

## Law Matters

November 2004 News from the Monash Law School community



From left, Monash University Deputy Vice-Chancellor Professor Stephen Parker, Monash Vice-Chancellor Professor Richard Larkins, Chief Justice of the Victorian Supreme Court Her Honour Marilyn Warren, Monash Dean of Law Professor Arie Freiberg, Campbell McComas AM and Jon Faine at the Monash Law 40th Anniversary Dinner.

## X marks the spot for 40th dinner celebrations

Over 450 past and present students and staff gathered to celebrate the 40th anniversary of the Monash Law School at a gala dinner held on 19 August.

Guests were taken on a journey of the Law School's history with a multi-media presentation that captured the people, achievements and milestones which have shaped Monash Law.

Speeches by Monash Dean of Law Professor Arie Freiberg, ABC Radio presenter Jon Faine

and renowned comic speechmaker Campbell McComas highlighted the past four decades of the faculty and allowed alumni to reminisce about student days back at 'the farm'.

Professor Freiberg said that it was splendid to see so many alumni present to celebrate the Law School, which over a period of 40 years had produced so many outstanding graduates.

"The impact Monash Law has made is highlighted by the achievements of our alumni, many of whom are succeeding inside and outside of the legal profession, including those who currently hold some of the highest positions in the Victorian Judicial System.

"Around the world, our graduates also occupy many significant positions in a diverse range of industries and professions.

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### Diary dates

#### NOVEMBER

##### Tuesday, 9 November 2004

2005 Masters Program Launch and Information Expo  
Monash University Law Chambers  
Ph: +61 3 9641 6206

##### Wednesday, 10 November 2004

Monash Law 25 Year Alumni Reunion  
Monash University Law Chambers  
Ph: +61 3 9641 6203

##### Tuesday, 17 November 2004

Monash Law School  
Inaugural Lecture of the Dean  
Professor Arie Freiberg  
Monash University Law Chambers  
Ph: +61 3 9905 2630

#### DECEMBER

##### Friday, 3 December 2004

Castan Centre for Human Rights Law Conference  
*Human Rights 2004: The Year in Review*  
CUB Malthouse, Southbank  
Ph: +61 3 9905 3327



### Dean's message

In August, 450 alumni and staff celebrated the faculty's 40th anniversary near the banks of the Yarra.

Demand for tables exceeded supply and unfortunately there were many alumni who missed out on an exuberant evening of reminiscence and entertainment. It was a particular pleasure for me to catch up with students who passed through my hands in the 1970s and 1980s and to see how their careers have progressed.

From the feedback I received on the evening and elsewhere, it is clear that the faculty has a very highly regarded undergraduate program and that our students are well-accepted by the legal profession and beyond. It is also clear that many have ventured far beyond the law and have enjoyed success in a wide variety of fields.

The faculty's reputation is international as well as local. On a recent trip to Singapore, the Deputy Dean Professor HP Lee and I found high recognition of our degree and a number of alumni keen to support the faculty through internships and other mechanisms. Law is now a global enterprise and for many students international exchanges, study abroad programs and internships are an important component of their studies.

Of particular importance is the Monash Law in Europe Program, where students can study part of their Monash degree in Prato, Italy. This year over 70 students attended and interest from both students and staff is increasing every year. In 2005, students and staff from Osgoode Hall Law School in Toronto will be participating, providing another dimension to the internationalisation of the curriculum.

Whether at alumni dinners, special lectures or events, in Melbourne or overseas, I look forward to meeting many more of our graduates in the new year.

**Professor Arie Freiberg**  
Dean, Monash Law School

## East Timor: a UN success story in nation building?

East Timor's most outspoken champion, Dr Jose Ramos Horta, has told a Melbourne audience his country was "sacrificed on the altar of outside interests and prejudices" for decades.

The Minister for Foreign Affairs and Cooperation for the Democratic Republic of East Timor said hundreds of thousands of East Timorese died between 1975 (when Indonesia occupied the former Portugese colony) and May 2002 (when East Timor was formally declared a nation after the 1999 referendum voted overwhelmingly for independence).

Dr Horta said that during those years, the US was pre-occupied with preventing the further advance of communism in South East Asia and Australia was pre-occupied with not antagonising Indonesia.

He made his comments as he delivered Monash Law School's 2004 Castan Centre for Human Rights Law lecture in Queens Hall, Parliament House, on 13 August.

Dr Horta's work was recognised when he was named the Nobel Peace Prize co-laureate in 1996.



Dr Jose Ramos Horta with Castan Centre Acting Director, Dr Sarah Joseph of the Faculty of Law.

## X marks the spot for 40th Dinner celebrations

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"Tonight, as we reflect on the last 40 years and look forward to the future, we congratulate and thank all of our past and present students, staff, supporters and friends for contributing to the continued success and reputation of the Monash Law School," he said.

The event at Atlantic South Wharf in Southbank culminated in a light-hearted musical tribute to Monash Law, sung by faculty members Professor Graeme Hodge, Professor Jeff Goldsworthy, Dr Greg Taylor, Elspeth McNeil and Professor Jeffrey Waincymer.

## A message from the editor

*Law Matters*, the official alumni publication of Monash Law School, has been in circulation for one year.

Over the past 12 months we have celebrated the School's 40th anniversary, kept you abreast of news from the faculty, highlighted the achievements of fellow graduates and provided information on professional development courses and seminars.

This newsletter is intended as a useful resource for all our alumni and we encourage reader feedback. Should you have any comments or suggestions for improving or developing this publication, please let us know (contact details provided below).

Editor  
*Law Matters*

## Something to say?

Want to include something in the next edition of *Law Matters*?

If you have an interesting story or something you wish to say, please contact Jodi Rockman on + 61 3 9905 2630 or email [jodi.rockman@law.monash.edu.au](mailto:jodi.rockman@law.monash.edu.au)

Every effort will be made to include contributions however space is limited. Please understand that items may be edited or not included.

# US Judge visits Melbourne to discuss law and enemy combatants

Senior US Judge Diarmuid O'Scannlain spoke about America's legal position on detainees in a lecture at the Melbourne County Court on Monday, 30 August.

Judge O'Scannlain, of the 9th Circuit Court of Appeals, delivered the lecture, which was co-hosted by Monash Law School and the Australian Institute of Judicial Administration.

As a long-time observer of the US Supreme Court and judiciary, he discussed the recent US Supreme Court ruling on detainees and the military commissions established by the US Government to try people described as 'unlawful enemy combatants'.

In his extensive career, Judge O'Scannlain has participated in over 4000 federal cases and written hundreds of published opinions on a range of legal subjects including constitutional, securities, administrative and criminal law.

Prior to his appointment to the 9th Circuit Court of Appeals, Judge O'Scannlain was the Deputy Attorney-General of Oregon, Public Utility Commissioner of Oregon and Director of the Oregon Department of Environmental Quality.



From left, Monash Dean of Law Professor Arie Freiberg with Judge Diarmuid O'Scannlain and Australian Institute of Judicial Administration Executive Director Professor Greg Reinhardt at the County Court.

## Research to improve social justice through native title process

As part of a research-intensive university, Monash Law School links with industry and government to create knowledge that influences policy, practices and legal process in both Australia and overseas.

In keeping with this ethos, Monash Law School's Senior Lecturer Melissa Castan and Honorary Research Fellow Richard Potok are investigating native title law and practice in collaboration with a number of industry and government partners.

The Commonwealth Government, through the Aboriginal and Torres Strait Islander Services (ATSIS) and the National Native Title Tribunal (NNTT), is supporting the study together with a number of industry partners and philanthropic foundations under the auspices of Monash Law School's Castan Centre for Human Rights Law, with assistance from the University of New South Wales and the Australian National University.

The study is evaluating the training and professional development needs of lawyers working in Native Title Representative Bodies, the principal providers of legal and administrative services to native title claimants.

Interviews with lawyers from across Australia have confirmed that there are difficulties in recruiting and retaining native title lawyers. This research also indicates that native title lawyers must deal with the competing demands associated with new cultural and legal systems as well as operating in remote and isolated locations.

Ms Castan said that the project provides a fascinating perspective on a relatively new area of law.

"More than a decade after the High Court's landmark Mabo decision, which marked a crucial step in redressing the inequities in Australia in relation to Aboriginal and Torres Strait Islander communities, native title law continues to be a stimulating and very complex area of practice. Many young lawyers are keen to explore the personal and professional opportunities available in this area.

"Australian Representative Bodies are faced with financial constraints and limited training in the area.

"This research will be used to develop constructive strategies for facilitating native title work with the hope of increasing opportunities for Aboriginal and Torres Strait Islander communities," Ms Castan said.

Commonwealth funding for this project from ATSIS and the Tribunal combined is \$150,000.

*To become involved in the Native Title Representative Bodies Lawyers Professional Development Research Project contact Melissa Castan on (03) 9905 3327 or email [melissa.castan@law.monash.edu.au](mailto:melissa.castan@law.monash.edu.au)*





# Monash Law School 40th Anniversary Dinner

19 August 2004

The Monash Law School X Factor is that indefinable combination of individual experiences, challenges and friendships, nurtured in an environment of innovation and diversity. Thank you for joining us to celebrate 40 years of excellence at our 40th Anniversary Dinner.

These images form part of a larger collection of photos from the 40th Anniversary Dinner that are available to purchase. To view these photos or to make an order visit [www.law.monash.edu.au/alumni/events/](http://www.law.monash.edu.au/alumni/events/)







## No generation gap as Monash Law turns 40

Three generations of Monash Law students joined in the celebrations to commemorate the 40th anniversary of the Monash Law School.

A mother, son and grandson were among the 450 guests who enjoyed the gala dinner that marked four decades of Monash Law.

Pat Melville joined Monash Law as a mature student in 1970; her son, Andrew Melville, joined in 1973; and his son, Hugh Melville, is currently in his final year of Law at Monash.

Andrew lives and practises in Rutherglen in northern Victoria, and Pat practises in Melbourne.

A fourth Melville also has connections with Monash Law – Tony Melville, Pat's second son, who graduated from Monash with an Arts/Law degree in 1979. He is currently a partner with Aitken Walker & Strachan.

Mr Patrick Melville, Pat's husband, is no stranger to the law either. Patrick, who gave up his practising certificate one year ago, obtained his Master of Laws from Melbourne University in 1950.

Hugh will soon be the family's fifth generation lawyer. Both his grandfather Harry Melville, and his great grandfather WH Melville, were practising lawyers.

Pat said that a long line of lawyers existed in the family and that their philosophy had been 'if you can't beat them join them'.

"There are currently four lawyers in the Melville family and one in training. Having this many legal minds in the family is helpful when we have a work-related problem to solve or when we need advice – we regularly bounce ideas off each other. Law is very much a topic of conversation, much to the dismay of our youngest son Timothy who is not a lawyer," she said.

Pat started the Melville Monash tradition in the early 1970s because the Clayton campus was close to her family home in Mount Waverley and because the new law school had an innovative attitude and a new building.

"Monash University appealed to me spiritually and geographically," she said.

Pat and Patrick Melville tried not to influence the career and university choices of their children but even so, two out of three sons ended up studying law at Monash.

"They were obviously biased by my fond memories of Monash Law and the fact that I hold the University in such high regard.

"My time at Monash University was both stimulating and enjoyable. The dinner was a great opportunity to reminisce about these student days and to catch up with old friends and law lecturers, who shaped me both as a person and a practitioner." Pat said.



Family ties. From left, Andrew Melville, Pat Melville and Hugh Melville at the dinner.

# International Careers Dinner

Local and international law firms and not-for-profit representatives joined with law students from across the state at the 2004 International Legal Careers Dinner.

Hosted by the Monash International Law Students' Association (ILSA), along with primary sponsor law firm Mallesons Stephen Jaques, the dinner, held in September, provided a valuable opportunity for law students and companies to interact.

'Full disclosure' was the evening's theme, with representatives encouraged to 'bare all' to the students so that they could discover what it's really like to work in the legal profession.

ILSA President Wendy Lee said she was proud to host an event which enabled students from Monash, Melbourne, Deakin, La Trobe and Victoria University Law Schools to liaise with representatives from the legal profession on an individual basis and in a relaxed atmosphere.

"The dinner was a great opportunity for firms to promote their organisation and raise awareness of employment opportunities, and also encouraged these organisations to take an interest in employing students with international backgrounds," she said.

Louis Chiam from Mallesons Stephen Jaques delivered the keynote address to over 200 guests – he spoke about myth and reality in life as a corporate lawyer.

"Mr Chiam's presentation provided an insight into life as a corporate lawyer and dispelled many myths that we, as students, have long held. The night provides a valuable networking opportunity for students and representatives alike," said Ms Lee.

The event at Rivers Reception Centre, Southbank concluded with a question and

answer panel where students posed questions to a six member panel consisting of Michael Bearman from the Victorian Bar; Caroline Coops from Mallesons Stephen Jaques; Charles Berger from the Australian Conservation Foundation; Lily Ong from Lily Ong and Associates; Tony Parsons from Victoria Legal Aid and Spencer Chipperfield from Freehills.

Below: Monash Law students Qin Si Da (left) and Yan Xu (right) with Louis Chiam from Mallesons Stephen Jaques.



## In brief

### Farewell to longstanding staff member

In 2004 Monash Law School says farewell to well-known and well-loved staff member Barbara Jones. Barbara has provided essential support to three decades of students. Many staff and students both past and present owe thanks to Barbara for her tireless efforts in managing the procedures and processes associated with exams, enrolments and grading. Barbara will be greatly missed by the faculty.

### Oaktree Foundation Corporate Study Tour

Monash Arts/Law graduate Leanne O'Donnell of Middletons Lawyers was one of nine corporate representatives to participate in a two week Corporate Study Tour of South Africa in July. The tour was led by Monash Law student Hugh Evans, founder of Oaktree and current Young Australian of the Year. The visit included Oaktree's pilot project – the development of a community resource centre in KwaZulu-Natal. The Oaktree Foundation is Australia's first youth-driven aid organisation and seeks to empower developing communities through education.

### Sixth Fiat Justitia Lecture

The Victorian Police Chief Commissioner Christine Nixon gave a presentation at the Sixth Fiat Justitia Lecture dinner. Chief Commissioner Nixon discussed issues relating to the changing face of law enforcement and explored how extra legislative powers granted to police are working to combat crimes such as cyber crime, drug and firearms trafficking. She spoke about the role of police in law reform and the value of government partnerships. The Hon. Michael Black AC, Chief Justice of the Federal Court of Australia, patron of the Fiat Justitia Lecture series, was in attendance.

### Chief Justice delivers Lucinda Lecture

The Chief Justice of the Supreme Court of Victoria, Her Honour Marilyn Warren, delivered the 12th annual Lucinda Lecture. The Lucinda Lecture series is hosted by Monash Law and the patron is former Governor General, The Right Honourable Sir Zelman Cowen, PC AK GCMG GCOV KStJ QC. The lectures canvass some of the most fundamental issues in Australian Constitutional Law.

In this year's lecture, 'What Separation of Powers?' the Chief Justice, who is also a Monash Law graduate, described the doctrine of the separation of powers as a touchstone of the separation of powers as a touchstone in any British-based constitutional system.

"The executive of the day of any modern government under any such system must acknowledge the role of the courts in their system both in principle and in practice," she said.

"Similarly, history informs us that as long as the system exists, the judiciary will not go away and, when necessary, it will not be silent."

### Mentor Scheme gathering

Students involved in the Monash Law Mentor Scheme were given the opportunity to 'pick the brains' of their mentors at a function held recently at the Monash University Law Chambers. The Scheme, which was relaunched at the beginning of 2004, acquaints current students with alumni. Mentors provide guidance, support and encouragement to students as well as advice on the best way to develop their law degree to complement their preferred career path. To become a mentor, contact Sam Hawkins on (03) 9905 2326 or email [sam.hawkins@law.monash.edu.au](mailto:sam.hawkins@law.monash.edu.au)



# Student fights to combine law and Olympics

Most would agree that studying law requires 100 percent commitment and dedication.

Added to this responsibility, third year Monash Law student Daniel Trenton had the equally demanding task of representing Australia in the taekwondo welterweight division at the Athens Olympics this year.

Daniel has juggled training an average of seven hours a day for six days a week with studying law, coaching the Monash University taekwondo squad, instructing at the Victorian Taekwondo Academy and participating in community volunteer work.

This hectic schedule comes after his decision to return to study as a mature-age student after his appearance at the 2000 Sydney Olympics, where he won silver as an over 80 kilogram heavyweight.

"After Sydney I contemplated moving on from the sport and channelling my energies into study.

"An interest in law was sparked through dealings with my corporate sponsors for the Sydney Games, law firm Ryan Carlisle and Thomas. This, added to my ambitious attitude developed through competing in elite level taekwondo and my tendency to aim high helped me decide to apply for Law at Monash," he said.

"Although I was thrilled to be studying law, it is human nature to do one better and that is why I wanted to compete in Athens. Both Monash and the Olympic Committee were fully supportive of my decision to combine study with training. Without this support I would not be where I am today," Daniel said.

Injuries caused by fighting players 20kg heavier than him saw Daniel drop four kilograms to the under 80kg division in Athens, where he beat Great Britain's Craig Brown in his opening bout. Daniel however was unable to fulfil his dream of winning gold and was defeated by Iranian Yossef Karami in the quarter-finals.

Daniel's Olympic preparation was clouded by injury which included an ankle and three shoulder reconstructions, injuries that may force Daniel into retirement.

When asked about the future, Daniel says taekwondo, the sport which has consumed his life since the age of 11, will be put on hold for the next couple of years to concentrate on his law career.

"Beijing has certainly crossed my mind but at the age of 27, law is becoming more of a priority.

"Over the next few years I will complete my law degree and also undertake a year of articles, but this is not to say that I will give up on taekwondo – I want to maintain my fitness level so that Beijing is still an option, should I choose to go down that path," Daniel said.

Regardless of whether Daniel decides to compete at the next Olympic Games he will be there in some capacity, "once you have been to two Olympics it is hard to get it out of your system – if I'm not competing as an athlete in Beijing I will be there as an official or as a coach," he said.



Image courtesy of Effective Working Image (03) 9415-9991

Daniel Trenton balances the responsibilities of representing Australia at the Olympics with studying law.

## Supporting top students

The Monash Law School Prize Ceremony showcases some of the faculty's finest talent and pays tribute to those students who have achieved the highest result in their respective units. Recognising and encouraging outstanding achievement contributes to the personal and professional growth of our students and is a vital element in the development of a university education.

The financial rewards offered with our prizes are only made possible through the generous support of organisations from both within and outside the legal profession, who join with us to recognise the efforts of our high achievers.

The faculty is currently looking for corporate sponsors for the 2004 Prize Ceremony which will be held in March 2005. To become a sponsor, phone Sam Hawkins on (03) 9905 2326 or email sam.hawkins@law.monash.edu.au

## 25 Year Reunion

Graduates from the classes of 1978, 1979 and 1980 are invited to attend the Monash Law Alumni 25 Year Reunion. The cocktail party will provide an opportunity for you to come together with fellow alumni and reminisce about student days back at Monash Law.

### When

Wednesday 10 November 2004  
6.30 – 9 pm

### Where

Monash University Law Chambers  
472 Bourke Street, Melbourne

### Cost

\$45 per person (inc. GST) – drinks and supper provided

### RSVP and further information

Contact Janet Harris  
by Wednesday 3 November 2004  
on (03) 9641 6203 or email  
janet.harris@law.monash.edu.au

## Monash Law in Italy

Each year a group of lucky Monash Law students are given the invaluable opportunity to study a semester of their undergraduate law degree in Prato, Italy.

The Monash Law in Europe program was established in 2001 and has steadily grown in popularity.

This year 72 students travelled to the Monash Education Centre in Prato, situated 20 minutes from the heart of Florence. The Centre occupies the first floor of an 18th century palace, Palazzo Vaj, in the historic centre of Prato, an ancient Tuscan city.

Further growth to Monash Law in Europe is expected in 2005 and students from other Australian and international law schools will be invited to attend.

Next year Prato students will also gain from the expertise of international lecturers – academics from Osgoode Hall Law School, York University, Canada will teach *Comparative Corporate Governance* and *Comparative Class Actions* as part of the program.



# Postgraduate programs at Monash Law

A postgraduate degree from Monash Law School will provide you with the knowledge and expertise to build your career advantage.

We offer a range of flexible courses for both law and non-law graduates including masters degrees and single unit enrolments that are offered on a full or part-time basis.

**Monash Law in the CBD:** classes are held at convenient times in the city-based Monash Law Chambers, located in the heart of Melbourne's legal precinct.

### Launch of the Monash Law Masters Program 2005

Whatever your motivation, be it to enhance your career or obtain specialist legal knowledge, postgraduate study at Monash Law School can help you achieve your goals.

Meet our academic staff and learn all you need to know about postgraduate study at our 2005 Masters program launch and information expo.

#### When

Tuesday 9 November 2004  
5.30 – 7.30 pm

#### Where

Monash Law Chambers  
472 Bourke Street  
Melbourne

#### RSVP

Essential for catering purposes  
Contact Heather Beeching on (03) 9641 6206 or email [heather.beeching@law.monash.edu.au](mailto:heather.beeching@law.monash.edu.au)

For more information visit  
[www.law.monash.edu.au/postgraduate](http://www.law.monash.edu.au/postgraduate)

### Monash Law School Inaugural Lecture of the Dean Professor Arie Freiberg

#### Managerialism in Australian Criminal Justice: RIP for KPIs?

Managerialism has been the most powerful trend in public administration for the past three decades. This address will examine its pervasive influence on the criminal justice system, in particular how it has changed the concept of 'justice' and promoted the notion of 'system' over the interests of its constituent parts – the police, the courts and correctional authorities. Professor Freiberg will suggest an outline of a post-managerial criminal justice system.

#### When

Wednesday 17 November 2004  
6 pm registration  
6.15 pm lecture  
7.15 pm light refreshments

#### Where

Monash University Law Chambers  
472 Bourke Street  
Melbourne

#### RSVP

Essential due to limited seating  
Friday 12 November 2004  
Contact Jodi Rockman on (03) 9905 2630 or email [jodi.rockman@law.monash.edu.au](mailto:jodi.rockman@law.monash.edu.au)

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#### Update your contact details on the central University alumni database

Online: [www.monash.edu.au/alumni/faq/address.html](http://www.monash.edu.au/alumni/faq/address.html)  
Email: [infochange@adm.monash.edu.au](mailto:infochange@adm.monash.edu.au)  
Telephone: + 61 3 9905 2636