
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<td>&gt; Suzanne Akila – Diplomatic protection</td>
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<td>&gt; Tamsin Paige – Piracy Jure Gentium</td>
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<td></td>
<td>&gt; Anne Macduff – Citizenship, law and democracy: exploring interconnections and possibilities</td>
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<tr>
<td>11.00 am</td>
<td>MORNING TEA – Room 3.02</td>
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<td>11.15 am</td>
<td>ISSUES IN PRIVATE LAW – Room 3.02</td>
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<td>&gt; Scott Kiel-Chisholm – Development and Resolution of the Legal Issues from Devices that Facilitate Neural Interface, Neuroprosthetics and Melding of Mind and Machine</td>
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<td>&gt; Joseph Ming Yong Lee – The standard of care in the areas of medical diagnosis and treatment – The case for legislative reform in Malaysia</td>
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<td>&gt; John Corkill – Sea level rise, property protection and ‘coastal squeeze’: do property rights ‘trump’ public interests in coastal land disputes?</td>
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<td>12.30 pm</td>
<td>LUNCH – ANU College of Law Staff Library</td>
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**LAW, REGULATION AND GOVERNANCE – Room 2.02**

**Professor Stephen Bottomley (Chair)**

> Badar Alanazi – Investor protection and the role of the securities regulator in enforcing the disclosure regime in Saudi Arabia

> Lang Thai – Shareholder primacy model and why Australia should move away from that model

> Shane Chalmers – Problems for peace building: legal pluralism and the rule of law
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<tr>
<th>Time</th>
<th>Session</th>
<th>Room</th>
<th>Chair/Instructor</th>
<th>Presentations</th>
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| 13.45 pm   | **CONSTITUTIONAL LAW – Room 3.02**           |                  | Associate Professor James Stellios (Chair) | > Rebecca Welsh – Interpreting the Separation of Judicial Power: Fusing Form with Function  
> Adrian Meade – *Williams v Commonwealth*: Implications for public law  
> Peter Prince – “You can never make a Britisher of a Chinaman”: Misunderstanding, misuse and manipulation of the term ‘alien’ in Australian law and history |
| 15.00 pm   | **AFTERNOON TEA – Room 3.02**                |                  |                                       |                                                                               |
| 15.15 pm   | **ISSUES IN PUBLIC LAW – Room 3.02**         |                  | Associate Professor Leighton McDonald (Chair) | > Micheal Phillis – Public law and the concept of arbitrariness  
> Betheli O’Carroll – Intellectual disabilities and determination of fitness to plead in the Magistrates Courts  
> John Passant – Fair and unfair tax competition |
|            | **PRIVATE AND PUBLIC INTERNATIONAL LAW – Room 2.02** |                  | Dr Hitoshi Nasu (Chair) | > Benjamin Hayward – Pro-Arbitration policy in the Australian courts: The end of Eisenwerk?  
> Simon Brinsmead – ICT standards and the WTO agreements: promoting interoperability in the global information economy |
| 16.30 pm   | **CLOSE**                                    |                  |                                       |                                                                               |
| 19.00 pm   | **Dinner**                                   |                  |                                       | Drawing Room, University House, The Australian National University  
Guest speaker: Frank Moorhouse |
Due to late changes, the conference program has been updated. Please see changes in timetable below.

Friday 19 October 2012

Venue: Rooms 3.02 and 2.02

Sir Roland Wilson Building

The Australian National University

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<tr>
<td>10.45 am</td>
<td>MORNING TEA – Room 3.02</td>
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<td>11.00 am</td>
<td>LAW AND THEORY – Room 3.02</td>
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<td></td>
<td>Professor Margaret Thornton (Chair)</td>
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<td>Marc Trabsky – Law in the Necropolis</td>
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<td>David Heckendorf – Bedroom Folk-Law: A critical analysis of an emerging norm within disability law</td>
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<td>Joanne Stagg-Taylor – Cervical cancer registers and gender identity</td>
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<td>ENVIRONMENTAL LAW: INTERNATIONAL AND COMPARATIVE PERSPECTIVES – Room 2.02</td>
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<td>Matthew Zagor (Chair)</td>
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<td>Md Jakerul Abedin – Importance of implementing multilateral regulatory and integrated institutional management planning in the governance of Ganges-Brahmaputra-Meghna (GBM) watershed</td>
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<td>Nafiseh Jafarzadeh – Measuring the future we want: A coherent global framework for assessing environmental progress</td>
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<td>Bin Hu (Benny) – Making the tough call: reducing the carbon footprints in the midst of global financial austerity; a comparative study of Australian carbon market mechanism and its Chinese counterpart</td>
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<td>12.15 pm</td>
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<tr>
<td>13.30 pm</td>
<td>ENVIRONMENTAL LAW AND JUSTICE – Room 3.02</td>
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<td></td>
<td>Professor Tim Bonyhady (Chair)</td>
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<td>Brad Jessup – An Australian environmental justice</td>
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<td>Adam Edwards – The law and reality of the Coal Seam Gas (CSG) industry in New South Wales and Queensland</td>
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<td>Rachel Carter – Catastrophic events, climate change and insurability</td>
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<td>14.45 pm</td>
<td>AFTERNOON TEA – Room 3.02</td>
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<td>15.00 pm</td>
<td>REGULATING SOCIAL DISPUTES – Room 3.02</td>
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<td>Professor John Braithwaite (Chair)</td>
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<td>Melkamu Belachew Moges – Land titling legislations of Ethiopia and Australia: A brief comparison</td>
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<td>Helen McGowan – Recognising and resolving conflicting interests in small scale regional legal practice</td>
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<td>Faizal Kamarudin – Beyond dispute resolution for strata schemes: Preserving neighbour relations and optimising a strata community’s well-being</td>
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<tr>
<td>16.15 pm</td>
<td>CONFERENCE CLOSES</td>
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Student speakers and biographies

Abedin, Jakerul

MACQUARIE UNIVERSITY

Md. Jakerul Abedin works at the Ministry of Law, Justice and Parliamentary Affairs of Bangladesh as a Deputy Secretary (Legislative). Currently, he is doing PhD at the Macquarie University School of Law in Australia. He is looking to the multilateral regulatory and integrated institutional framework potentials together by stakeholder riparian states in the sustainable management of transboundary freshwater resources. He also teaches business law and introduction to law courses at the Macquarie University and University of Western Sydney, respectively, as a casual academic staff. He can be contacted at jakerul@gmail.com.

Akila, Suzanne

AUSTRALIAN NATIONAL UNIVERSITY

Prior to joining RegNet Suzanne was a Senior Legal Officer at the Office of International Law, Attorney-General's Department. She joined the Department in 2010 and worked within the International Human Rights and International Security Sections. She has wide public sector experience with previous work as a prosecutor for the Office of the Director of Public Prosecutions (WA) and as a litigation lawyer in the Victorian Public Service. In 2008 Suzanne worked within the International Justice Team at Amnesty International in London and Brussels. She completed a Master of Laws, specialising in Public International Law at University College London, and has undertaken studies at the University of British Colombia and The Hague Academy of International Law. She has previously worked with associates at Chatham House and the International Institute of Humanitarian Law. Suzanne also tutors international law at the College of Law, ANU. Suzanne's research will consider the protection of citizens abroad and diplomatic protection in international law.

Alanazi, Badar Mohammad G

UNIVERSITY OF WOLLONGONG

I am currently in the final stages of the Doctor of Philosophy program at the Faculty of Law, University of Wollongong, Australia. I have practiced law in a respectable law firm in Saudi Arabia where I have handled different cases in different courts and regions. I have participated in different workshops and seminars in the University of Wollongong and the RMB Lawyers which is a leading law firm in south coast region of NSW, Australia. I hold LL.B (King Saud University, Saudi Arabia) and LLM (Jordan University, Jordan). I intend to submit my thesis final draft for the examination committee by December 2012. In brief, I have a combination of legal education, practical experience and skills in academic research.

Andersssen, Diana

AUSTRALIAN NATIONAL UNIVERSITY

Diana holds a Bachelor of Arts (ANU), a Bachelor of Laws (UQ) and a Master of Laws (QUT). She worked as an articulated clerk in a law firm for two and a half years before being admitted as a Solicitor of the Supreme Court of Queensland in 1991. Diana worked as a Lecturer-in-Law at James Cook University from 1997 to 2005. In 2004, she was awarded both the Faculty Award and the JCU Vice-Chancellors Award for Excellence in Teaching, and was nominated for an Australian Award for University Teaching, 2004. Diana’s research interests include Native Title Law, Indigenous Australians and the Law, Jurisprudence and Contemporary legal theory, Feminist legal Theory, and Legal Education.
Brinsmead, Simon

UNIVERSITY OF BERN

Simon Brinsmead is a Senior Legal Officer with the Attorney-General’s Department, Office of International Law. He is currently a PhD candidate at the University of Bern.

Carter, Rachel

LA TROBE UNIVERSITY

Rachel Anne Carter is an Associate Lecturer and PhD Scholar at the School of Law, La Trobe University, Melbourne, Australia. She holds an industry scholarship with the Bushfire Cooperative Research Centre and an international scholarship through the International Association of Wildland Fire. Carter has co-authored a book (Palgrave Macmillan), published in academic journals and presented at conferences both in Australia and internationally. In 2011 Carter presented evidence to the Senate in relation to insurance in Australia in the aftermath of the Queensland flooding. She has also worked with the Australian Strategic Policy Institute in reviewing disaster policy. In late 2011 Carter spent some time at the International Institute of Sociology and the Law in Onati, Spain and also undertook some research at the University of Barcelona. During 2012, Carter has undertaken some research for her thesis at the OECD offices in Paris where she has been able to discuss her research with top economists, policy makers and international experts.

Chalmers, Shane

AUSTRALIAN NATIONAL UNIVERSITY

Shane Chalmers is a doctoral candidate at the Regulatory Institutions Network (RegNet) at the Australian National University since February 2012. Shane has worked with the Center for International Environmental Law in Washington DC, the United Nations Development Programme’s Regional Centre in Bangkok, and the Crown Solicitor’s Office of South Australia as well as the Solicitor-General of South Australia. Shane holds a Master of Laws in comparative law and cross-cultural jurisprudence from McGill University (2011), and a Bachelor of Laws (2010) and Bachelor of International Studies (2007) from the University of Adelaide.

Chandrasen, Abhichon

AUSTRALIAN NATIONAL UNIVERSITY

My name is Abhichon Chandrasen, from Thailand. I am currently a PhD student under a supervision of Dr Mark Nolan in the area of Regulation and Corporate Criminal Responsibility. Before I joined ANU, I graduated with LLB (1st Class Honours) from Chulalongkorn University, Thailand and LLM in Corporate and Commercial Law from London School of Economics and Political Science, United Kingdom. My work experience includes working as a legal secretary to H.E. Prof. Tanin Kraivixien, Privy Councilor and former prime minister of Thailand at the Office of His Majesty’s Principal Private Secretary, Bangkok, Thailand. From 2002 to now, I have co-written several legal textbooks with his Excellency, notably “Advice to Law Students”: a study handbook for Thai law students that sold over 20,000 copies over the last ten years.

Corkill, John

SOUTHERN CROSS UNIVERSITY LISMORE

Mr Corkill is an environmentalist and public interest advocate, who won a series of court actions to protect old growth forests and campaigned for the creation of new national parks in NE NSW with the North East Forest Alliance. He held executive positions in local, regional and state environment groups and founded the position of Environmental Liaison Officer to the NSW Parliament. He was a member of the Coastal Council of NSW and served as board member and Chair of Ocean Watch Australia Ltd. Recognised as Australian Environmentalist of the Year in 2001, he was awarded a Medal in the Order of Australia in 2003. He now works as a consultant and teacher, while pursuing research as a post-graduate law student at Southern Cross University, Lismore.
Downie, Riley

UNIVERSITY OF WOLLONGONG

From 2006 I completed Law and International Relations degree at Griffith University, Brisbane. As part of my degree I studied for one semester in Prague (Czech Republic) and one in Leeds (UK) focusing on human rights and international public law. Upon graduation in mid-2011, I received First Class Honours and a University Medal. Since November 2010, I have worked as a Research Assistant for Professor Elena Marchetti assisting in an Australian Research Council project on the sentencing of Indigenous offenders through culturally appropriate courts. From June to September 2011, I worked for a boutique law firm in Shanghai. Since returning to Australia, I have been continuing my work as a Research Assistant, and I am a Sessional lecturer at the Faculty of Law, University of Wollongong. I am also writing a PhD in law having been awarded an Australian Postgraduate Award and a top-up scholarship.

Edwards, Adam

AUSTRALIAN NATIONAL UNIVERSITY

Adam is an experienced business manager, with legal, financial and marketing experience and a proven track record of success within business to business, mining, government and commercial market sectors. He has strong strategic leadership and management skills; with business planning and development experience. He is results orientated and quality focused, with excellent relationship management and has a can-do attitude. He is also a geologist with significant minerals industry experience; including exploration, mine geology, geological mapping, remote sensing, drilling, explosives, and the supply & service industries into the sector. Adam has a genuine concern for the environment and sustainable development. Adam is currently undertaking legal research into the Coal Seam Gas industry in NSW & Queensland.

Gibson, Robin

AUSTRALIAN NATIONAL UNIVERSITY

Robin was a practising solicitor in private practice for 30 years and is now a full-time HDR student in the ANU College of Law researching the legal aspects of euthanasia and assisted suicide. She first qualified as a pharmacist and practised for many years, overlapping with articled clerk and junior solicitor status. She has ANU degrees, B.A., LL.B. (Hons) and LL.M.

Gray, Harriet

AUSTRALIAN NATIONAL UNIVERSITY

Harriet commenced a PhD at the ANU College of Law in 2011. Her thesis examines whether there is an optimal regime for the regulation of Australian utilities (such as energy, water, telecommunications and transport). Harriet is on leave for the duration of the PhD from the position of Counsel, Regulatory Law at the Australian Competition and Consumer Commission. She has a Bachelor of Laws (First Class Honours) and a Bachelor of Commerce from the University of Adelaide, a Master of Laws from ANU and a Master of Public Policy and Management from the University of Melbourne.

Gupta, Gaurav

UNIVERSITY OF NEW SOUTH WALES

Admitted to practice as a solicitor and barrister in the Supreme Court of New South Wales and the High Court of Australia.
Hayward, Benjamin

DEAKIN UNIVERSITY

Benjamin Hayward is an Associate Lecturer in the School of Law at Deakin University and is completing his PhD studies in the Faculty of Law at Monash University. Benjamin’s doctoral thesis is titled ‘Arbitral Discretion in Resolving Conflicts of Laws: The Case for the Closest Connection Test in International Commercial Arbitration’. It analyses the way in which conflict of laws questions are resolved in international commercial arbitration and will put forward practical law reform recommendations for this difficult area of private international law. He is expecting to complete his doctoral studies by mid-2013.

Benjamin’s research interests lie in international commercial arbitration and the international sale of goods. Benjamin has published several refereed journal articles in these areas as well as articles on public law topics concerning the right to be elected to public office and the proscription of terrorist organisations under the Commonwealth Criminal Code.

Heckendorf, David

AUSTRALIAN NATIONAL UNIVERSITY

David Heckendorf’s PhD thesis, ‘Bedroom Folk Law: A Critical Analysis of an Emerging Norm in Disability Law” is a subject that he is well placed to explore. Despite his significant physical disabilities, caused by Cerebral Palsy at birth, David as being associated with the ANU’s College of Laws since first enrolling in the Graduate LLB program in 1993. Between undertaking his LL.B, then his LL.M, and now his PhD, his has gained over a decade’s experience as a senior public servant. His public service roles included time in the Commonwealth’s Disability Discrimination Unit (Attorney-General’s), Mental Health unit, Health Protection unit and the Organ and Tissues unit within the Department of Health and Ageing; and the Disability Policy unit within the ACT Government.

Hu, Bin (Benny)

UNIVERSITY OF MELBOURNE

Bin Hu was an Assistant Lecturer of Accounting and Law at Lee Shau Kee School of Business and Administration, Open University of Hong Kong. Prior to his appointment in Open University of Hong Kong, he was an undergraduate tax tutor at the City University of Hong Kong, School of Continuing and Professional Education. In addition, he was practicing tax law in China Investment Law and Hong Kong Tax Advisory areas with Mazars CPA (Formerly Known as Moores Rowland Mazars LLP) for a couple of years. Bin holds a BEc (Hon) from Guangdong University of Foreign Studies (where he studied international and public finance, economics and English literature), a Graduate Diploma in Education from University of Melbourne, a MSc in Professional Accounting and Corporate Governance from City University of Hong Kong, and now a Master of Tax candidate in Melbourne Law School of the University of Melbourne.

Jafarzadeh, Nafiseh

MACQUARIE UNIVERSITY

She completed her bachelor and master in environmental sciences in Iran. She has four years working experience in the National Iranian Oil Engineering and Construction Company (NIOEC), department of environment, as an environmental officer. Her main responsibility was assessing environmental and social impacts of national and international oil projects especially in environmentally sensitive areas. She also has some experiences in cooperating with NGOs, science centers and educational organizations in enhancing environmental education and public awareness. In 2010, she received Australian Postgraduate Award (APA) and commenced her PhD in international environmental law at Macquarie University.
Jessup, Brad

AUSTRALIAN NATIONAL UNIVERSITY

Brad is a Lecturer at Melbourne Law School and a PhD candidate at the ANU College of Law. Brad is both a geographer and an environmental law specialist. His research draws on both his disciplines. Brad's primary research project, as part of his PhD study, focuses on concepts of ecological and environmental justice in Australian environmental law. Before joining the Melbourne Law School Brad was a Teaching Fellow at the ANU from 2007 to 2012. He has recently returned from the University of California Berkeley where he was a Visiting Researcher with the Center for Law, Energy and the Environment. Brad graduated from Monash University in 2001, worked in private practice for five years and has a Masters of Philosophy degree in Geography from the University of Cambridge, where he studied on a Commonwealth Scholarship.

Joblin, Scott

AUSTRALIAN NATIONAL UNIVERSITY

Scott is a current PhD student with the Australian National University College of Law. His academic focuses include: Southern Ocean Area jurisdiction, marine hydrocarbon extraction and Antarctic environmental protection. Prior to commencing his studies with the ANU College of Law, Scott was employed by both the New South Wales Government and in New Zealand’s Parliament. He additional holds a Master of Strategic Affairs and Master of Diplomacy qualifications from the Australian National University.

Kamarudin, Faizal

QUEENSLAND UNIVERSITY OF TECHNOLOGY

Faizal is a PhD student at the Queensland University of Technology. He has worked as Senior Programme Coordinator at the National Institute of Public Administration in Kuala Lumper. Previously, he completed a Master of Laws through the University of Malaya, focussing on Advanced Administrative Law and Employment Law. His dissertation is ‘The Management Corporation Under The Strata Titles Act 1985: The Issues Surrounding Its Establishment And Operation In The State of Penang’.

Kiel-Chisholm, Scott

QUEENSLAND UNIVERSITY OF TECHNOLOGY

Scott is a Lecturer at the Queensland University of Technology Law School and teaches in Civil Procedure, Corporate Law and Legal Foundations. Scott was awarded a Master of Laws specialising in intellectual property law from The University of Queensland in 2007 and is a member of the Queensland Committee of the Intellectual Property Society of Australia and New Zealand. After practising law in litigation at Blake Dawson Waldron (now Ashurst), McInnes Wilson and Home Wilkinson Lowry (now HWL Ebsworth) he became the Project Manager of the OAK (Open Access to Knowledge) Law Project and the Legal Framework for e-Research Project, both lead by Professor Brian Fitzgerald at QUT and funded by the Australian Commonwealth Government. Scott believes that the rapid advancement of technological development in neural interface devices is exciting and provides ample opportunity to examine and investigate traditional and emerging legal issues. This provides the framework for his research.

Liddy, Joshua

AUSTRALIAN NATIONAL UNIVERSITY

Joshua is a Barrister with the Government Bar in the Australian Capital Territory, and also a Legal Officer with the Commonwealth of Australia. In 2011 he completed a Master of Arts in International Relations through Deakin University, and in 2010, a Master of Laws with the Australian National University.

Joshua’s PhD title is *Negligent Combatants? Liability for negligent homicide during armed conflict: An Australian prospective*. 
MacDuff, Anne

AUSTRALIAN NATIONAL UNIVERSITY

Anne MacDuff completed her BA with First class Honours in Philosophy at the ANU in 1997 and her LLB in 2000. Following graduation Anne worked with a number of community organisations. Since 2003 Anne has been a staff member of the ANU College of Law. Anne has convened Family Law and tutored in Legal Theory; Evidence and Foundations of Australian Law. In 2009 Anne was admitted to the ACT Roll of Legal Practitioners. Anne’s personal goals are to enhance social justice through thinking critically about the law and to use the law to achieve social change.

McLennan, Alison

AUSTRALIAN NATIONAL UNIVERSITY

Alison is a PhD Candidate at the Australian National University College of Law. She studied science (cellular and molecular biology) and law as an undergraduate at ANU. Before commencing a PhD Alison worked with a judge in the Land and Environment Court of New South Wales and in the Commonwealth Attorney-General’s Department. She is interested in the regulation of emerging technology, particularly biotechnology. Alison is currently researching legal issues relating to synthetic biology, a new field of biology involving designing and synthesising new constructs such as bacteria and viruses. She is exploring intellectual property, biosafety and biosecurity issues raised by developments in this field. Alison is also interested in health and medical law, public health policy and history and philosophy of science.

McGowan, Helen

AUSTRALIAN NATIONAL UNIVERSITY

Helen was admitted to legal practice in 1982 and has worked as a lawyer in the private and public professions in regional Australia. She lives on a farm near Yackandandah in north east Victoria and is currently researching the ethical world of small scale regional legal practice in her PhD at the ANU College of Law.

Meade, Adrian

RMIT UNIVERSITY

Adrian graduated from Melbourne University in 2001 with degrees in Arts and Science. He has worked and consulted independently in the pharmaceutical and logistics industries. Awarded the Law Prize in the RMIT Juris Doctor (completed 2010), Adrian is now undertaking a PhD. His interests lie in public law and regulation. Adrian’s thesis concerns the conferral of power in Australian government, particularly from the federal and state executives to the public service.

Ming Yong Lee, Joseph

I graduated from University of Tasmania in 1999 with Bachelor of Laws (Honours)(Second Class Lower). Upon admission to the Malaysian Bar in 2001, I worked as a litigation lawyer in Malaysia for about 8 years, specialising in commercial and civil litigation. In the last four years of the practice years, I worked in my private practice under the name and style of Messrs. Joseph Lee & Co. From March 2010, I commenced Masters of Law by research at the University of Tasmania.

Moges, Melkamu Belachew

UNIVERSITY OF MELBOURNE

Melkamu Belachew Moges, born in 1980, Ethiopia. Graduated in 2003 as LLB in Law, Addis Ababa University, Ethiopia and Obtained in 2008 MSc. in Land Management, Royal Institute of Technology (KTH), Sweden; Founder of the Ethiopian Land Administration Professionals Association; Now a PhD Research Student, Melbourne University, Melbourne Law School, Australia.
O’Carroll, Betheli

UNIVERSITY OF QUEENSLAND

Betheli O’Carroll graduated from Griffith University in July 2011, with a Bachelor of Laws (Class 1 Honours) and a Bachelor of Arts with majors in Journalism and Public Relations. Her undergraduate Interdisciplinary Research Project was titled ‘Coronial discretion and the news media: should the details of suicide inquests be published?’ Betheli worked in insurance litigation and personal injuries law prior to commencing her PhD candidature. In March 2012, she completed a Graduate Diploma of Legal Practice and was admitted as a lawyer in Queensland in April 2012. Betheli is currently a PhD student in the TC Beirne School of Law at the University of Queensland. Her thesis, supervised by Professor Heather Douglas and Andrew Caple, is on whether the Australian criminal laws relating to fitness to plead to summary offences realise the human rights of persons with intellectual disabilities.

Paige, Tamsin

AUSTRALIAN NATIONAL UNIVERSITY

Tamsin completed her LLB at UTS in 2011 (after transferring out of her BA at UWS, majoring in Sociology and English Literature), where she focused her studies on Public International Law and Jurisprudence. During the course of her studies she worked in private practice as a civil litigation paralegal, primarily handling commercial leasing disputes. She also worked in the Federal Court (NSW/ACT) Registry where she mainly engaged in policy research and preparing migration appeal briefs. Prior to her legal studies Tamsin had a successful career as a pâtissière in some of Sydney’s most prestigious restaurants. She is currently completing her MPhil (Law) at the ANU, looking at piracy law with a view to doing her PhD in Use of Force law upon its completion.

Passant, John

AUSTRALIAN NATIONAL UNIVERSITY

John Passant is a PhD student at the ANU looking at Marxism and Tax Reform. He is a former Assistant Commissioner in the Australian Tax Office in charge of the ATO’s input into international tax reform (among other things) and a former tax academic. He is currently a tutor in the School of Politics and International Relations in the College of Arts and Social Sciences at the ANU.

Phillis, Michael

AUSTRALIAN NATIONAL UNIVERSITY

Arbitrariness is interesting in constitutional theory as it blurs the distinction between substantive and procedural notions of the rule of law. It is also a way for discussion about the rule of law, which for the most part has become mired in difficulties with starting assumptions, to open up to potentially more interesting and fruitful discussion about the reasons why we may want the law to take freedom and coercion seriously in particular ways. The detailed and rich area of discussion of arbitrariness in the context of public law has the potential to meet up with the generally high-level discussion of freedom and coercion in political theory.

My discussion will be in three main parts. First, I will survey the conceptions of arbitrariness in some fairly broad schools of constitutional theory, and the ways in which they have developed into substantial positions in public law. Second, I will argue that the body of legal work concerning the allocation of issues and decisions as legal and non-legal is both reliant on fundamental issues in constitutional theory. Finally, I will explore the way in which this work, which I take to be bread-and-butter public law material, is critically important to understanding the nature of freedom and coercion in the public sphere.
Prince, Peter
AUSTRALIAN NATIONAL UNIVERSITY

Peter Prince has degrees in history and law. He was previously employed by the Commonwealth Parliamentary Library where he published a number of papers on aliens and citizenship. He has enrolled in a PhD with Professor Kim Rubenstein of the ANU Centre for International and Public Law to continue this work. He currently works as a lawyer with the Department of Health and Ageing in Canberra.

Rock, Ellen
AUSTRALIAN NATIONAL UNIVERSITY

I completed a combined arts and law degree at the University of New England in 2008. Since that time I have worked as a solicitor in the litigation group at Corrs Chambers Westgarth in Sydney, where I work on a range of large-scale litigation matters. I have a particular interest in government powers and liability, and specialise in matters that involve these issues. Some of the more interesting matters in which I have been involved as a solicitor include the constitutional challenge to plain packaging legislation by British American Tobacco, and the ACCC prosecution of Google for misleading and deceptive conduct. Both of these matters have been litigated this year in the High Court. I have also been working as a casual lecturer at the University of New South Wales this year, teaching the Contracts 1 course to Juris Doctor students. My honours thesis focussed on the introduction of an administrative law standard of liability into the assessment of negligence of public authorities in New South Wales. I commenced my PhD in July this year, and intend to use it as an opportunity to explore in greater detail the intersection between public and private law insofar as it relates to the liability of public authorities in tort.

Stagg-Taylor, Joanne
GRIFFITH UNIVERSITY

Joanne is a Lecturer in the Griffith University Legal Practice Centre. She currently teaches in a range of Practical Legal Training courses including Lawyers Skills, Ethics and Professional Responsibility and Civil Litigation Practice. She also supervises the Clinical Legal Placement component of the PLT program.

Joanne’s teaching draws on her history of practice at the Queensland Bar and in both policy and legal positions with the Queensland Government. Her teaching focuses on litigation related skills such as advocacy, civil procedure and the client care skills related to litigation. Her current research interests include: exploring legal ethics in practice, best practice legal teaching and gender issues relating to law and cancers predominantly experienced by women.

Tabucanon, Gil Marvel P
MACQUARIE UNIVERSITY

Gil Marvel Tabucanon is a PhD student at the Macquarie University School of Law. His doctoral thesis is on ‘Environmental Migration and other Forced Migrations in the Pacific.’ He has written on the legal protections of displaced Pacific peoples, and is currently working on the resettlement of the Banabans in Rabi Island, and its implications for Pacific Environmental Migration. His article on the attempted Nauruan Resettlement in Australia, co-authored with Prof Brian Opeskin, was accepted for publication by the Journal of Pacific History. Gil has a BA in Communication Arts major in Literature at the University of the Philippines, magna cum laude, Bachelor of Laws at the University of San Carlos and Master of Laws in Dispute Resolution at the University of Missouri-Columbia under a Fulbright scholarship grant. Before coming over to Macquarie, Gil was a Professorial Lecturer of the Philippine Judicial Academy, the educational arm of the Philippine Supreme Court. Gil writes poems and short stories, and is cited in the roster of world ‘lawyer-poets.’ His short story on the experiences of Filipino labour migrants in Hong Kong was recently accepted for publication in the Bangkok based 2011 New Asian Writing Short Story Anthology. His column in Kalatas, a Philippine-Australian newspaper based in Sydney, chronicles the experiences of Filipino migrants in Australia.
Thai, Lang

MONASH UNIVERSITY

Lang Thai is a lecturer in the School of Law at Deakin University in Melbourne, Australia, formerly at Monash University in the Department of Business Law and Taxation. Ms Thai was a visiting scholar at the Faculty of Law in the University of Oxford in England in 2009 and also a visiting scholar at the Faculty of Law in the University of Hong Kong in 2006 and 2001. She previously practised law at Wong Partnership, a major corporate law firm in Singapore, before returning home to continue as a corporate lawyer in Melbourne. She is currently studying for her PhD in law.

Trabsky, Marc

UNIVERSITY OF MELBOURNE

Marc Trabsky is a PhD candidate at the Melbourne Law School and teaches in the School of Social and Political Science at The University of Melbourne. He completed a BA/LLB (Hons) at The University of Melbourne and a MPhil in the Department of Gender and Cultural Studies at The University of Sydney. His doctoral research offers an institutional account of the dead in law.

Welsh, Rebecca

UNIVERSITY OF NEW SOUTH WALES

After working at the Federal Attorney-General’s Department and at DLA Phillips Fox, Rebecca joined the Terrorism Law Project at the Gilbert + Tobin Centre of Public Law at the University of NSW. Rebecca’s doctoral research concerns separation of federal judicial power issues posed by counter-terrorism control orders and preventative detention orders. Her research is undertaken as part of Professor George Williams AO’s Laureate Fellowship Project ‘Anti-Terror Laws and the Democratic Challenge’. At UNSW Rebecca also lectures in Public Law and conducts research for the Australian Research Council project ‘Legal Culture, Work Stress and Professional Practice: A Study of Australian Lawyers’.

Widdows, Kelvin

UNIVERSITY OF NEW SOUTH WALES

Kelvin Widdows was born in Melbourne in 1948 and studied Law at Sydney and Cambridge. After serving in the Australian Diplomatic Service, he worked for the United Nations in Geneva and New York. On return to Australia he taught at UNSW and commenced this research project in 2010.

Worthington, Michelle

AUSTRALIAN NATIONAL UNIVERSITY

Michelle is in the first year of her doctorate under the supervision of Professor Stephen Bottomley. Michelle’s research is focussed on corporate moral agency, and in particular, whether Isaiah Berlin’s “Value Pluralism” can be used to develop a better understanding of the corporation’s status as a fully-fledged moral agent. Michelle holds a Masters of Law from the Australian National University, and prior to commencing her PhD, practised in administrative and family law.

Wright, Glen

AUSTRALIAN NATIONAL UNIVERSITY

Glen is currently undertaking his PhD at the ANU, exploring the law and policy surrounding the merging wave and tidal energy industry. He graduated with an LLB from the Universities of Nottingham and Texas in 2010 (Law with American Law), and completed an LLM focusing on environmental law at the University of New South Wales. Glen also works at the Total Environment Centre, a hub for environmentalists from a range of disciplines, where he campaigns for demand side participation, energy efficiency and distributed generation in the National Electricity Market.
Frank Moorhouse was born in the coastal town of Nowra, NSW. He worked as an editor of small-town newspapers and as an administrator and in the 1970s became a full-time writer. He has written fiction, non-fiction, screenplays and essays and edited many collections of writing. *Forty Seventeen* was given a laudatory full-page review by Angela Carter in the New York Times and was named Book of the Year by the Age and ‘moral winner’ of the Booker Prize by the London magazine Blitz. *Grand Days*, the first novel in The Edith Trilogy, won the SA Premier’s Award for Fiction. *Dark Palace* won the Miles Franklin Literary Award and was shortlisted for the NSW Premier’s Literary Award, the Victorian Premier’s Literary Award and the Age Book of the Year Award. Frank has undertaken numerous fellowships and his work has been translated into several languages. He was made a member of the Order of Australia for services to literature in 1985 and was awarded an honorary doctorate from Griffith University in 1997.
Opening Remarks

Professor Stephen Bottomley

Stephen Bottomley is Professor of Commercial Law in the ANU College of Law at the Australian National University. He joined the Law School in 1988. His main area of research interest is corporate governance. He has taught postgraduate and undergraduate courses in corporate and takeovers law, and corporate governance. His book The Constitutional Corporation: Rethinking Corporate Governance (2007, Ashgate Publishing, UK) was awarded the 2008 Hart Socio-Legal Book Prize by the UK Socio-Legal Association for the most outstanding piece of socio-legal scholarship. He is the co-author of Law in Context (Federation Press), now in its 4th edition.

Session Convenors

Professor Tim Bonyhady

Professor Tim Bonyhady is an art historian and environmental lawyer. A former curator at the National Gallery of Australia, he is now director of the Australian Centre for Environmental Law and the Centre for Climate Law and Policy at the Australian National University. Professor Bonyhady's publications include The Colonial Earth and Words for Country: Language and Landscape in Australia.

Professor John Braithwaite

John Braithwaite is an Australian Research Council Federation Fellow and Founder of RegNet (the Regulatory Institutions Network) at the Australian National University.

John Braithwaite has been active in social movement politics around these and other ideas for 40 years in Australia and internationally. In the past he has worked on a variety of areas of business regulation and on the crime problem. His best known work is on the ideas of responsive regulation and restorative justice. His most recent book is Regulatory Capitalism: How it works, ideas for making it work better (2008). He is now undertaking a 20-year comparative project called ‘Peacebuilding Compared’, with Hilary Charlesworth, Valerie Braithwaite and Kate Macfarlane. Publications from this project include the co-authored Pillars and Shadows: Statebuilding as peacebuilding in Solomon Islands (ANU E Press: 2010); Reconciliation and Architectures of Commitment: Sequencing peace in Bougainville (ANU E Press: 2010); and Anomie and Violence: Non-truth and reconciliation in Indonesian peacebuilding (ANU E Press: 2010).
Professor Peter Cane

For the first 20 years of his academic career, Peter Cane taught at Corpus Christi College, Oxford, successively as lecturer, reader and professor. Since 1997 he has been Professor of Law at the ANU, until 2007 in the Research School of Social Sciences. He was appointed Distinguished Professor in 2007. He is a Corresponding Fellow of the British Academy, a Fellow of the Academy of Social Sciences in Australia and a Fellow of the Australian Academy of Law. In 2011-12 he was joint Arthur Goodhart Visiting Professor of Legal Science at the University of Cambridge.

A/Professor Leighton McDonald

Leighton McDonald is Associate Professor of Law at the ANU College of Law. Prior to joining ANU College of Law in 2002, he worked at the Adelaide University Law School and as Associate to Justice Gaudron; High Court of Australia. Leighton has been a visiting scholar at the George Washington University Law School (September-October; 2003) and the Centre for the Analysis of Risk and Regulation; London School of Economics and Political Science (October-December; 2000). Leighton was co-editor of the Federal Law Review from 2004 to 2011 and has also been a Senior Fellow at Melbourne Law School (2007-2010). He is currently Legal Adviser to the Senate Standing Committee for the Scrutiny of Bills. In 2009 Leighton was awarded the ANU College of Law Award for Excellence in Teaching.

Professor Pene Mathew

Prior to her appointment at the Freilich Foundation, Professor Mathew was a visiting professor and interim Director of the Program in Refugee and Asylum Law at the University of Michigan Law School, where she convened the 5th Michigan Colloquium on Challenges in International Refugee Law. From 2006 - 2008, she was a legal adviser to the ACT Human Rights Commission, where she conducted the Human Rights audit of the ACT's Correctional Facilities. Professor Mathew has also taught at the ANU College of Law and Melbourne Law School, and she is a past editor-in-chief of the Australian Yearbook of International Law.

Dr Hitoshi Nasu

Dr Hitoshi Nasu is a senior lecturer in law at the Australian National University, teaching international law, international security law, international humanitarian law, military operations law, and migration law. He holds Bachelor and Masters degrees in political science from Aoyama Gakuin University and a Masters degree and a PhD in law from the University of Sydney. He is the author of International Law on Peacekeeping: A Study of Article 40 of the UN Charter (Martinus Nijhoff, 2009) and a co-editor of Human Rights in the Asia-Pacific Region: Towards Institution Building (Routledge, 2011). He is currently the lead investigator on an Australian Research Council Discovery Grant for the project titled Developing Australia’s Legal Response to Military and Security Applications of Nanotechnology, with Professor Tom Faunce and Dr Margaret Kosal.
Professor Kim Rubenstein

Kim’s current research projects are at the cutting edge of the intersection between public and international law. She is the co-series editor with Thomas Pogge of the Cambridge University Press series Connecting International with Public law. Her book, Australian Citizenship Law in Context (Lawbook, 2002) represents much of that core work, looking at the disjuncture between the exclusive legal notion and the more inclusive normative understanding of citizenship. In 2002-2003 she was based at Georgetown University Law Center, having won the prestigious Fulbright Senior Scholar award to study the status of nationality in an international law context. Kim initiated an international research network on feminism and constitutional law and, in 2004 and 2006 ran workshops looking at issues of feminism and federalism with participants from the US, Canada and Australia. Her international law research continues with the work she was developing at Georgetown and she has been invited to various international workshops and conferences to present her work. Kim is a graduate of the University of Melbourne and Harvard Law School. Her graduate work at Harvard was supported by the Sir Robert Menzies Scholarship to Harvard, a Fulbright postgraduate award, and a Queen Elizabeth Jubilee Trust award. Kim’s interests also encompass teaching (where she has co-authored a book on Feedback) and the broader field of education, particularly women’s education. She is currently completing a biography of Joan Montgomery OBE, former Principal of Presbyterian Ladies College Melbourne, and an influential educator. In addition to her scholarly work, Kim has made a significant contribution to the greater community. She has done so through media work and public community education. In the practical legal sphere, Kim has made significant contributions to the jurisprudence in citizenship. She was a member of the Independent Committee appointed by the Minister for Immigration and Citizenship to review the Australian Citizenship Test in 2008 and she has appeared three times in the High Court of Australia on citizenship matters, with her work cited in the judgment of Singh v Commonwealth (2004).

A/Professor James Stellios

James Stellios is an Associate Professor at the ANU College of Law where he teaches constitutional law. His primary research interest is constitutional law; and he has published widely in that field. James joined the ANU College of Law in July 2001. Prior to that time; he spent a number of years in legal practice working for the Attorney-General’s Department and the Australian Government Solicitor; principally in the area of constitutional litigation. Immediately prior to joining the ANU College of Law; he worked as Counsel Assisting the Solicitor-General of the Commonwealth; and appeared as junior counsel for the Commonwealth in a number of constitutional cases before the High Court of Australia. He has also worked as a legal researcher at the High Court. James is also a Consultant to Sparke Helmore Lawyers.

Professor Margaret Thornton

Margaret Thornton is Professor of Law at the Australian National University. She has degrees from Sydney, UNSW and Yale, and is a Barrister of the Supreme Court of NSW and the High Court of Australia. She formerly occupied the Richard McGarvie Chair of Socio-Legal Studies at La Trobe University and has held visiting fellowships at Oxford, London, Columbia, Sydney and York, Canada. She has published extensively on issues relating to women and the law, including the only book-length study of women and the legal profession in Australia: Dissonance and Distrust: Women and the Legal Profession, Oxford University Press, 1996 (also published in Chinese by the Law Press, Beijing, 2001). Her most recent book is Privatising the Public University: The Case of Law, Routledge, London, 2012 Her current research project, ‘Balancing Law and Life’ entails a study of gender and corporate law firms and is funded by an Australian Research Council Discovery Grant, 2012-14. She is a Fellow of the Academy of Social Sciences in Australia and a Foundation Fellow of the Australian Academy of Law.
Matthew Zagor

Matthew Zagor (Senior Lecturer in Law; Adjunct Fellow of the ANU Centre for European Studies) has a degree in Religious Studies with Social Anthropology from the School of Oriental and African Studies; University of London; and an LLB from the University of New South Wales. He worked on the India desk at the International Secretariat of Amnesty International (AI); and as the refugee coordinator and government liaison officer at the Australian Section of AI.

Matthew practiced as a solicitor in several community legal centres and the Commonwealth Legal Aid Commission, working primarily with migrants and asylum-seekers. As a federal public servant; he worked in the Australian Greenhouse Office; the Migration Review Tribunal; and the Attorney General’s Department. He was a part-time Member on the MRT (03-06, cross appointed to the Refugee Review Tribunal in 2005); a Visiting Fellow at the LSE Centre for the Study of Human Rights and Society in 2006, and at the Centre d’Etudes sur la Sécurité Internationale et le Coopérations Européennes (CESICE), University of Grenoble, in 2012.

Matthew teaches in the public, refugee, human rights, environmental and comparative constitutional law programs. His recent research has focused upon the principle of legality and judicial rhetoric, the rediscovery of constitutional ‘faith’ in the United Kingdom, the potential role of constitutional patriotism in Australian legal thought, the evolution of the principle of ‘elementary considerations of humanity’ in international law, the construction of refugee identity through legal narrative, and the perspectives of legality of Israeli soldiers in the Occupied Palestinian Territories.

ANU College of Law Organising Committee

A big thank you to those Higher Degree Research students from the ANU College of Law who volunteered their time and effort to organise the National Graduate Law Conference:

> Abhichon Chandrasen
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> Anne Macduff

General Information

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