CDU School of Law Inaugural Transnational Law Research Workshop and Showcase

16 March 2016

CDU School of Law would like to acknowledge that this event is held on the traditional lands of the Larrakia people, and pay respect to elders both past and present.

"You have come by way of the Larrakia Land. You will hear the voice of Larrakia ancestors. When you leave, the Larrakia message will stay with you."

- The late Reverend Walter Fejo

IMAGE AND QUOTE TAKEN FROM
WWW.LARRAKIA.COM

THANK YOU AND WELCOME

Dear Speakers and Delegates

Welcome to the first CDU School of Law Transnational Law Research Workshop and Showcase. Conscious of the growing significance of transnational law in an age of globalization, the CDU Law School is developing a special focus on transnational legal issues. Those issues are varied and dynamic, as demonstrated by the papers being considered at this Research Workshop. It is proposed that this be the first of a succession of such workshops over the coming years.

On this occasion, we welcome speakers and delegates from Bangladesh, Brunei, Fiji, Indonesia, Malaysia and Timor Leste as well as from Australia and England. It is hoped and anticipated that the number of overseas participants, and the number of countries from which they come, will expand over time.

All such events involve a good deal of planning and hard work. On this occasion special thanks go to Felicity Gerry QC, Chair of our Research and Research Training Committee, PhD candidate Guzyal Hill, and our School Administrative Leader, Irina Harbeck. I also thank CDU academic staff members David Price and Danial Kelly for their international engagement in facilitating the workshop.

I very much hope that you will find the workshop enjoyable and rewarding.

Welcome and thank you for attending.

Professor Ned Aughterson
Head of School of Law
Charles Darwin University

Program

Moot Court Yellow 1.2.48 CDU Campus Casuarina
And Collaborate Room A in Law Central
Session Chair
Felicity Gerry QC

8am	**Welcome to Country**	**Session Chair Felicity Gerry QC**
8.05am	**Welcome from Head of School**	**Professor Ned Aughterson, CDU**
8.15am	**Welcome from Journal Editor**	**Dr Charanjit Singh**
8.30am	**Keynote address**	**Andre Siregar, Indonesian Consul NT**
8.50am	Elephant and Rabbit Stew - the ISDS side-dish for Australia and Indonesia on the Trans-Pacific Partnership Agreement (TPPA) menu	Associate Professor David Price, CDU
9.10am	What Reasoning and Purposes Might Underlie the Successful Public Rhetoric such as “Boat People” and “People Smuggling”	Dr Gary Lilienthal, Universiti Utara Malaysia
9.30am	The law, from a Transnational Perspective: Allodial People in the Guumaal Nation Subjected to British Law	Guumaal Ngambri Mingku aka Shane Mortimer, AE Guumaal-Ngambri Elder
9.50am	The Problem of Context in the ASEAN Community Roadmap on ASEAN Culture Development	Professor. Ida Bagus Wyasa Putra, Udayana University, Indonesia
10.10am	***Morning tea***	
10.30am	International Harmonisation and Harmonisation within a Federation	Guzyal Hill PhD Candidate, CDU

10.50am	The Role of Private Sector in the Development of ASEAN Culture	Dr I Made Arjaya and Ni Wayan Umi Martina, Warmadewa University, Indonesia.
11.10am	Transnational Context of the UN's Human Security Concept when being Operationalised for Refugee/Asylum Policy Making	Jeswynn Yogaratnam, CDU
11.30am	"Sooner or later, everything old is new again." Transnational Law: An Account on its Historical origins and Theoretical Foundations.	Maria Salvatrice Randazzo PhD Candidate, CDU
11.50am	Death and the Dowry System: India's Women and Female Children at Global Risk of Gendercide over Money?	Felicity Gerry QC, CDU and Dr Devaki Monani, Australian Catholic University
12.10pm	Extradition: Surrendering Values when Surrendering Individuals	Professor Ned Aughterson, CDU
12.30pm	***Light Lunch***	
1.30pm	**Keynote – International Humanitarian Law: Transnational Challenges of Contemporary Armed Conflicts'**	**Anna Foster, International Humanitarian Law Coordinator, Red Cross NT**
1.50pm	**Keynote – Victim Participation in Genocide Trials in Cambodia**	**Lyma Nguyen, Barrister, William Forster Chambers NT**
2.10pm	ISIS, Jihad and Indonesian Law: Legal Impacts of the January 2016 Jakarta Terrorist Attacks	Adam Fenton PhD Candidate, CDU
2.30pm	Legal Protection for Indonesian Workers in the Work Contract of Direct Management Services Pro Growers	Matthew Gardiner Law Student, CDU
2.50pm	Crossing the floor: Strengthening the Capacity of Non-Indigenous Lawyers in Native Title Claims	Lee Campbell Law Student, CDU

3.10pm	The Application of, and Adherence to, Good Corporate Governance (GCG) Principles in the Banking Sector; A Comparative Study of the Indonesian and Australian Banking Regulatory Systems.	Rebekah Rosser Law Student, CDU
3.30pm	Domestic Legal Bias, A Key Factor for Prudent Foreign Investment Towards Economic Developments in Indonesia.	Benjamin Halliwell Law Student, CDU
3.50pm	Trans-boundary Environmental Impact Assessment (TEIA): What is it and how is it Relevant to Australia and the NT?	Ros Vickers, CDU
4.10pm	Computer Hacking, the Matrix and Baudrillard	Associate Professor Laurence Tamatea School of Education, CDU
4.30pm	HCA Jurisprudence on Constitutional Rights and Freedoms – A Version of European Structured Proportionality Analysis	Ken Parish, CDU
4.50pm	Using Innovative Technology in International Online Clinical Legal Education. The Experience of the School of Law at Charles Darwin University.	Ros Vickers, CDU Felicity Gerry, CDU Professor Les McCrimmon, CDU
5.10pm	Closing address	Professor Ned Aughterson, CDU
5.20pm	***Walk to Networking Drinks to start at 5.30pm***	**CDU Art Gallery Orange 12.1.02**

Program – Video / Live Link Presentations
Yellow 1.1.48
And Collaborate Room B in Law Central
Session Chair Guzyal Hill

1.30pm	**Please attend the Moot Court 1.2.48 and Collaborate Room A for afternoon keynote addresses first.**	
2.10pm	Normative Authority in the Context of Transnationalism, Pluralism and Semi-autonomous Social Fields: Focus on Arnhem Land	Dr Danial Kelly, CDU
2.30pm	Drug Trafficking; Growing Threat to South Pacific Archipelagos	The Honourable Thushara Rajasinghe Judge of the High Court (Fiji Islands)
2.50pm	Evidential Challenges Posed by a Panoply of Biometrics: Is a Biometric Voice Identification made any more reliable by Cell Site Analysis?	Dr Charanjit Singh Editor International Journal 'Issues in Legal Scholarship'
3.10pm	Transnational Crime in South and Southeast Asia: A Route of Labour Trafficking From Bangladesh to Malaysia	Md Mustakimur Rahman, Bangladesh Institute Of Law and International Affairs
3.30pm	Crossroads between *Adat* and National Law: Land Conflict Resolution in *Manggarai* Regency of East *Nusa* Tengarra Province, Indonesia	Dr Linda Yanti Sulistiawati Universitas Gadjah Mada, Indonesia
3.50pm	Timor Leste's Tax System: "Sending a Felon to Help"	Martin Breen CRA Law Firm Timor Leste
4.10pm	The Law and State Practice in Respect of Torture: A Challenge for Human Rights	Professor Dr Nehaluddin Ahmad, Sultan Sharif Ali Islamic University, Brunei Darussalam
4.30pm	Human Trafficking in Corporate Supply Chains: Compelling Disclosure of Actions Taken to Eradicate Modern Slavery in the Supply.	Narelle Sherwill, Law student, CDU
5pm	**Return to Moot Court Yellow 1.2.48 for Closing address at 5.10pm**	**Professor Ned Aughterson, CDU**

Presenters and abstracts

Professor Dr.Nehaluddin Ahmad, Professor, Department of Law, Sultan Sharif Ali Islamic University, Brunei Darussalam

The Law and State Practice in Respect of Torture: A Challenge for Human Rights

Bio: Dr. Nehaluddin Ahmad is currently serving as a Professor of Law at department of law; Sultan Sharif Ali University, Brunei Darussalam. He has served as a Professor , Visiting Professor, Associate Professor and Lecturer at several academic institutions in India, Tanzania, Malaysia and Brunei . He has held a range of posts such as Dean Faculty of Law and Chairman of Centre for Technology and Legal Research and Senate member of University. He has been also appointed as a adjunct Professor of Law at Bhoj University, Bhopal, India and adjunct Associate Professor of Law, Multimedia University, Malaysia. He holds a LL.D. (Doctor of Laws) from Meerut University, India, a LL.M. (Master of Laws in IT and Telecom. Law) from University of Strathclyde, Glasgow, UK, and also holds a LL.M. from Lucknow University, and LL.B. from Lucknow University, India

He has got more than 35 years of professional experience including teaching of Law subjects and legal practice. He was admitted at the Bar Council of India (UP), 1976, and has practised as an advocate at Lucknow Bench of Allahabad High Court, India for a couple of years. He is a prolific writer and had published numerous papers in international refereed journals in USA, U.K, Malaysia, India, South Korea, Netherlands, Prague and Australia and several of them are published in ISI/Scopus/ Ulrich/WashLaw indexed publications. A number of his articles are cited in High Court's Judgments, European Commission, United Nations (ECOSOC) and also by renowned academicians from elite institutions of international repute.

Abstract: Torture is considered to be a violation of human rights, and also is prohibited under the United Nations Universal Declaration of Human Rights. This article sets out to determine why torture persists, in the light of all the formidable international forces in favour of its cessation. It tries to answer this question by showing that states' rationale for torture is state generation of terror. The article begins with an overview of the international law, followed by what the scholarship has stated on categories of torture. Having covered these international norms, discussion moves to the morality of torture, and the quality of evidence obtained by torture. This paper will also examine the conflicting ideologies of the two great jurists on torture. Argument will then have prepared the way for the larger views expressed in the sociological literature on torture, and its corollary, the institutional factors forming motivations to torture. Then, the paper discusses the United States of America's experience in commissioning torture, and in its

ignoring of cruel, degrading and inhuman treatment. These cumulative stages of argument allowed synthesis of a model policy plan for states' use in reducing the international law against torture into municipal law. In particular, this paper considers the underpinnings of the prohibition against torture and also will analyse the proposed Indian Prevention of Torture Bill (2010) on the basis of the conflicting ideologies of the two great jurists, Immanuel Kant and Jeremy Bentham and ask whether the new Bill, 2010 (India) would prevent torture in India.

Dr. I Made Arjaya and Ni Wayan Umi Martina Arjay, Warmadewa University

The Role of Private Sector in the Development of ASEAN Culture

Bio: Dr. I Made Arjaya, SH., MH
Occupation : Lecturer at the Faculty of Law, Warmadewa University Denpasar Bali since 1989 until now; Lawyer, and Curator at the Law Firm Arjaya Umi Martina & Partners since 1995.
Education: Bachelor of Law graduated in 1988 from the Faculty of Law Udayana University, Master of Law graduated in 1998 from the Graduate School of Legal Studies Program Airlangga University, Doctor of Law graduated in 2014 from the Doctoral Program of Legal Sciences Universitas Brawijaya Indonesia.

Bio: Ni Wayan Umi Martina, SH., MH
Occupation: Lawyer, and Curator at the Law Firm Arjaya Umi Martina & Partners since 2007 until now.
Education: Bachelor of Law graduated in 1990 from the Faculty of Law Udayana University, Master of Law graduated in 2010 from the Graduate School of Legal Studies Program Udayana University Indonesia, Candidate Doctor of Law Science in Legal Studies Doctoral Program Udayana University Indonesia.

Abstract: ASEAN has completed its Roadmap on March 2009. The Roadmap formulized in a Blueprint which covers three pillars of Asean subject of development, such as: political, economic, and socio-culture. The policy on socio-culture development covers human development, social welfare and protection, social justice and rights, environmental sustainability, Asean identity, and narrowing development gap. The development on culture included in the section of Asean identity development, which seem formulized in a very fashionable concept of culture development. The policy formulation seems too normative and separated from its contextual expectation. This paper would draw up the texture of the policy and analyze it under the McDougal's theory of policy-oriented, including its implication if the problem does not solve properly, and would share on recommendation on how the problem supposed to be solved in order to make the policy effectively works on achieving its target.

Professor Ned Aughterson, Head School of Law, CDU

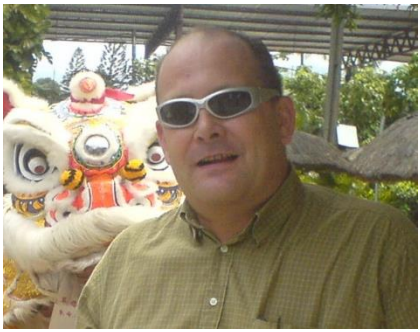
Extradition: Surrendering Values when Surrendering Individuals

Bio: Ned holds the position of Professor of Law and Head of School at Charles Darwin University and is a member of William Forster Chambers in Darwin. He is also Emeritus Professor of Law, Hong Kong Shue Yan University. He has appeared as counsel in trial and appellate courts, and in both criminal and civil matters, in Queensland, Victoria, New South Wales, Western Australia, and the Northern Territory, and before the Federal Court and High Court of Australia. His interstate practice has mainly involved extradition matters. He is the author of the text 'Extradition: Australian Law and Procedure' (The Law Book Co. Ltd).

Abstract: Commonly, domestic criminal laws enshrine procedural safeguards and the rights of individuals accused of committing criminal offences. They are designed to militate against the indiscriminate application of criminal laws and to facilitate the preservation of fundamental human rights. On the other hand, in formulating and applying laws of extradition, there has been a tendency to subordinate these safeguards and rights to the interests of maintaining strong international relations. The courts are mindful of the potential impact of their decisions on those relationships and it is arguable that at times undue deference has been paid to those concerns. Also, where, as in Australia, many of the factors determinative of eligibility for extradition are evaluated by the executive there can at least be a perception that factors external to the merits of the extradition application may be unduly influential. This paper looks primarily at the Australian experience and at how extradition laws and their application have been shaped by the concern to maintain good relations with extradition treaty partners, at the expense of procedural safeguards and individual rights.

Martin Breen, CRA Law Firm Timor Leste

Timor Leste's Tax System: "Sending a Felon to Help"



Bio: Martin Breen graduated from Darwin High School in 1978.
Exchange Student in Indonesian 1979, learning Indonesian language.
1980 Australian Federal Police, 1981 Northern Territory Police until 1990.
1990 studied Arts/Law at NTU.
A graduate in Law and Arts from the NTU (now CDU) in 1996.
Returned to running a transport company that he was in partnership for a number of years.
Appointed Legal Officer in the UN transitional administration in East Timor 2000, and was promoted to District Administrator in Liquica District, for the UN.
At the cessation of term with the UN started a legal practice in Timor-Leste with Timorese lawyers in 2002 after independence, and in 2005 amalgamated the firm with CRA, a Portuguese law firm operating in Portuguese language states.
Specialized in tax practice.
In 2006 became an adviser to Patrick Defence Logistics who were contracted to support the Australian Army in Timor-Leste. Toll Holdings purchased Patricks and Martin Breen then became company secretary for Toll (TL), whilst still being an active partner in CRA Timor.
Remains a partner in the firm CRA Timor in Dili, and continues his practice in tax.

Abstract: In 2010 the Norwegian government negligently employed a convicted fraudster from Nigeria to assist the East Timorese government petroleum tax office as an adviser pursuant to an agreement and contract signed between Ministers of State of the respective countries in 2008. Once in place the adviser set in place an elaborate plan to ingratiate himself in the Ministry of Finance where he gained a position of trust, and then set about awarding contracts worth $4 million to a non-existent law firm that he controlled, collecting $3.5 million before fleeing the country. In earning the position of trust, the adviser raised about $400 million in dubious tax assessments that had to be re-paid with interest. In all the fraudster cost Timor-Leste in damages about $176 million, and was eventually arrested in the US for Wire Fraud and sentenced to 72 months imprisonment, forfeiting the ill-gotten gains. We look at how he managed to do all this, and ultimately who should pay, notwithstanding the indemnity clause in favour of Norway in the contract. We can identify the negligence of the Norwegian government. The lack of action by the Timorese Anti Corruption Commission who failed to investigate allegations that he was passing taxpayer information to the media.
The persistent ignoring of warnings that things were not right by the Timorese government. And then the disastrous and almost certain unconstitutional interference in the judiciary after the tax assessments were overturned by the courts with the sacking of judges,(civil) prosecutors and other employees in the justice sector who failed to act "in the national interest".

Lee Campbell, Law student CDU

Crossing the Floor: Strengthening the Capacity of Non-Indigenous Lawyers in Native Title Claims

Bio: I am a final year law student transitioning from international development and mining in Indonesia, Kiribati, West Papua, PNG and Mongolia and adult and community education in the Northern Territory and Western Australia.

I have worked in contexts where daily engagement with people from different cultural, linguistic and religious backgrounds and systems of government has been an impetus to scrutinise my own country, to shatter the worldview of the education system, which I experienced.

A more complete knowledge of our history, the dispossession of Indigenous land and the disastrous impact on their livelihoods has shattered the myth of my comfortable youth. After 20 years of the law to redress this impact, it remains problematic for Indigenous Australians. My curiosity as to why this is so, led me to look at how lawyers and judges practice land law transnationally to find Indigenous leaders have opened a door, but a reluctance to 'cross the floor' endures. It has led me to take on board Justice Kirby's challenge that, The judiciary in a modern plural society must constantly strive to educate itself about the way laws fall unequally upon different groups in the community. Judicial officers should endeavour to see the law through the eyes of those whom the law governs. They should be alert and sensitive to the inequality of legal protection. To the best of their ability, within the governing laws, they should attempt to protect minorities from inequality of treatment and unjust discrimination. They should thereby equalise the impact of law in a plural society so that the boast about "equal justice under law" is not just empty rhetoric.

Abstract: Former Australian Prime Minister Paul Keating's 1992 landmark Redfern speech, invited non-Aboriginal Australians to vicariously experience that of their Aboriginal counterparts, dispossessed of their land, and told it had never really been theirs. For the first time, a Prime Minister acknowledged the real impact of European settlement on Aboriginal and Torres Strait Islanders' livelihoods as, 'We took the traditional lands and smashed the traditional way of life.' Time has shown the benchmark set by Keating was too high.

Justice Woodward reasoned that, '… *an imposed solution* to the problem of recognising traditional Aboriginal land rights is unlikely to be a good or lasting solution.' Still today, Indigenous Australians rely on non-Indigenous lawyers' imposed solutions to claim back their land where a broader view of the law has solutions. Transnational law opens doors to change this status quo.

This paper outlines laws in British Columbia (Canada) and legislation in close neighbour, Bali to reinvigorate native title in the Northern Territory.

It argues lawyers adopt transnational interpretations of native title to strengthen their work where, 'the white system' sits down and listens to Aboriginal leaders *instead of ignoring them*, to strengthen the law'.[1]

[1] Gaykamangu, G. G., 'Ngarra law: Aboriginal customary law from Arnhem Land' (2012) 2 NTLJ 248.

Adam Fenton, PhD candidate, CDU

ISIS, Jihad and Indonesian Law: Legal Impacts of the January 2016 Jakarta Terrorist Attacks

Bio: Adam J. Fenton is a PhD candidate at Charles Darwin University (CDU) School of Law. He previously completed Graduate Diplomas in Legal Practice and Indonesian Language at CDU and was a recipient of a Chancellor's Medal for his studies of Indonesian language and culture. He received an Australian Postgraduate Award scholarship for his PhD research into Indonesia's anti-terrorism laws and is currently preparing submission of the thesis, entitled 'Combating Terror: Indonesia's Legislative and Law Enforcement Response to Terrorism'. He has been admitted to practice as a barrister and solicitor of the Supreme Court of the NT and completed a BA/LLB (Hons) at Monash University. He is currently working as a Senior Researcher with the Jakarta-based Center for Radicalism and Deradicalisation Studies (PAKAR) and his writing and opinions on Indonesian counter-terrorism have appeared in the Australian Journal of Asian Law, the Wall Street Journal, Bloomberg News and the Jakarta Post, among others.

Abstract: ISIS, Jihad and Indonesian Law: Legal Impacts of the January 2016 A coordinated, multi-pronged terrorist attack using firearms and home-made bombs in Jalan Thamrin Central Jakarta on 14 January 2016, resulted in the deaths of eight people, including the four attackers, and injuries to over 20 others. While the attack was amateurish and failed to achieve the mass casualties that were no doubt hoped for by the planners, it successfully garnered a great deal of media coverage and has galvanised Indonesia's policy and law makers to act on revisions to the country's anti-terrorism laws. The paper begins with a discussion of the attack itself which reveals aspects of current terrorist strategies, transnational planning, funding and communications; links to ISIS in the Middle East; and the likelihood of further attacks in Indonesia. The paper also uses the attack to illustrate and discuss weaknesses in Indonesia's treatment of terrorist convicts, encompassing aspects of sentencing, corrections and the rehabilitation of terrorist prisoners. The paper then discusses the role of the media and securitization theory to explain the timing and momentum for law reform. It concludes with a discussion of the likely revisions to the terrorism laws, including proposed articles which would significantly increase police powers and which may open the door for the Indonesian military to assume a role in counter-terrorism operations which is unprecedented in the post-reformasi era.

Anna Foster, Red Cross

International Humanitarian Law: Transnational Challenges of Contemporary Armed Conflicts'

Bio: Anna Foster is the International Humanitarian Law Coordinator for Australian Red Cross in Northern Territory, and has been working with Australian Red Cross International Programs since 2014. Previously she has worked in criminal prosecutions for both the South Australian and Federal governments, and has held training and logistics roles in voluntary organisations and private business both within Australia and overseas. She holds an LLB/LP (Hons) and Diploma in Humanitarian Diplomacy, and is currently completing a Masters in International Relations at University of Melbourne. She is admitted to legal practice in the Supreme Court of South Australia and Supreme Court of Western Australia.

Matthew Gardiner, Law student, CDU

Legal Protection for Indonesian Workers of Direct Management Services Pro Growers

Bio: Matthew commenced his diverse career as a Combat Engineer with the Australian Defence Force where he was assigned tasks as varied as field construction, demolitions, landmine and bomb disposal. After leaving the Army, he then decided on a complete career change and studied Nursing at Charles Darwin University where he successfully completed his Bachelors of Nursing degree becoming a Registered Nurse at Royal Darwin Hospital in the Emergency Department and Operating Theatre. It was at this time that he became involved in the Union movement. After working for the Australian Nurses Federation (ANF), Matthew took up a position at United Voice, the NT's oldest and largest Union, becoming Branch Secretary. After recently working in the Middle East, he is currently undertaking his Bachelor of Laws (Graduate Entry) at Charles Darwin University.

Abstract: All around the world the migration of people is happening it can be triggered by the local living conditions and the human need for self-improvement and fulfilment. In Indonesia, people are using many ways to improve their standard of living and are using a variety of opportunities to be able to achieve it. One of the opportunities includes guest worker programs in foreign countries, one of these programs is the Recognised Seasonal Employment Initiative from New Zealand (RSE). The RSE is the program which facilitated the people in pacific islands and other countries like Indonesia to work in New Zealand in the agriculture sector involved in the production of products such as kiwi fruit, apple and grapes. Direct Management Services Pro Growers (DMS) is one of the pack house companies in New Zealand which have recruited and utilised Indonesian workers since 2007. DMS has faced and continues to face challenges in accommodating all parts in process of the recruitment and employment of the Indonesian guest particularly in the process of developing contracts that meet the requirements and needs of Indonesian law, the New Zealand law, the Government Departments responsible in the two countries, the employers, their agents and most importantly the workers themselves. The employment contract should represent the interests of both parties, the employer and employee. The contract needs to cover consideration of the parties and needs a commitment to implement the provisions with certainty and full of a sense of justice. The question that has arisen is how legal protection for Indonesian workers could be ensured in the process of contract formulation and implementation process. The research conducted investigated the reality and aspects of the standard contract that DMS offers to Indonesian workers on the RSE program, the protections it offers and recommendations that would improve the process that would benefit not only the workers but the employers, their agents and the Governments of the respective countries in regards to health and safety issues, wages rate, and other protections.

Felicity Gerry QC, Senior Lecturer, CDU and Dr Devaki Monani, Lecturer, Australian Catholic University

Death and the Dowry System: India's Women and Female Children at Global Risk of Gendercide over Money?

Bio: Felicity Gerry QC is Chair of the Research and Research Training Committee and HDR Coordinator in the School of Law at Charles Darwin University, Australia. Her research focuses on Women & Law, Technology & Law, Human Rights & Corporate Responsibility / Global Governance. She lectures in Criminal Law, 'Law, Justice and the State' and Evidence Law Units. Felicity is also an international barrister recognised in the Legal 500 for 2016 as "Fearless and independent minded". Recently she led the defence appeal team in R v Jogee that persuaded the UK Supreme Court to correct the erroneous tangent of law that was known as joint enterprise. She also assisted in the reprieve from execution for Filipino national Mary Jane Veloso facing the death penalty in Indonesia. Her criminal cases have led to a commercial cross over which has included advising a Swiss Bank in international commercial litigation involving restraint of assets and international freezing orders arising from a a long-running investigation for bribery, money laundering and abuse of office against a Latvian oligarch. In 2014 she participated in the Bar Human Rights Committee Report which improved the law on FGM and in 2015 she reported for the UNDP via ILRC of American Bar Association on the leaked draft Cybercrime law for Cambodia. Felicity

Bio: Dr Devaki Monani has a PhD in Social Work from the University of Melbourne and social impact investment qualification from the University of Oxford. Her doctoral research was grounded in women's human rights and comparative social policy. Currently she is a lecturer and coordinator of the Master of Social Work program at the Australian Catholic University in the area of Social Policy and Social Work Research.

Previously, she worked at the University of Technology Sydney assisting Professor Jock Collins and Associate Professor Branka Krivokapic-Skoko in the immigrants shaping Australian agricultural productivity project

funded by the Rural Industries Research Development Corporation. She has conducted interviews and focus group discussions with Afghani, Bhutanese, Burmese, Indian, Samoan, Papua New Guinea and Kirabathi farming communities. Through this project she has built a strong knowledge base of refugee and migrant settlement across Australia.
Devaki has published in the area of human rights and community capacity building. She welcomes opportunities to collaborate with academic colleagues and practitioners on projects focusing on gender, human rights, migrants and refugees. Her e-mail is devaki.monani@acu.edu.au

Abstract: News of accusations of dowry harassment against actress Smita Bansal caused a sensation in December 2015. The allegations arose during her brother's divorce in London. It was suggested that her family had taken away jewelry and money from her sister-in-law during marriage to her brother. The allegations were refuted. True or otherwise, the issue of dowry has been catapulted onto the world stage. Whilst the demanding and giving of dowry has been effectively illegal in India since 1961 (The Dowry prohibition Act, 1961), the practice continues and has been exported globally with migration. No similar provisions appear outside India to protect extra territorial dowry demands or harassment. Research is scant but news reports suggest that women are burned, poisoned, beaten and forced to commit suicide. Female children suffer infanticide and foeticide when dowry is unpaid or deemed insufficient. This occurs in both in India and in relation to non-resident Indians (NRI) in other countries. Whilst an all-female police unit was launched in Haryana and helplines are in place in some parts of India, this is clearly not enough. Recent figures which show that the number female children are falling in India due to homicide and abortion means that transnational demands for marital payments makes dowry a global concern. This paper seeks to discuss the issues of dowry death from the perspective of law and women's empowerment through safety and to highlight the urgent need for further research into necessary global legislative and policy responses.

For the abstract of Felicity Gerry on *Using Innovative Technology in International Online Clinical Legal Education. The Experience of the School of Law at Charles Darwin University* please refer to page 23.

Benjamin Halliwell, Law student, CDU

Domestic Legal Bias, A Key Factor for Prudent Foreign Investment Towards Economic Developments in Indonesia.

Bio: Ben Halliwell presently holds academic qualifications in Bachelor of Economics and a Graduate Diploma in Applied Finance and Investment. He is a Fellow of the Financial and Securities Institute of Australia (FINSIA) and hold specialist accreditation in Treasury and Derivative management. Former board representations include the Australian Football League (NT), the Red Cross (NT) where he was an investment committee member and FINSIA (SA/NT division). Ben has worked in the trustee and investment banking industries for the past 15 years. He was the former managing trustee of the Australia Foundation Charitable Trust, and developed the commercial regimes of investment across all asset classes for State Trustee Victoria. Acting in the role of Public Trustee for the Northern Territory, he established the prudent person investment regime into good governance of investment in the Northern Territory. He has been a partner of and head of desk in equity trading teams for ABN AMRO Morgans in Victoria and E.C.L Baillie in New South Wales. He worked as consultant at Macquarie Bank. He has been a corporate adviser on numerous corporate actions on publicly listed corporations. Ben presently works as a consultant based in Darwin with mandates in investment banking, remote economic development and delivering local and indigenous engagement models to the oil, gas and energy production industries.

Abstract: Encouraging foreign investors into Indonesia is not merely a function concerning compliance and construction of domestic law based reflecting the notions of international law, including Bilateral Investment Treaties, but for the practical matter it is likely should consider various important elements such as understanding the cultural, historic, geographic and demographic concerns of the Indonesian counter party and Indonesian institutions particularly in contract. The application of these notions in domestic law, is an imperative that cannot be overlooked in prudent investment decision making. In the Indonesian context, sound investment activities will develop better if there exists a harmonization between the international legal construct and understanding good corporate governance for the duties and responsibility of the Boards that build from the bottom perspective. An adversarial, ring fenced approach to the construction of operations in the light of Indonesian law will fail due to a failure to understand the intricacies of the political reality and customary responsibilities of its custodians. Fiduciary duties, the interpretative measures of directors duties and their obligation to Indonesia, must be equally addressed along with the commercial profit seeking operatives, in the mind of the director. The foreign direct investment decision maker should ensure that the Director's representing the construction of the associated capital undertake a deep engagement and understanding of the regional and cultural custom and it's local interplay with Indonesian law as an initial function of the investment decision and maintain that function as a critical operation of director duties over the term of the investment. At a minimum, the environment, social, political and local economic context should be assessed and where appropriately engaged.

Guzyal Hill, PhD candidate, CDU

International Harmonisation and Harmonisation within a Federation

Bio: Guzyal is admitted to the Bar of the Commonwealth of Independent States (former USSR) (2002) and to the Supreme Court of the Northern Territory (2010).

After several years in private commercial practice, Guzyal has worked as a legislative drafter with an Office of the Parliamentary Counsel (NT). At this stage national uniform legislation has captured her interest as a growing field for research. After completing Master of Law (Government and Commercial Law) with the Australian National University (Research Thesis "National Uniform Legislation"), Guzyal went on researching the topic further through PhD thesis. In recognition of "exceptional research potential", Guzyal was awarded Australian Postgraduate Award.

Guzyal is also employed as a Professional Practice Mentor and Property Subject Mentor, Graduate Diploma in Legal Practice Program (Australian National University).

Abstract Is harmonisation internationally and within a federation the same process? On the one hand, there are clear parallels between international and harmonisation within a federation. Harmonisation on both levels pursues very similar objectives: reduction of transaction costs, increase of predictability, consistency, fairness and the establishment of a level playing field. On the other hand, there are clear differences including the absence of central government, a common legal tradition, and a common court system to interpret uniform law that exist in a federation.

After an extensive literature review, it seems that definition of harmonisation is sufficiently flexible to include both harmonisation within a federation and international harmonisation as the same process with different actors. Moreover, it is highly likely that these processes are not only the same in essence but are also interlinked: the more a country enters into international treaties, the more harmonised becomes its domestic legislation and vice versa the more uniform is domestic legislation the higher likelihood federal harmonisation will have spill-over effect.

The relationship of international and federal harmonisation is further demonstrated through empirical study of 84 sets of the most significant uniform acts demonstrating that in a quarter of cases the international treaties had an impact on national uniform legislation in Australia. Indeed, as it was observed by Professor Aman: "… bright-line distinctions between federal and international, state and federal, or global and local do not capture the complex transnational mixtures of power now involved even in domestic governance"

Dr Danial Kelly, Course Coordinator, CDU

Normative Authority in the Context of Transnationalism, Pluralism and Semi-autonomous Social Fields: Focus on Arnhem Land

Bio: Danial is Associate Head of School in the CDU School of Law. His PhD was on the intersections of authority of Australian law and Christianity with Aboriginal customary law in Arnhem Land. Danial is admitted to legal practice in the Supreme Court of the Northern Territory and is also qualified as a mediator and teacher. He is a member of the Indonesian Reference Group.

Prior to joining the faculty in 2010, Danial worked as a lawyer with the North Australian Aboriginal Justice Agency. He has also worked as a mediator and teacher in Australia and Indonesia. Danial continues to work on legal and justice issues concerning the Aboriginal communities in the Top End of the Northern Territory, especially the interaction between Aboriginal customary law and Australian law.

Danial has experience teaching statutory interpretation, Indigenous legal issues and Indonesian law. He has also taught Indonesian language in Australia. Danial is instrumental in strengthening the academic relations between Charles Darwin University and various Indonesian Universities and is a frequent guest lecturer at Udayana University in Bali and Gajah Mada University in Jogja.

Abstract: The notion of a sovereign polity holding a monopoly over law that is followed within its jurisdictional borders is threatened by the phenomena of transnational law and normative pluralism. Authoritative norms can be highly influential upon legal processes within the borders of a polity. Those norms may be derived from other legal systems, religious or belief systems or a combination of both. In this era of globalisation, normative pluralism exists as an everyday fact of life almost everywhere in the modern world. This article considers the normative pluralism that has been experienced in Arnhem Land in the Northern Territory of Australia and the need to further develop the pluralism model of semi-autonomous social fields.

Dr. Gary Lilienthal, Lecturer, UUM Malaysia

What Reasoning and Purposes Might Underlie the Successful Public Rhetoric such as "Boat People" and "People Smuggling"

Bio: Gary Lilienthal holds a Diploma in Professional Counselling from the Australian Institute of Professional Counsellors, a Sydney University law degree, a Graduate Diploma in Legal Practice from the College of Law in Sydney, a Masters degree in Psychoanalytic Studies from Deakin University in Melbourne, and a Ph.D. in a synthesis of legal historiography and Lacanian psychoanalytic method, from Curtin University in Perth, Australia. He also holds Ordination, at the level of religious court judge, granted in 1992 in New York, after some 7 years of studies and practical preparations in Los Angeles. He is currently Senior Lecturer in the School of Law, College of Government and International Studies, at Universiti Utara Malaysia. Dr. Lilienthal comes from a background in conflict mediation, having presided over some 9000 commercial and family mediations worldwide, as a judge of a religious court in New York City, and headquartered in New York City. In that role he pioneered the application of both equitable principles and psychoanalytic methodology to conflict mediation. He has conducted a multinational practice in forensic counselling of criminal clients for many years, and is widely published worldwide.

Abstract: In modern times, local legislatures are being asked to reduce transnational criminal conventions, as to human trafficking and people smuggling, into municipal law. This is while local economic circumstances mean that people have to find a way to survive by smuggling or trafficking people into different jurisdictions. Thus, this paper poses the question as to what reasoning and purposes might underlie the successful public rhetoric such as "turn back the boats". The methodological strategy is that of a meta-legal exegesis, deploying the legal maxim that every person must be taken to have intended the necessary consequences of his or her own act. The article investigates rhetorical instruments of governance used to garner public approval for these newly manufactured criminal statutes. The paper shows that governments are collaborating internationally to manufacture new strict liability criminal offences by a form of oratorical transnational legislation. These new offenses are sold to the home electorates using prescribed rhetorical tropes, as instruments of governance. The actual results of the human trafficking and people smuggling laws are, as tropes, ironic. However, the electorate is powerless to act. The laws suggest the creation of an international class of escaped slaves, civilly dead, as outlaws, and locked up indefinitely in administrative detention, until such time as they agree to be returned to their oppressive States or criminal masters.

Professor Les McCrimmon, CDU

Using Innovative Technology in International Online Clinical Legal Education. The Experience of the School of Law at Charles Darwin University

Bio: Les McCrimmon is one of Australia's leading experts on evidence law, advocacy and privacy. Before joining William Forster Chambers, Les was an academic at the University of Sydney and Bond University, and was Head of Law at Charles Darwin University from 2010-2012. From 2005-2009, Les held a statutory appointment as a full-time Commissioner with the Australian Law Reform Commission. He has also practised law as a trial and appellate lawyer in Canada before arriving permanently in Australia in 1990.

At the ALRC, Les McCrimmon led the references on the uniform Evidence Acts, privacy, and royal commissions. The privacy inquiry culminated in the landmark report For Your Information: Australian Privacy Law and Practice, a three-volume, 2700 page report containing nearly 300 recommendations for reform.

Les is the co-author of Real Property Law in Queensland and Fundamentals of Trial Techniques: Australian Edition, and has also published numerous articles and book chapters. Since 1994, he has been a member of the teaching faculty of the Australian Advocacy Institute, Australia's leading provider of advocacy training to the legal profession. He was a founding member of the Global Alliance for Justice Education, which is a world leader in the promotion of social justice through legal education.

Abstract: In an increasingly transnational technological legal world, lawyers are harnessing the advances of technology for successful legal practice not just by the use of online libraries but in order to maximise marketing, efficiency and communication. New forms of teaching, learning and assessment for an interactive world have the potential to provoke major shifts in educational practice. The School of Law at Charles Darwin University (CDU) is demonstrating that the profession can receive online graduates at the forefront of legal knowledge and technical ability. The School of Law at CDU has adopted a teaching approach suited to online learning which is used together with exciting innovative technologies to design connect, innovate and provide an interactive learning environment. Traditional teaching of substantive law as well as practical skills are enabled for internal and online national and international students to achieve a connected and interactive learning experience facilitated via CDU's Learning Management System and online library services. The paper discusses the evolution of legal clinical education, describes some of the challenges in particular in developing a social justice legal clinical program and using oral video submissions as an assessment tool in a substantive law unit. It concludes that the opportunity for "real life" experiences for internal and online students enhances their learning experience and their understanding of the unique access to justice issues in a remote and transnational space.

Guumaal Ngambri Mingku aka Shane Mortimer AE, Guumaal-Ngambri Elder

The Law, from a Transnational Perspective: Allodial People in the Guumaal Nation Subjected to British Law

Bio: Mingku is an Elder of the Guumaal Nation Ngambri People - Canberra derives from Ngambri! Following a ten-year career in the corporate world, that included opening a dealer distribution network through South East Asia, he turned his ability to the business end of theatre, his family tradition of four generations. Having produced and/or publicised over six-hundred plays and theatrical events, Mingku attained a Diploma of Film Production from Macquarie University – Sydney. Allodial ties to Canberra have been his focus for the past thirty years. He has made it his priority to gain legal knowledge of his Allodial Title and the transnational legal implications of British colonisation of his land. As an Elder he has gained qualifications in Neuro Linguistics as a practitioner, in addition to Counselling and Coaching. Mingku addressed the Orang Asli, Aboriginal and Native Lands, Malaysia. Myanmar & Australia Perspectives Symposium at Universiti Utara Malaysia in September 2015, on behalf of the Guumaal Nation Ngambri People.

Abstract: The question is often asked by long-term Canberra residents, “I was born in the 1940’s and grew up in the ACT and I did not see one Aborigine until the 1970’s. Why were there none to be seen?” In response, the reader might reference the 19th century government policies and practices, arguably unlawful under English law, of poisoning water holes, deliberately spreading disease, massacres and Government-sponsored transmigrations, as contributing factors. Certainly, The White Australia Policy of 1901 was another contributing factor, as it suggested operational international acts of genocide. Thus, this paper gives cause to explore the Royal Powers Act of 1953, taking into account amendments up to Act No. 74 of 2008. This Act, signed personally by Queen Elizabeth II, gave rise to the Australian Capital Territory Ordinance No. 8 of 1954 - “An Ordinance Relating to Aborigines”. This ordinance suggests reasons for understanding the total absence of the presence of Aboriginal People in the Australian Capital Territory for nearly two decades. It also accounts for the calculated act of entrenching the White Australia Policy, in an attempt to rewrite the history of the Allodial People of that region. This blurs fraudulently the ownership of the land upon which colonials have placed The Seat of Government, under the apparent warrant of s125 of the Constitution of the Commonwealth of Australia

Lyma Nguyen, Barrister, William Forster Chambers and International Civil Party Counsel, Extraordinary Chambers in the Courts of Cambodia

Victim Participation in Genocide Trials in Cambodia

Bio: "Lyma Nguyen is a barrister at William Forster Chambers, practising both domestically and internationally in criminal law, victims reparations, refugee, immigration and human rights law. Lyma has been selected as one of 45 Australian "Trailblazing" women lawyers by The National Trailblazing Women and the Law Project, particularly for her work as International Civil Party Counsel at the Extraordinary Chambers in the Courts of Cambodia (ECCC), where she continues to provides pro bono legal services to victims of the Khmer Rouge regime, including foreign nationals and members of the Cambodian diaspora from Australia, New Zealand and the United States, as well as the ethnic Vietnamese minority the subject of genocide charges against the Senior Leaders of the Khmer Rouge regime.
Lyma has been a recipient of Prime Minister's Executive Endeavour Award in recognition of her work at the Khmer Rouge Tribunal as well as undertaken a Churchill fellowship to develop and build expertise in international criminal justice. In 2012, Lyma was enlisted by the Department of Foreign Affairs and Trade as a Law and Justice Civilian Expert on the register of the Australian Civilian Corps. She is a Director on the Board of Australian Volunteers International. In the NT, Lyma is co-Vice President of the Criminal Lawyers Association of the NT and a member of the NT Bar Council."

Abstract: In 2010, the Co-Investigating Judges of the Extraordinary Chambers in the Courts of Cambodia (ECCC) charged four senior leaders of the former Khmer Rouge regime with genocide against two minority groups, the Cham and the ethnic Vietnamese. This keynote speech describes the role of minority victims in a genocide trial, using the specific case study of a group of ethnic Vietnamese survivor, represented by Lyma Nguyen together with national Cambodian colleagues, who joined as civil parties before the hybrid criminal proceedings at the ECCC. The presentation highlights the challenges that arise in the process of including minority narratives within the broader context of a mass atrocity trial, by describing the participation process civil parties have undertaken, to date. Importantly, the case of the ethnic Vietnamese survivors shows how victim participation in a criminal trial can shed light on larger, contemporary human rights issues affecting a minority group. In the present case, a number of ethnic Vietnamese civil parties have sought access to, or recognition of, Cambodian nationality, through a request for 'collective and moral reparations' under the Court's Internal Rules.

Ken Parish, Lecturer, CDU

HCA Jurisprudence on Constitutional Rights and Freedoms – A Version of European Structured Proportionality Analysis

Bio: Ken Parish is principal lawyers at Parish McCulloch, Barristers & Solicitors and has been a legal academic at Charles Darwin University specialising in constitutional and administrative law for some 15 years.
He was for a short but eventful period in the early 1990s a Labour Member of the NT Legislative Assembly, and continues to undertake public media political commentary as a nominated expert from CDU.

Abstract: Australian jurisprudence on constitutional rights and freedoms, especially the implied freedom of political communication, has long been characterised by confusion verging on indeterminacy, despite the High Court's attempt to achieve clarity and unanimity in Lange v ABC. For example, the "appropriate and adapted" test for determining the validity of a law which affects a constitutional right or freedom has been described by Kirby J as an "ungainly phrase … devoid of clear meaning".
However, in a series of decisions over the last few years, culminating in McCloy v New South Wales [2015] HCA 34, the Court has now decisively adopted a "structured proportionality" approach to determining whether a constitutional right or freedom has been infringed. In doing so the Court has effected a significant evolutionary (if not revolutionary) change in Australian constitutional law, bringing Australian constitutional jurisprudence into line with the global approach to such questions, an approach applied throughout Europe and European-derived civil law systems, as well as in Britain, Canada and New Zealand.
The speech is on assessing and determining alleged breaches of constitutional rights and freedoms under the High Court's new structured proportionality approach. The potential for a structured proportionality approach to be applied in other areas of constitutional law, where some degree of subjective judicial evaluation of a law's purpose or object and its appropriateness is unavoidable (e.g. separation of powers), will also be briefly discussed.

Associate Professor David Price, senior lecturer, CDU

Elephant and Rabbit Stew - the ISDS side-dish for Australia and Indonesia on the Trans-Pacific Partnership Agreement (TPPA) menu

Bio: David Price is Associate Professor in Law at Charles Darwin University. His PhD in Law researched intellectual property (IP) protection in the Arabian Gulf states He holds degrees in international law, international relations, industrial history, and Chinese. His major areas of research and teaching revolve around the intersection of IP law, public international law, and international trade law. Three countries/regions are used as exemplars – the Arabian Gulf (GCC), neighbour Indonesia and Australia. A common thread is the treatment of traditional knowledge and cultural heritage under western-based IP regimes. He has published widely on IP rights in the Middle East and other developing regions, and the impact of bilateral and regional trade agreements on domestic IP protection. He has worked, consulted, and researched in institutions in Australia, UK, Europe, and the Middle East. He is a member of LAWASIA and the International Indonesia Foundation Board. He holds Visiting Professorships at Universitas Gajah Mada, Indonesia, and Hainan University, China.

Abstract: This presentation discusses the respective positions of Australia and Indonesia in respect of investor-state dispute settlement provisions (ISDS) in the contentious Trans-Pacific Partnership Agreement (TPPA).

Opinion globally on ISDS has become increasingly polarised, with some countries including Indonesia rejecting it, and others aggressively sponsoring it in their trade agreements. Both Australia and Indonesia seem to have taken positons on ISDS which are not dissimilar but which also appear somewhat uncertain and confused. The previous Australian government rejected ISDS; the current Government determined to consider their inclusion on a case by case basis, leading to the situation where one of its concluded trade agreements includes ISDS, another omits ISDS, and a third defers it to future negotiation. However, Australia has signed the TPPA with its ISDS provisions.

Indonesia recently determined to cancel all its 67 bilateral investment treaties (BITs) which incorporate ISDS provisions. However, in October 2015, President Widodo recently announced that Indonesia would join with the TPPA, within two years, generating much consternation amongst media and government departments alike, leading to warnings of dire consequences since Indonesia could not be ready to join within the two-year declared timeframe.

This presentation examines that apparent policy shift and its implications.

Professor Ida Bagus Wyasa Putra, Professor, Udayana University

The Problem of Context in the ASEAN Community Roadmap on ASEAN Culture Development

Bio: Professor Ida Bagus Wyasa Putra, Professor of Law at Udayana University and Professorial Fellow at CDU. He is the former Director of the Department of International Law, Faculty of Law Udayana University (1998-2006); the Secretary of the Indonesian Arbitration Center, Representative Office of Denpasar (2007-2012); Head of the Board for Cooperation of Faculty of Law Udayana University (2007-20015); and the member of Supervisory Committee for the World Bank's Community Based Development and Innovative Program in Bali (2001 – 2005). Now he works as a legal advisor of the Province Government of Bali and some local governments in Bali, such as: Regency Government of Jembrana, the City Government of Denpasar, and the Regency Government of Klungkung; member of Center for Regulatory Research, Jakarta; Head of Legal Division of the Bali Cultural Heritage Trust; partner at SUPANCANA & PARTNERS, Jakarta; Head of Centre for Law and Ideology Faculty of Law Udayana University; and Vice Chairman of Indonesian Chamber of Commerce of Bali.
He teaches International Law, International Private Law, International Economic Law, International Business Law, International Contract Law, and International Tourism Law at Faculty of Law Udayana University (since 1988); Indonesian Trade and Investment Law at the Post Graduate Program Faculty of Law University of Technology Sydney (1997); International Business Law at Summer Law Program University of San Francisco (1997); Tourism Law at Master of Tourism Program; and International Trade Law at Master of Law Program, Udayana University (since 2002); and Comparative Customary Law at School of Law Charles Darwin University (2012).

Abstract: ASEAN has completed its Roadmap on March 2009. The Roadmap formulized in a Blueprint which covers three pillars of Asean subject of development, such as: political, economic, and socio-culture. The policy on socio-culture development covers human development, social welfare and protection, social justice and rights, environmental sustainability, Asean identity, and narrowing development gap. The development on culture included in the section of Asean identity development, which seem formulized in a very fashionable concept of culture development. The policy formulation seems too normative and separated from its contextual expectation. This paper would draw up the texture of the policy and analyze it under the McDougal's theory of policy-oriented, including its implication if the problem does not solve properly, and would share on recommendation on how the problem supposed to be solved in order to make the policy effectively works on achieving its target.

Md Mustakimur Rahman, Bangladesh Institute of Law and International Affairs

Transnational Crime in South and Southeast Asia: A Route of Labour Trafficking from Bangladesh to Malaysia

Bio: Md Mustakimur Rahman is a Legal Research Officer in Bangladesh Institute of Law and International Affairs (BILIA). He is also an activist and an independent legal columnist. He writes law related articles in several daily newspapers of Bangladesh. He has completed his LLB in 2012 & LLM in 2013 from Nottingham Trent University, UK.

His research interests lie in the areas of human rights, constitutional law, domestic and international criminal law and cross border crime. Recently he has focused on acid violence in Bangladesh and completed a paper which will be published in Germany in multi-languages. His papers titled 'Rape in Marriage is not crime in Bangladesh: Is Reform Necessary?' and 'Fundamental Rights In Times of Emergency: Ataur Rahman vs Muhibur Rahman 14 (2009) BLC (AD) 63 Revisited' have been accepted for publication in Bangladesh Journal of law (BJL).

Abstract: Geographical location and poor economic status of Bangladesh have made this country a source country for men trafficking to Malaysia for forced and cheap labour. Trafficked labours are mainly illegal in any received country and therefore, they are living in constant fear of detection and deportation. As a result they are receiving less payment than regular payment with high risk of inhuman treatment.

For labour trafficking, Northern Malaysia is a route for smugglers to transport people to Southeast Asia. Smugglers are using boat as a main transport for labour trafficking in this area and this is because of poor and corrupted maritime security. This route is being regularly used for labour trafficking from Bangladesh to Malaysia, but there is no such major improvement that we have seen so far from Malaysia and Bangladesh. Lack of proper steps caused so many trafficked incidents including recently at least 32 dead trafficked migrants have discovered on a remote and rugged mountain in border district Sadao, in Songkhla.

Labour trafficking is a transnational crime and that needs transnational counter measures to disrupt criminal networks. To make effective measures, both countries need to increase their data-sharing facilities. Although human trafficking is a difficult crime to detect but data-sharing facilities would be beneficial to detect the offenders, country of origin, transporters and the receivers of trafficked humans etc.

The Honourable Thushara Rajasinghe, Judge of the High Court (Fiji Islands)

Drug Trafficking; Growing Threat to South Pacific Archipelagos

Bio: ❖ Judge of the High Court, in the Judiciary of the Republic of Fiji Islands (from 5th of November 2014 to date)

❖ Master of the High Court, in the Judiciary of the Republic of Fiji Islands, (from 12th August 2013 to 5th of November 2014)

❖ Resident Magistrate in the Judiciary of the Republic of Fiji Islands, (From 1st of November 2009 to 12th August 2013)

❖ Referee, Land Transport Appeal Tribunal, in the Judiciary of the Republic of Fiji Islands, (From February 2010 to 12th August 2013)

❖ Visiting Fellow in the School of Government, Development, and International Affairs, Faculty of Business and Economics, University of South Pacific, (2nd of August 2010 -30th of November 2011)

❖ Additional District Judge / Magistrate, Sri Lanka (From October 2004 – October 2009),

❖ Attorney – at – Law, Called to the Sri Lankan Bar on the 9th day of December 1999.

❖ Barrister –at –law and Solicitor, admitted as a legal practitioner in the Republic of Fiji Islands on the 24th of August 2012

Abstract: The South Pacific Archipelagos is presently witnessing an escalation of numbers of cases involving importation of illicit drugs in the forms of psychotropic substances and amphetamine type stimulants (ATS). Fiji has become a one of the focal centres in the region for this unprecedented upsurge of transnational drugs importation. It is a new phenomenon as conventionally this region was considered as virtually free from such activities. Hence, the rise of transnational activities in importation of hard drugs has posed an unprecedented and distractive threat both domestically and regionally.

This paper is an attempt to examine this growing threat of transnational drug importation into the South Pacific Archipelagos with special focus on the jurisdiction of Fiji Islands. The approach of this paper is two folded. The first part, comparatively discusses the characteristic of the criminal activities relating to the importation of drugs in recent years into Fiji. The methods used in transportation, the background of people involved in such activities and the destination from where they originate are discussed in detail. The second part focuses on the existing legal frame work and approaches of the judiciary in dealing with such crimes. The judicial approach in defining the crimes related to drugs importation and sentencing principles in Fiji will comparatively discuss with the other main common law jurisdictions. It will further discuss to identify the effectiveness of the existing legal frame work and the areas for the development in order to combat this threat.

Maria Salvatrice Randazzo, PhD candidate, CDU

"*Sooner or later, everything old is new again*."
Transnational Law: An Account on its Historical Origins and Theoretical Foundations.

Bio: Maria graduated with a degree in Law and Jurisprudence in 1989 from the University of Messina, Italy. In 1991 she was admitted to the Italian bar and from then to 1997, she ran her own legal litigation and commercial practice. Maria also completed in 1996 her postgraduate studies at the Judiciary School 'Rocco Galli' in Rome for admission to the Italian judiciary; however, she did not proceed with this after she married Carlo Randazzo in May 1997 and moved to Darwin, Australia..
In 2000 Maria graduated with a bachelor degree of law at Charles Darwin University, in 2009 she completed her Master in Public and International Laws at Melbourne Law School and in 2011 she completed the Graduate Diploma of Legal Practice at Sydney College of Law.
In December 2011 Maria was admitted to the bar in the NT Supreme Court.
In 2014 Maria completed 4 subjects units toward the completion of the Graduate Diploma of Indigenous Policy and Development at CDU, Australian Centre for Indigenous Knowledge and Education, School of Indigenous Knowledge and Public Policy.
From 1997 until now, Maria has provided assistance, including legal advice, to the Italian Vice- Consulate in Darwin as well as undertaken independent researches on constitutional comparative law, the history of human rights and their protection in national, international and supranational legal orders.

Abstract: Legal inquiries into the nature of transnational law are fraught with theoretical and practical challenges to concepts of law that have prevailed for the last two centuries, while reflections have emerged on transnational law legitimacy and scope.
However, an investigation into the nature, legitimacy and scope of transnational law is unavoidably exposed to questions on its origin and theoretical foundations.
This paper review the genesis of the concept of transnational law - well beyond Philip Jessup's introduction of the term in the nineteen-fifties - starting from the twelfth century emergence of the common laws and *ius commune* and tracing it to the present day.
Rather than being a descriptive exercise in legal history and legal theory, the paper contends that reverting to an historical conception of transnational law might provide some understanding as to its nature and the contemporary manner of its *modus operandi.*

Rebekah Rosser, Law student, CDU

The Application of, and Adherence to, Good Corporate Governance (GCG) Principles in the Banking Sector; a Comparative Study of the Indonesian and Australian Banking Regulatory Systems.

Bio: Rebekah Rosser worked in the professional services sectors prior to fulfilling a number of advisory roles with state and federal governments, including as an election campaign strategist and as Chief of Staff. She is now the General Manager Corporate Affairs at the South Australian Cricket Association where she retains responsibility for the Association's crisis planning, risk management, strategic planning as well as legal and governance functions. She designed and implemented the campaign that achieved the approval of the $535 million redevelopment of Adelaide Oval and recently negotiated Adelaide Oval's World Cup contracts. Rebekah has an Honours Degree in Politics and Economics from the University of Adelaide and a Post Graduate Degree in Public Relations from the University of South Australia. She is currently completing a Graduate Degree in Law at Charles Darwin University.

Abstract: A stable banking sector is an essential component of any robust financial system. Economic crises matter; economic growth is stifled, lives are ruined, and individual wealth is destroyed.

As capital intermediaries, banks facilitate the transfer of funds from savers to borrowers (businesses as well as householders' purchasing major assets). In turn, these activities underpin economic activity, and stability.

The principles of Good Corporate Governance (GCG) play an important foundational role in establishing this stability.

The purpose of this study is to ascertain if there are components of the Australian banking sector's corporate governance framework that can be readily adapted to the Indonesian setting, to assist Indonesia with its continued implementation and to accelerate the demonstrable acceptance of GCG principles within its banking system.

A normative approach to research has been employed to construct a high-level comparative summary of the GCG frameworks within each jurisdiction. A qualitative approach was used utilised to analyse the materials.

Analysis reveals that while key GCG regulations are found in commonality, the economic and legal history of each jurisdiction has shaped their respective embedding mechanisms or 'soft law'.

It concludes that the Indonesian system could benefit from adapting elements of Australian's GCG 'soft law' to build a hybrid model where its regulatory frameworks are brought to life by tested embedding techniques.

Narelle Sherwill, Law student, CDU

Human Trafficking in Corporate Supply Chains: Compelling Disclosure of Actions Taken to Eradicate Modern Slavery in the Supply.

Bio: Narelle Sherwill is a mature age student completing the Bachelor of Laws with CDU via external education. Narelle commenced her studies with CDU in 2012 and is currently in her final year of study. During this time, Narelle has achieved excellent academic results including the CDU Law School prize for Social Justice. Additionally, she has completed practical placement at the Hume Riverina Community Legal Service and internship with Reprieve Australia. Narelle has contributed to research conducted by Felicity Gerry QC into Cambodian Cyber Crime law and submitted with Ms Gerry to parliament on matters of human trafficking and the death penalty. In December 2015 Narelle was awarded a New Colombo Plan Scholarship to attend Gadjah Mada University in Yogyakarta, Indonesia where she studied International Business Law. It was during this time that Narelle's interest in corporate responsibility for eradication of human trafficking and slavery came to the fore. Narelle's studies have been completed contemporaneously with full time employment in the Commonwealth Department of Human Services and parenting responsibilities for her sons Jack (17) and Harry (13). Narelle hopes to practice locally in her home town of Albury Wodonga while continuing to research and contribute academically in the field of Human Trafficking.

Abstract: Globalisation has created a complex network of markets in which multi-national corporations are able to position parts of their supply chain in poorly regulated developing nations while yielding high profits in more restrictive legal regimes at home. International and domestic legal frameworks do not adequately capture the activities of businesses outside their domicile country, and this becomes more apparent when visibility of those activities is lost along complex supply chains. Despite some progressive companies committing to voluntary change through 'soft law' policies and pacts; human trafficking, forced labour and slavery (collectively referred to here as instances of modern slavery) continues to plague supply chains. This research paper argues that consistent with similar jurisdictions, it is necessary for Australia to implement legislation that compels corporations to disclose the actions they are taking to eradicate modern slavery from their supply chains. Legislation of this kind imposes responsibility for the presence of modern slavery in supply chains on the corporations themselves and provides transparency for consumers, investors and government alike. Examination of the existing legal framework governing modern slavery is conducted, along with a comparative analysis of jurisdictions which have passed various models of transparency legislation. Ultimately a conclusion is reached that Australia is well positioned to introduce supply chain transparency legislation in a format that would incorporate lessons from around the world, to become a global leader in this field.

Dr Charanjit Singh (Barrister - PhD). Senior Research Academic at the University of Westminster and Editor-in-Chief for the Journal: Issues in Legal Scholarship.

Evidential Challenges Posed by a Panoply of Biometrics: Is a Biometric Voice Identification made any more Reliable by Cell Site Analysis?

Bio: Dr. Charanjit Singh is a Barrister and Senior Researcher at the University of Westminster in the United Kingdom. He has over 14 years experience in Higher Education, the last eight of which was at a senior management level charged with leading research and the subject of law. He completed his PhD at the University of Southampton and is a Senior Fellow of the Higher Education Academy.

Dr Singh is an Evidence Law Scholar and has extensively published on the subject. His latest textbook Beginning Evidence was published in 2015. In addition to academia he is also qualified in Civil and Commercial Mediation. Dr Singh's research is focused on evidence law and his recent publications include primary research on biometric technology, biometric voice identification and discrimination in employment disputes. His current research focuses on the evidentiary reliability of the evidence used in criminal prosecutions in the UK.

He is Editor-in-Chief of two notable peer-reviewed and internationally published research journals: International Commentary on Evidence Law and Theory, and Issues in Legal Scholarship.

Abstract: Biometric voice identification evidence is being used in the United Kingdom for the prosecution of criminal offences whilst the discussion in relation to its reliability rages forth. Given the technological advances made in this field there is little doubt that this evidence is beginning to harness the scientific objectivity that should be demanded from voice identification and expert evidence where used in the prosecution of crime. Cell site analysis is another type of expert evidence that has long been used by prosecutors to help determine the proximity of an accused to the geographical location of a crime scene at a particular time on a specified date. It is often used to contradict and test alibi evidence that suggests the accused was elsewhere at the time and date the offence took place. Both these hazardous forms of expert evidence have issues that undermine the extent to which they can be relied upon to, amongst other things, determine the identity of the perpetrator and the level to which they were involved. This paper seeks to explore the challenges and risks associated with both these rather novel forms of evidence and whether they, when used in conjunction, can lend greater confidence to one another.

*Research in progress, presentation on preliminary findings.

Mr Andre Omer Siregar, Indonesian Consul for the Northern Territory

Bio: Consul Siregar joined the Ministry of Foreign Affairs in 1998 with the Diplomatic Batch of 24 / Caraka Muda 3. His father was also a diplomat, last serving as Ambassador to Sanaa, Yemen. His grand uncle is the late Vice President Adam Malik. Prior to working in the Foreign Ministry, he worked in Procter and Gamble as Assistant Brand Manager for Rejoice shampoo. Consul Siregar's first assignment was as Indonesian Official Observer during the Popular Consultations in East Timor in July 1999 as part of the Satgas P3TT. He was posted in the Indonesian Mission to the United Nations in New York City in 2004 to 2008 and was to be assigned to the Indonesian Mission to International Organizations in Geneva in 2011 but was instead seconded to the Presidential Palace under the Presidency of Prof. Dr Susilo Bambang Yudhoyono as full time Interpreter of the President.

In New York, he served as Chairman for the UN General Assembly negotiations for the agenda item of international migration and development and also agenda item on combatting corruption under UNCaC. He was also the Chief Negotiator of the Group of 77 and China on several issues in the UNGA and ECOSOC. Apart from multilateral issues, Consul Siregar was the diplomatic officer in charge for Indonesia Bahama relations from 2004-2008.

Consul Siregar had begun his career in the Directorate for International Organizations addressing issues relating to people smuggling and trafficking in persons through the Bali Process. Later on he served in the Directorate for Development and the Environment, being part of the G20 core team. He was recently Assistant Special Staff to the President for International Relations for President Susilo Bambang Yudhyono from 2011-2014 and editor for the Cabinet Secretariate website team addressing international activities of the President.

As interpreter, Consul Siregar served under President Megawati Soekarnoputri during the State Visit of Prime Minister John Howard in 2003. He was the interpreter of President Susilo Bambang Yudhoyono since November 2004 serving in major Summits such APEC, ASEAN, East Asian Summit, ASEM, OIC, G20, Group of Developing-8, the United Nations General Assembly and the UN High-level Panel for Post 2015 Development Agenda. He has also served as Presidential interpreter during bilateral meetings with numerous leaders and also during international seminars and conferences. Consul Siregar also attended the Annual Leaders Meeting between Indonesia and Australia in July 2-3, 2012 in Darwin, Northern Territory. He was recently serving as Presidential interpreter for President Joko Widodo during the G20 Summit in Brisbane. As a son of a diplomat, Consul Siregar followed his father in several posts, from London in 1976-1980, to Sydney in 1983-1988 to Wellington in 1990-1994. He conducted his primary and secondary studies in Vaucluse High School, Sydney, NSW; his tertiary education in Victoria University, Wellington New Zealand and Monash University Melbourne Australia. He is married to Eurika, daughter of Air Force Marshall and former military attache in Wellington New Zealand where they met in 1990. They have three children, Kannya, Erkan and Mayra.

Dr Linda Sulistiawati, Vice Dean Academic Affairs, Universitas Gadjah Mada

Crossroads between Adat and National Law: Land Conflict Resolution in Manggarai Regency of East Nusa Tenggara Province, Indonesia[2]

Bio: Linda Yanti Sulistiawati, SH, MSc, PhD is a lecturer of Law in Universitas Gadjah Mada (UGM) from 2004, she is also the Vice Dean for Academic and Students Affairs in the Faculty of Law UGM. Linda has received several awards, such as Awards recipient of AfS student exchange program (1992-1993), StuNED Scholarship Award 2001-2003 and Fulbright Presidential PhD Award 2010-2013. She is currently focusing on classic and contemporary international environmental issues, such as Climate Change, REDD+, land issues and costumary/adat issues.

Her newest book is published in 2014, with the title of 'REDD+ Issues Influence in Indonesia Regulatory Process, Case Studies: REDD+ Task Force and UNREDD Indonesia'. Her current research is on Land Rights, Traditions and Welfare Creation, Study Case of East Indonesia (2013-2014), Identification and Mapping of Alternative Land Conflict Resolution and Capacity Development for Local Government and Adat Leaders in Manggarai Regency of East Nusa Tenggara Province (2015-2016). She is also very active in presenting her research and attending seminars and workshops all over the world. Linda is married with two children (9 and 7 yo), and likes to spend her time travelling with her family, practicing yoga and reading books.

Her works can be found in: http://ssrn.com/author=1901031, and http://repository.ugm.ac.id/cgi/search/archive/advanced?screen=Search&dataset=archive&order=&keyword=Linda+Yanti&_action_search=Search&rad=author&q=&creators_name=Linda+Yanti&title=&abstract=&creators_name_merger=ANY&title_merger=ANY&abstract_merger=ANY

Abstract: This paper explains possible steps toward conflict resolution for 3 land conflict case studies in Manggarai Regency, East Nusa Tenggara Province, Indonesia. Manggarai is a Regency, located in the province of East Nusa Tenggara, the island of Flores. As other areas in Flores, community life in Manggarai is based on "*Adat* law" or customary law. One element in the recognition of adat law society is the existence of indigenous territories.

[2] This paper is written based on a research project titling: "Identification and Mapping of Alternative Land Conflict Resolution and Capacity Development for Local Government, *Tua Golong* and *Tua Tenoh* in Manggarai Regency of East Nusa Tenggara Province", funded by Cared Program Universitas Gadjah Mada and the New Zealand Government, 2015. Research team: Nurhasan Ismail, Linda Yanti Sulistiawati, Hempri Suyatna, Rikardo Simarmata, Dian Agung Wicaksono, Mochamad Adib Zain, Ananda Prima Yurista, and Ibrahim Hanif

Customary rights are important for the people of Manggarai, especially for indigenous people to maintain its existence as well as to support its survival. On the other hand, land becomes an economic object as the area becomes more populated, ownership of land shifted from common to private property.

Based on the analysis of the 3 major groups of land conflict, there are several possible steps toward conflict resolution in Manggarai, they are: (1) Bring trust between parties. The lack of trust to one another, clearly hamper efforts of conflict resolution in the area. (2) Start talking to each other. Some parties in the conflict clearly needed acknowledgement of their identity, security, recognition or equal participation, rather than anything else. (3) Flexibility on the choices of law. Rather than focusing on the 'formal' law and adat law, parties need to think of common denominator or acceptable situation for all the parties. (4) Agreed perceptions on land tenure, its definition, transfer methods and its impacts and consequence. (5) Willingness of parties to move forward. This research suggests that when parties agreed to move forward and willing to discuss the future of the disputed land, then maybe there will be light in the end of the tunnel.

Associate Professor Laurence Tamatea, School of Education, CDU

Computer Hacking, the Matrix and Baudrillard

Bio: Professor Laurence Tamatea is Head of the School of Education at Charles Darwin University. He maintains a strong research interest in the application of the work of Baudrillard to understanding the digital paradigm, particularly with regard to the use of ICT in education.

He is currently exploring the relevance of Baudrillard's work to understanding computer hacking, which seems to suggest that if our response to computer hacking is grounded in the intensification of digital information flows, then it may be a response that is intensifying the very same logic which gives rise to computer hacking in the first place, leading towards – as Baudrillard argues – a system implosion.

Laurence maintains an interest in web development and associated scripting and programing languages, and is thus well placed to engage Baudrillard from a sociological and 'technical' perspective. He is currently developing: http://baudrillardsmatrix.info to support his work Baudrillard to understand computer hacking.

Beyond this, Laurence is also working to develop his CRADLE initiative (Creative Resources and Digital Learning Environments) as a cross-School and cross-Faculty teaching, learning and research concentration.

Abstract: We live in a time where computer hacking events are a daily occurrence; some being rather trivial, while others are much more significant in terms of their target and cost. In response, the mainstream media continually report on computer hacking, while governments and the cyber-security industry devote considerable resources to mitigating its impact. This paper asks, however, if such a response, particularly where it is grounded in information, might only be deepening the problem. To engage this possibility, this paper draws upon the work of Baudrillard to conceptualise the relationship between digital information flows and the mediated society. Baudrillard's work informed the script for the Matrix trilogy - a script wherein a group of computer hackers successfully challenge the power of a digital system of control.

Ros Vickers, Lecturer, CDU

Trans-boundary Environmental Impact Assessment: What is it and how is it relevant to Australia and the NT?

Bio: Ros is a specialist in environment and planning law and is a lecturer in the School of Law at Charles Darwin University (CDU). She actively research contemporary environmental issues such as environmental impact assessment, access to justice within planning systems, climate change and human rights, biodiversity and conservation laws and trans-boundary environmental impact assessment governance. She also teaches the specialist law elective Environment and Planning Law Unit and Property Law Unit, supervises honours law student research papers, and is an editor for two national environmental law journals.

Before entering academia Ros worked as Principal Lawyer and Acting Director of the Queensland Flood Commission of Inquiry, a senior lawyer in the Queensland Government advising on environment and planning legislation and as a legal practitioner in environment and planning litigation on behalf of private and public companies in both New South Wales and Queensland.

Abstract: Trans-boundary Environmental Impact Assessment (TEIA) requires a Nation to consult with its neighbours on likely significant environmental impacts resulting from a project. This presentation will discuss TEIA and Australia's current obligations using Northern Territory projects as examples. It will also look to other jurisdictions for best practice standards and discuss whether this is an area ripe for law reform in Australia.

For the abstract of Ros Vickers on *Using Innovative Technology in International Online Clinical Legal Education. The Experience of the School of Law at Charles Darwin University* please refer to page 23.

Jeswynn Yogaratnam, Lecturer, CDU

Operationalising the Human Security Concept in Law and Policies for Unauthorised Maritime Arrivals

Bio: Jeswynn Yogaratnam is a law academic at the CDU School of Law with expertise in binary spectrums of law - Human Rights Law and Corporations Law. He holds an LLB(Hons) from University of London and an LLM (Tax) from University of Queensland. He is currently a part-time PhD candidate at Australian National University researching law and policy pertaining to unauthorised maritime arrivals in Australia. In 2009 Jeswynn was involved in an AusAID project in Timor-Leste to socialize the gender violence law. In 2010, CCH-Australasian Law Teachers Association awarded Jeswynn the prize for Most Outstanding Early Career Academic Paper. In 2011 he received a Federal Government grant to contextualise human rights education in selected remote community schools in the NT where he worked an urban law elder (The Hon Michael Kirby) and Indigenous elders (Aunty MK turner and Aunty Rosalie Kunoth-Monks). Jeswynn has also been involved in community education on refugee and asylum seeker rights as a recipient of NT Law Society grants in 2012-2013. In 2014, Jeswynn received the NT Human Rights Award (Diversity category) for his service to vulnerable groups.

Abstract: The talk looks into the United Nation Development Programme's (UNDP) concept of human security as way forward when dealing with unlawful non-citizens who intend to seek asylum in Australia. The hypothesis being that, a human security framework ought to be utilised and operationalised when lawmaking and policymaking for unlawful non-citizens, in particular unauthorised maritime arrivals (UMAs) in order to be consistent with Australia's international refugee protection obligations. The rationale for this approach is that human security highlights the dynamic nature of vulnerabilities and the many forces touching people's lives. During the 2014 UN General Assembly Thematic Debate on Human Security, it was emphasised that human security is the appropriate framework in dealing with such vulnerabilities because it "creates a case-specific and comprehensive framework to analyse the intersection of forces and dimensions that threaten people's lives and their aspirations to be free from fear and free from want. Importantly, human security provides an ethical normative framework to, inter alia, expose the inadequacy and misguided nature of domestic policies. In addition, the human security framework interlinks security, human rights and human development and by putting all three into a single framework the security the needs from a people-centred perspective is more effectively achieved. The reason the concept of human security is examined in the context of UMAs in Australia is because there has been a proliferation of law and policy in Australia, especially between the years of 1992-2015 which have shifted the attention and balance of the human security of UMAs to border security of the sovereign State. It will be asserted that a human security framework offers a viable approach to reposition this imbalance and reorient law and policy because the concept properly conceived is not a zero-sum calculation.

Notes