ASPIRATIONS & INSPIRATIONS

Law Research Newsletter
August/September 2018

In this issue:
- Conferences/Seminars
- Engagement and Impact
- Centre for Professional Legal Education News
- Publications
  - Academic Spotlight: Professor William van Caenegem
- HDR News
- Faculty News
- Upcoming Events
Welcome

Aspirations & Inspirations is the monthly newsletter produced by the Bond University Faculty of Law which covers the wide spectrum of activities and scholarly achievements by Faculty staff and students including:

- The latest publications by academics;
- Examples of the many ways in which work by Faculty academics is having an impact upon the legal profession;
- Our legal system and the wider community;
- The latest achievements by Faculty Higher Degree Research (HDR) students;
- Faculty research centres or teams and our research networks;
- Upcoming research events and opportunities; and
- Vignettes of our most experienced and eminent scholars.

In the following pages you will read about the many books and journal articles produced by Bond University Law academics, the conferences, seminars and roundtables at which our colleagues have had a notable presence, the grants being applied for, and the many important journals being published by the Faculty. The Centre for Commercial Law, the Global & Comparative Law and Policy Network, and the Centre for Professional Legal Education are all actively engaged in a variety of scholarly activities and all are moving from strength to strength, thanks to the magnificent efforts of the various Faculty directors, coordinators, managers, administrators and members.

Of course, good teaching and good research are not mutually exclusive, and there are many synergies between those two important fields of activity. Good teaching is informed by good research: research into the area of knowledge being taught and research into teaching, learning and assessment practices. As with so many things, Bond Law performs at an unexpectedly impressive level when it comes to research and scholarship, and of that we should be proud.

Professor Nick James
Executive Dean
Faculty of Law
Conferences/Seminars

In July 2018, **Associate Professor Michelle Markham** participated in a conference held in Rust, Burgenland, Austria as National Reporter for Australia. The theme was ‘Tax Treaty Arbitration’, with the conference being organized by the Institute for Austrian and International Tax Law, Vienna University of Economics and Business. In a highly interactive environment, reporters from all over the world (35 countries) shared their experiences on how tax treaty dispute resolution mechanisms are implemented in their jurisdictions and what insights they could provide for other countries.

Michelle also gave a presentation at the Taipei International Conference on Arbitration and Mediation, which ran from 27 to 28 August. The talk was entitled 'Litigation, Arbitration and Mediation in International Tax: Whether This Results in Competitive or Collaborative/Comparative Relations'.

In August, **Assistant Professor Matthew Raj**’s submission made to the Senate Inquiry around revenge porn 2016 was referred to by the Member of Parliament Paul Fletcher in his second reading speech. The bill before Parliament is the Enhancing Online Safety Bill.

[Link: MP Second Reading Speech]

On 24 August, **Assistant Professor Annette Greenhow** gave a presentation at the Australian Insurance Lawyers Association QLD Intensive addressing ‘Insurance at First Sight’. The talk was entitled ‘Concussion in Sport – the lay of the land’.

On 30 August, **Professor William Van Caenegem** gave a presentation on the Australia-EU agricultural trade and the issues that surround it at the Australian National University Centre for European Studies. The presentation addressed the GI regulations in the context of the mooted EU-Australian FTA.
Engagement and Impact

Executive Dean, Professor Nick James, was invited as a special guest to write a blog on the LLM Study website discussing the ongoing internationalisation of legal education.

Link: The Ongoing Internationalisation of Legal Education

Assistant Professor Umair Ghori engaged in discussions with UBS Asset Management Australia Ltd in Sydney regarding the decision-making process of the Foreign Investment Review Board (FIRB), with an emphasis on possible national interest analysis that the FIRB may conduct in connection with large investment transactions such as the USD$13 billion bid by the Hong Kong-based CKI group for controlling shareholding of the gas pipeline giant APA Group and USD$14.4 billion bid for the Australian energy giant Santos by a US-based private equity firm Harbour Energy. The analyst representing UBS found Umair’s research publication ‘Defining Australian national interest in regulating foreign investments’ particularly relevant, and requested further discussion by phone. The discussions afforded Umair the opportunity to explain how national interest analysis for foreign investment regulation is based on several opaque and abstract factors that are considered on a case-by-case basis by the FIRB.

In Umair’s most recent engagement with UBS he raised the factors that may be of interest to foreign investors, as well as the FIRB, including the impact of the Australian Domestic Gas Security Mechanism (ADGSM) and export controls on large operators in the gas sector by the Australian Government for stabilising gas reserves and price level in the domestic market.

Commenting on the publication in a separate message, the analyst acting for UBS stated as follows:

I think it is an important topic for a capital importing country like ours and also very timely given the global search for yield amidst very low rates. I am predicting that the issues you discussed will arise in due course when Santos is inevitably discussed in the public arena. It will be interesting to see what institutional and non-institutional arguments will be.


Professor Dan Svantesson has been identified as the Field Leader for ‘Technology Law’ in a study published by League of Scholars together with The Australian. Dan appears to be the only academic from Bond included in the study.

The study is described thus:

In this year’s Research magazine, we highlight the excellence of Australian researchers, universities and other research institutions, and we are doing it in a way that until recently was not possible. We used the power of data analysis and applied it to the huge volume of information available online to create a view of Australia’s best researchers and research organisations – a methodology that offers more detail than is presented by traditional university rankings.

It’s a product of the journalistic skills of The Australian coupled with the data skills of talent discovery and research analytics firm League of Scholars, which has pioneered the use of big data techniques to produce research metrics.

The result is a list of leading researchers and research institutions across more than 250 fields of research. It’s not a high-level, remote picture; it’s a highly granular view that delves deep.

Link: List of Categories and Field Leaders

Link: to the study
Professor Dan Svantesson was invited by the Human Rights Commissioner in recognition of his expertise, to take part in the Australian Human Rights Commission’s ‘Human Rights and Technology Project’. The Project was launched in July 2018 with the release of an Issues Paper. The Issues Paper provides some background information and poses 10 questions regarding the human rights implications of new technologies. The Commission is consulting with civil society, industry and government to develop innovative ways to ensure technology protects human rights for all members of the community and encourage responsible innovation.

Link: Australian Human Rights Commission and World Economic Forum White Paper on Artificial Intelligence: Governance and Leadership

Assistant Professor Jodie O’Leary was cited in the Parliament of Victoria’s inquiry into Youth Justice Centres in Victoria. The citation was made based upon Jodie’s submission made in 2017.

Associate Professor Kate Galloway was cited in the Age in an article entitled ‘Dead man’s sperm off limits to partner wanting baby, court rules’. The judgment contradicted the ruling of lower courts. Kate argued that it would make it harder for women in NSW to obtain a sperm removal order.

Link: the Age Article
Centre for Professional Legal Education (CPLE)

The Centre recently said farewell to its Business Manager, Hayley Vinnicombe and has now appointed a part-time administrator, Alexandra Rose. The Centre continues to progress its major projects:

- A national collaborative project on the impact of emergent technologies upon the teaching of core law subjects;
- The design and development of the ‘new’ law degree, the BLX;
- Collaboration with Voiceless to develop a suite of online animal law education resources; and
- Creating a virtual library of legal education resources inherited from the CLE.

Since the last newsletter, CPLE members have published 9 journal articles and 8 book chapters as well as representing the CPLE at several major legal education and legal professional events.

Twilight Seminar

On 24 September, a Twilight Seminar was held on the theme of ‘Uberising Law: The Transformation of Law and Legal Practice’. The panel comprised of distinguished technologists, practitioners and scholars who examined the contemporary transformation of the legal services sector from a variety of diverse perspectives. Three areas in particular were explored:

- Neil Sohata (IBM Master Inventor) – ‘Uber Yourself Before You Get Kodaked: How AI is transforming legal services’
- Warwick Walsh, Sacha Kirk, Zachary Kominar and Siska Lund (Lawcadia) – ‘From Whiteboards and Post-it Notes to Successful Legal Tech Company: A startup’s journey’
- Margaret Thornton (Professor of Law, ANU) – ‘The Uberisation of Legal Practice’

Link: Recording of Twilight Seminar
Centre for Professional Legal Education (CPLE) Cont.

Twilight Seminar Attendees (L-R): Associate Professor Kate Galloway, Executive Dean, Professor Nick James and Professor Rachel Field

Twilight Seminar Presenter Neil Sahota (IBM, Master Inventor)
Publications

Books

Congratulations to Emeritus Professor Mary Hiscock, Professor Denis Ong and Associate Professor Franci Cantatore for the recent publication of their books:


Ong, Denis, *Trust Law in Australia* (Federation Press 2018).


Markham, Michelle, 'Litigation, Arbitration and Mediation in International Tax Disputes: An Assessment of whether This Results in Competitive or Collaborative Relations' (2018) Contemporary Journal 11(2), 277-304.


Academic Spotlight

Professor William van Caenegem

- **What are your research areas of interest?**

  Intellectual property law of all kinds, for the moment in particular Geographical Indications of Origin (a big issue in the FTA negotiations between EU and Australia) and IP and Fashion, an emerging topic in IP scholarship and research. Also competition law, in particular in the agricultural sphere, comparative law and regulatory theory.

- **What research projects are you currently working on?**

  Comparative studies of IP and Fashion in common law and civil law jurisdictions (France and Italy in particular); GIs, diversification and competition in agriculture; updates of my textbook on IP (LexisNexis) and monograph on comparative trade secrets law (Kluwer Law International).

- **Recently completed papers and publications?**

  A number of papers on French vs Australian approaches to copyright, designs, trademarks and unfair competition in the fashion sphere; a paper on copyright and art; latest edition of Stewart, van Caenegem, Bannister, Liberman and Lawson on IP in Australia (also LexisNexis); a chapter on competition and trademarks law for an edited Cambridge UP volume; a chapter on employee mobility and trade secrets for an EE edited book.

- **What is your dream project/area of research to work on?**

  More empirical research on GIs, with a comparative aspect and situating it in a competition law context, and more international collaboration on IP and Fashion issues as a stalking horse for some big issues in IP.

- **Best research advice you can share or were given?**

  Focus on interesting ideas.

- **Favourite way to relax? A random fact you’d like to share? Moments of epiphany and why? Who inspires you?**

  A super game of tennis, no matter what the result.
HDR News

**PhD Candidate David Millhouse** attended the Automation 2018 Conference in Sydney running on 3 - 5 September 2018. The conference focussed on harnessing the power of Robotic Process Automation, Artificial Intelligence and Machine Learning. He spoke on the regulatory and legal issues arising from the application of cognitive artificial intelligence in financial services and financial products. A particular interest is the application of artificial intelligence in legal analysis. AI is generating a myriad of legal, regulatory and ethical issues, the law lagging technical development.

**Christopher Wilson**, PhD student, was confirmed at his Confirmation of Candidature on 25 September. His thesis is entitled ‘Related party transactions and conflicts of interest – how governance, risk management and compliance failed in complex financial institutions and conglomerates. Lessons learned from the Global Financial Crisis’.

**PhD Candidate Florentina Benga** took part in the Three Minute Thesis competition. The competition cultivates students’ academic, presentation, and research communication skills. Presentation in a 3MT competition increases the candidates’ capacity to effectively explain their research in three minutes in a language appropriate to a non-specialist audience.

PhD Candidate Florentina Benga presenting at the Three Minute Thesis
Faculty News

Associate Professor Danielle Ireland-Piper was awarded the 2018 Faculty of Law Emerging Research Excellence Award.

Professor Rachael Field was awarded the 2018 Faculty of Law Research Excellence Award.

Workshop for Academics & HDR Students

A workshop on ‘Preparation for an Academic Career: Publication Issues’ was held by the Faculty on 9 August for academics and HDR students. The panel discussion was chaired by Professor Vai lo Lo and included Emeritus Professor Mary Hiscock, Associate Professor Kate Galloway and Professor Dan Svantesson. Antoinette Cass (Library services) gave an overview of open access and predatory publishing.
Faculty News Cont.

The following materials were recommended to participants:

  
  [Link: Dan Svantesson Article]

- The Copyright for Researchers Toolkit is available for download and use in word format from the Research tab in the Copyright for Staff Guide:
  
  [Link: Copyright Guide]

- The Evaluating Open Access Journals Checklist is available in the Open Access and Scholarly Publishing Guide:
  
  [Link: Checklist]

- The Think. Check. Submit website:
  
  [Link: Website]

- The Think. Check. Attend website:
  
  [Link: Website]

The workshop was recorded and is available for academics and students

[Link: Workshop Recording]

**Brown Bag Seminar – 18 September**

PhD Candidate Alice Taylor (ANU) gave a Brown Bag Seminar on the theme of ‘The contested nature of non-discrimination rights in Australia, Canada and the United Kingdom’.

Alice discussed how determination of the purpose of prohibitions on discriminatory conduct in the absence of guiding legislation has been left to the judiciary. Court determinations have varied significantly with some giving discrimination law a broad and substantive interpretation, while others have determined that discrimination law requires only a formal notion of equal justice. Alice explored this divergence and the implications to appropriately define equality and discrimination in law. She discussed the different approaches taken by the Australian, Canadian and British courts in understanding discrimination law’s purpose and in doing so, exposed a significant problem; the lack of agreement as to discrimination law’s purpose and its ultimate aims.
Brown Bag Seminar – 27 September

Bond Alumni & CSJ Legal – Principal and Co-founder, Xiao (Chris) Chen gave a Brown Bag Seminar on the theme of ‘How to identify the nature of tokens and how a token is classified as a security token’.

Initial Coin Offering (ICO) has become a mainstream mechanism for raising funds. In return, ICO companies offer token subscriptions to investors such as utility tokens, payment tokens, or security tokens. Chris discussed whether these tokens are what ICO companies claim them to be; some so-called utility tokens may appear more like security tokens, so how can we identify and define them? Chris explored how government regulatory bodies will be required to regulate digital currency exchanges and ICO activities involving security, utility and payment tokens given their increased use.
Upcoming Events

Twilight Seminar – ‘Health, happiness and law: Proactive, individual responsibility’.

Register [here](#)

Abstract

The modern legal marketplace is a rapidly evolving beast, and together with already-existing social, emotional and environmental pressures faced by legal professionals, effective management of one’s health and wellbeing is of fundamental importance. Jerome Doraisamy will discuss how the lawyers of tomorrow can best ensure optimal levels of wellness. Delving into personal experience and practical solutions and strategies, this session will highlight the necessity of proactive, individual responsibility in order to be the best version of one’s self in the legal profession.

About the Speaker

Jerome Doraisamy is a lawyer and writer from Sydney, NSW. He left legal practice in 2015 to publish his first book, *The Wellness Doctrines for Law Students and Young Lawyers*, which peaked at #2 on iTunes and has been sold, in both paperback and eBook form, on all six continents. He currently works as a journalist for Lawyers Weekly, and is an adjunct law lecturer at the University of Western Australia.

Key Details

When: 5.30pm - 7.00pm, 21 March

Where: Case Study 2, Faculty of Law (4_3_41)

Twilight Seminar – ‘Accountability in Administration and Human Rights’

Register: [here](#)

Abstract

Ontario Ombudsman Paul Dubé will discuss his evolving role in enhancing governance through the promotion of access to justice, accountability, and fairness. He will explain an Ombudsman’s work in the context of administrative law, using examples from the more than 21,000 cases his office deals with every year. The Ontario Ombudsman’s Office is world-renowned for its work, particularly in conducting systemic investigations, which have resulted in sweeping reforms for services for adults with developmental disabilities in crisis and newborn screening, among others. Mr. Dubé will explain how his office also promotes respect for human rights in the assessment of issues like solitary confinement practices and, as of May 1, 2019, the rights of children and youth.

About the Speaker

Mr. Paul Dubé became Ontario’s seventh Ombudsman in 2016. Since then, he has released reports on major systemic investigations with more than 200 recommendations - all of which have been accepted by government.

Mr. Dubé received his Bachelor of Laws at the University of Edinburgh in Scotland and his Juris Doctor degree in law at the University of Windsor. He specialized in criminal litigation, demonstrating an unwavering commitment to the protection of rights conferred by the Canadian Charter of Rights and Freedoms. As a result of work with Legal Aid New Brunswick, Mr. Dubé was a co-recipient of the Canadian Bar Association Pro Bono Award in 2003. In November 2016, Mr. Dubé was named the International Ombudsman Institute’s Regional President for North America.

Key Details

When: 12:00pm – 1.00pm (lunch is provided), 22 March

Where: Case Study 2, Faculty of Law (4_3_41)