A faculty publication of the Sydney Law School for alumni and the legal community.

Published twice a year, with occasional special editions, JuristDiction is Sydney Law School’s magazine for alumni and friends. In addition to reporting the academic successes of staff and students, and exploring their contributions to professional and community life, it also relates the aspirations and achievements of you, our many graduates living in Sydney and around the globe. We welcome your feedback and ideas.

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DEAN’S MESSAGE
PROFESSOR GILLIAN TRIGGS

I hope you enjoy this special edition of JuristDiction which focuses on the globalisation of legal services and the need in the 21st century for an international and comparative legal education.

NEW LAW SCHOOL BUILDING

2009 marks a new beginning for the Sydney Law School after nearly 120 years in the city. Our move in February to the new light-filled and elegant building on the Camperdown Campus – with its seminar rooms, moot court and dispute resolution facilities bristling with the latest technology – will enable the Law School to provide a first class legal education designed for today’s transnational and international legal environment. Since its beginning in 1890 the Law School has been a true ‘down town’ faculty, with lectures conducted from barristers’ chambers and, since 1969, from the current building in Phillip Street. The relocation will help us to become a global leader with an excellent reputation for legal research, an international curriculum and pro-bono community legal service. Our students will benefit from the opportunity to be better integrated as part of the inter-disciplinary courses offered by the University of Sydney. The vastly improved teaching spaces and technology, such as video conferencing, will also stimulate new teaching techniques and allow us to network with our partner law schools around the world.

That said, we know that bricks and mortar do not make a law school. One of the notable strengths of the Sydney Law School is the enviable support provided by the legal profession in our activities. It will be important to ensure that, after our move to campus, those barristers, solicitors and judges who contribute to the lecture program and postgraduate courses will remain committed to the Law School over the coming years.

INTERNATIONALISATION OF THE LEGAL CURRICULUM

It is axiomatic that the world is increasingly interconnected and that a global approach to contemporary problem-solving is necessary. So too, lawyers need to understand not only Australian common and statute law, but also the civil and customary laws of our Asian neighbors and the significant body of laws that have developed over the last 40 years within the international legal system. The challenges posed by global warming require creative legal solutions; Australian trade measures must comply with the rules of the WTO; intellectual property rights need protection throughout the world; the jurisdictional reach of criminal laws extend to the international activities of directors of Australian corporations; commercial disputes may be resolved through international arbitration.

For all these reasons, lawyers need specialist training to respond adequately to the transnational and international legal problems of today.

How will the Sydney Law School respond to these challenges to legal education? We are preparing students for a transnational and global legal practice by ensuring the curriculum includes international and comparative law, by expanding the international staff and student exchange programs with the universities of Harvard, New York, Singapore, East-China and Columbia and by offering new courses in global law.

We know that Australian-trained lawyers – typically with a five year combined law degree – are highly regarded in North America and the United Kingdom. As Dean, I have welcomed many overseas law firms seeking recruits from the Sydney Law School. I can attest to the rising number of positions that have recently been offered to our students directly by firms in Paris, London and New York. The Sydney Law School seeks to ensure that our graduates are well prepared for such career opportunities, moving with confidence across national legal boundaries.

SOCIAL JUSTICE PROGRAM

While this edition of JuristDiction is dedicated to the international aspects of legal education, another development that I would like to tell you about is the creation of the Social Justice Program at the Sydney Law School. In response to a rising demand from students, the legal profession and academic staff for clinical legal experience as an integral part of a law degree, we will offer students the opportunity to experience pro-bono and practical legal work. Building upon the current external placement program, students will work under supervision with groups such as PILCH, the Refugee Casework Advisory Service and Legal Aid to gain an insight into the realities of legal practice. I hope we will have appointed a Director of the new program in time for a scheduled commencement in July 2009.

OPEN DAY

I extend a warm welcome to you, our alumni, the legal profession and the wider community to join us on Thursday 30 April for an Open Day at the new law school. We will be offering tours of the building, the library and Faculty Centres and Institutes. Students and staff will also offer demonstration lectures, moot courts and ‘soap box’ debates.

The formal opening of the building will be followed by a Distinguished Lecturer series to be given by visiting international scholars throughout 2009 -10. I hope you are able to join us for these events on Campus.

Best wishes,

Gillian Triggs
The design for the new Sydney Law School building was the result of an international architectural competition held in 2003 that included acclaimed architects from Europe and Australia. The competition was won by fjmt (Francis-Jones Morehen Thorp), one of Australia’s leading and highly awarded architectural practices. In this piece, Richard Francis-Jones, Partner and Design Director at fjmt, describes the architectural features of the new building.

The contemporary double-curved form of the stainless steel light tower in the forecourt not only draws daylight into the reading spaces of the law library below but also strikingly punctuates the open space and frames vistas to the Neo-Gothic heritage facades.

The extension of the Wilkinson Axis continues with a generous stair to Victoria Park and through the building’s central-glazed ‘urban-window’ that reinforces the new entrance to the Campus and the embrace of the city beyond. This bridge-like element contains the social hub; an informal meeting place encouraging occupants to gather at this most dramatic point, suspended at the threshold between the Campus and city.

The forms of the new building are innovative, bold and contemporary but carefully scaled and positioned in relation to the Neo-Gothic sandstone buildings and have a material ‘empathy’ through the extensive use of timber. The subtle curved and vertical system of timber louvres, sandwiched between glass panels is integral to the building’s passive environmental control and also creates a warmth that harmonises with its surroundings.

We invite alumni and friends to help celebrate the future in this extraordinary new home on the Camperdown Campus by visiting us and by making a gift. See our Support Sydney Law School website to find out how you can help.
http://www.law.usyd.edu.au/about/support_law_school.shtml
The impact of the global financial crisis on the poor.
by Fran Molloy
Human rights lawyer Professor David Kinley has held audiences around the globe captive as he explains the need for a moral compass to guide the global economy.

Professor David Kinley has been much in demand lately and has recently returned from a whirlwind lecture tour, delivering a human rights perspective on the global financial crisis to audiences in Johannesburg, Copenhagen, London and Sydney.

He warns that the world’s poorest people will be dramatically affected by reduced foreign investment, aid and export trade to developing nations - and even by declining remittances from migrant workers in rich countries.

The initial bail-out of troubled Wall Street banks cost US $700 billion; but Kinley argues that for a fraction of this cost, the global economy could halve world poverty, fund universal primary education, reduce infant and maternal mortality and halt the spread of HIV/AIDS.

The former Fulbright scholar has held the Chair in Human Rights Law at the University of Sydney since 2005, following a distinguished career at several universities including Monash, ANU, Cambridge University and Washington College of Law.

Growing up in Belfast in the 1970s, at the height of what the Irish call ‘The Troubles,’ David Kinley recalls being immersed in complex moral debates from a very young age.

From Belfast, Kinley completed his Master’s degree at the University of Sheffield in the north of England at a seminal moment in British history, when Margaret Thatcher’s government defeated a long-running miners’ strike and hot disputes centring on class and power were laid out before him daily.

“From my teenage years in Northern Ireland and then my student years in Sheffield, I went to the ‘chocolate éclair’ of Cambridge for my PhD – and that had its own very interesting perspectives,” Kinley recalls.

No surprise that this talented law graduate went on to spend most of his career specialising in human rights law.

But his time in the hallowed halls of Cambridge also gave David Kinley insights into the other side of British society – and perhaps an entrée to the language of power.


The book is the culmination of over a decade’s work with Kinley investigating what he sees as an inextricable link between human rights and the capitalist free market system.

“Human rights cannot be underpinned and pursued and advanced without the economy,” he says, describing human rights as a moral compass that guides the regulations, laws and policies that must be put in place to ensure that the global economy serves the poor as well as the rich.

“The global economy does require regulation; and it does have a purpose other than making money. It’s what you do with the wealth that is created, that is what the economy is all about.”

He argues that economic prosperity can deliver worthy achievements beyond individual wealth; things like social welfare, national stability and even world peace.

Kinley describes his book as an attempt by a human rights scholar to write about the economy – something which he doesn’t pursue and advanced without the economy,” he says, describing human rights as a moral compass that guides the regulations, laws and policies that must be put in place to ensure “Human rights perspectives on economic issues tend to be very bitty,” he says, focusing on a small part of the global economy in isolation – for example, perhaps on the workings of the World Bank, or what a particular corporation is doing.

“But these areas cannot be compartmentalised; corporations are crucial to trade and increasingly crucial to aid as well,” he says.

“The Millennium Development Goals highlight figures like almost one billion people living in dire poverty with less than US $1 a day; this all beckons a human rights perspective on the global economy as a whole, which hasn’t really been there before.”

“Taking a human rights perspective on economic issues has meant a change in the sort of language he uses,” Kinley says.

He acknowledges that the motherhood statements and moral breast beating that often typify human rights discussions are ineffective.

“When you talk in this way about human rights and the importance of making sure that people have a dignified life, it doesn’t work; many people turn off and don’t relate it to their main concern, be it trade, or commerce, or how to shift oil from one part of the planet to another.”

But by talking straight, talking in economic language, using criteria familiar to economists and corporations, Kinley hopes to shift the divide between the two perspectives.

When we spoke, Professor Kinley had just returned from a period as a Herbert Smith Visiting Fellow at Cambridge, where much of his latest book was written – and as a Professor, he was amused to find himself now seated on High Table rather than on the benches below.

Perhaps his personal experiences as an insider in two very different worlds has given him an insight into bringing both of these perspectives together. After all, in a capitalist-dominated world, the language of economics is the language of power.

Kinley is adamant that human rights advocates need to avoid preaching a fundamentalist doctrine that brokers no criticism and cannot be pragmatic or make compromises to achieve its goals. He says that engaging with the powerful, with the language of economics, is essential.

“The capitalist free market system isn’t self regulating; human rights must play a part in how we tame its excesses and how we make the global economy work for all and not just a few,” he says.
Although Professor Belinda Bennett’s passport is always up-to-date and visas carefully stamped for her regular international jaunts, she points out that national borders are becoming increasingly irrelevant, in a legal sense, as governments around the world scramble to keep up with galloping advances in health technology.

As the Professor of Health and Medical Law at Sydney Law School, Bennett’s focus is increasingly a global one.

“Law has become a globalised enterprise,” she says. She’s something of an expert, having travelled over the past year to present at conferences in Hong Kong, Croatia, Germany, Italy and the UK.

“It’s really important for lawyers to engage internationally; there’s a great deal that we can learn from the approaches that have been taken by courts, governments or regulatory agencies in other countries.”

Despite the constant travel, Bennett has always been a Sydney girl at heart; she attended North Sydney Girls’ High School and did her undergraduate degree at Macquarie University.

She did spend some time in the US, completing her Masters of Law at the University of Wisconsin - Madison, but then returned for her first teaching position, as a young lecturer at Sydney Law School, where she introduced a postgraduate subject on law and medicine, an area that has always fascinated her.

During this period she also worked on her doctoral thesis and was awarded a Doctor of Juridical Science by the University of Wisconsin – Madison.

The Faculty has developed increasing expertise in the area of health law and now offers a coursework Masters degree in the area.

Bennett’s long term interest in health law has led her to her current position, as Professor of Health and Medical Law. Among her many hats, she’s also the Deputy Editor of the Journal of Law and Medicine and Director of the Faculty’s Centre for Health Governance, Law and Ethics.

Despite her academic teaching load, Bennett is still a keen researcher, with current projects including one with Dr Isabel Karpin exploring the legal and ethical issues around pre-implantation genetic diagnosis of IVF embryos.

US author Jodi Picoult brought the issue to a head with her novel My Sister’s Keeper, a New York Times Bestseller about a girl conceived through IVF, and selected through tissue-typing to try to save her leukaemia-ridden sister, who then sues her parents to prevent them taking one of her kidneys.

“I’ve read all of Jodi Picoult’s books,” Bennett confesses. “This one deals with a fascinating legal dilemma, about a child conceived to save a sibling and the degree to which that potentially imposes limits on that child’s life. It’s all very interesting and controversial.”

While there’s often little case law to guide lawyers grappling with legal responses to new health technologies, comparing the different regulatory approaches taken by other countries can point to solutions.

Although Bennett’s research covers issues as varied as reproductive technologies, regulatory responses to pandemic influenza, health law and globalisation, and bioethics, there’s a common theme running through all of her interests.

When nation states regulate to the extent that choice is limited, she says, the opening of national borders means that restrictions on health technologies in one locality can be circumvented by those willing, and with the financial resources, to travel elsewhere to obtain them.
Going Global

One of Sydney Law School’s top priorities is equipping graduates for a global career that crosses national borders. Here we speak to five alumni about their work on the international stage and find out how their degree from Sydney prepared them for it.

Jeffery Barratt (LLB ’73)

Jeffery is Senior Banking Partner and Global Head of Projects at Norton Rose, one of London’s leading law firms. A specialist in project finance and banking, he has practised law in Australia, the UK, Bahrain and Hong Kong. Jeffery currently spends around half of his working life travelling.

How did you begin working internationally after graduating in law?

I had always been keen to pursue postgraduate or other work abroad. I was also a very keen sportsman and, in particular, cricketer. So the main drivers for my leaving Sydney in 1975 were to spend some time with my father, play some cricket, and either work or pursue postgraduate studies in the UK. In fact, I spent the large part of summer 1976 playing cricket for Middlesex County Cricket Club and towards the end of that summer, decided to spend a period working in a financial institution. Unfortunately, the bank I was going to join was a late casualty of the secondary banking crisis and went into insolvency. Therefore I decided to join one of the big city law firms who specialised in international banking and was offered jobs at Clifford Turner, Allen & Overy and Norton Rose. I joined Norton Rose in September 1976.

What are the benefits of a Sydney degree to a London lawyer?

I think one of the big advantages of obtaining degrees from Australia is that to qualify you need to read law (or at least in my day you did). In England, by contrast, a number of the lawyers read history or arts and science, for example, and then just spend two years at law school in order to qualify. The law school course is very much a cramming course. Consequently, in many cases, antipodean-qualified lawyers have a more comprehensive understanding of law.

What are the challenges of working across different cultures?

One of the biggest challenges is the different scale of the office. When I moved from London to set up our Bahrain office, I was with one other lawyer and a secretary and we had to do everything in terms of the fit-out of the office – buying office equipment and so on – and then turn our hands to everything once the office was up and running.

It is also important to understand that different cultures approach things in a very different way and the role of a lawyer can be regarded very differently. For example, in the United States, lawyers tend to be an essential part of every transaction whereas in some European or Middle Eastern countries they tend to be regarded as a hindrance to getting the deal done. So one of the biggest challenges is understanding the approach taken in different cultures and adapting your style to match the requirements.

Would you advise Sydney graduates to gain international experience?

Most certainly. Having an understanding of how others approach problems widens one’s horizons generally and also gives the lawyer a better ability to advise clients. Quite often it isn’t just legal advice that clients require but legal advice applied to practical situations.

Also, Australia is a fairly small part of the world’s economy and legal market. For anyone interested in working on some of the major transactions, spending time in somewhere like London or Hong Kong or the Middle East really is a must.

Chris Beale (LLB ’71)

Chris is a prominent New York-based private equity fund manager. Back in 2005, he and four partners launched Alinda Capital Partners, the first infrastructure fund manager in the United States. The fund now has more than US$5 billion under management and is regarded as the leading independent infrastructure fund in the US.
How did you make the journey from Sydney Law School to New York private equity?

I wanted to be a lawyer from age seven. At around 16, when I attended Harry Messel’s International Science School during the summer, I thought about combining law and science. I had the idea then, which I believe even more strongly today, that having skills in more than one field is a great advantage and can help you be an innovator. When I was 17, I settled on the notion of combining a law degree with an MBA. I went into Arts/Law at Sydney with the idea of moving into business afterwards. That was not common in Sydney back then. Most people who studied law became lawyers. There were no business schools in Australia at the time, so I set my sights on the US. I moved to the US in 1972 to go to Harvard Business School. Afterwards, I thought I would spend 18 months on Wall Street and a year in London working for a merchant bank and then return to Sydney, but I never made it to London and it turned out my move to the US was permanent.

Does your Sydney law degree help you in your day-to-day job?

Three years ago I started a private equity firm focused on infrastructure investments, and I find my legal training to be immensely valuable, not just in the way I analyse transactions but also in running the firm. It is hard to articulate why, but it has something to do with clarity of thinking, understanding contractual and counterparty relationships, and risk assessment. It helps in being able to assess lawyers and legal advice to have had legal training. And I find I am sensitive to a variety of legal and regulatory issues. For example, while tax laws are quite different in Australia versus the US, I find I have a sensitivity to tax issues and an affinity for solving them.

Which lecturer from Law School left an impact on you?

Perhaps my most vivid memory is of Kim Santow, the late Chancellor of Sydney University. He was a young solicitor at Freehills who taught an evening course for practitioners on debenture trust deeds. I only half-jokingly told him years later that his course convinced me to leave the law in order to get away from such complicated documents.

Do you ever see yourself moving back to Australia?

My home is the US now, although I do miss Sydney a lot. I try to get back every year.

Is it important to have a global outlook with experience outside one country?

I think it is important to have a global appreciation of business and it can be an advantage to have worked in more than one country. I have done business in about 75 so far. It is even more important for Australians to gain international experience than it is for Americans, because Australia needs access to other markets, capital and technology even more than the US does.

Any advice for young Sydney Law School graduates?

I would recommend international experience. In my day, if graduates went overseas, most of them went to London. Now a lot are in New York working for the big law firms. I would advise Australians to go to China or India or Brazil, or other countries in which you have an interest. Do something different, don’t follow the crowd. Don’t be a generalist, specialise. Many young people think that specialisation is a risk, and they talk of keeping their options open. I would recommend they take the risk and specialise, and later on specialise in something else. Carve out a field and excel in it.

Feliciana Cheung (LLB ‘89)

Feliciana is Deputy General Counsel at the Hong Kong Monetary Authority, where she provides legal advice on all aspects of the Authority’s work. She has recently been involved in structuring contingency plans to provide liquidity support to financial institutions should this become necessary in the wake of the world financial crisis.

How did you make the journey from Sydney law student to Hong Kong lawyer?

I was in private practice in Sydney for four years after graduation. Then while on holiday in Hong Kong, there was an opening with the Hong Kong Stock Exchange. At the time, Mainland China had started its economic reform and, to a certain extent, social reform. I felt that there would be more challenges and opportunities in Hong Kong and I could witness revolutionary changes in China at close range. Working in the financial sector in Hong Kong – first at the Hong Kong Stock Exchange and now at the Monetary Authority – I have the satisfaction of knowing I have helped to contribute to the development of the monetary and financial systems here. Through bilateral liaison work with the Mainland’s regulatory organisations, I have also made a contribution to the development of their monetary and financial systems and related laws.

Did your Sydney degree help you carve out your Hong Kong career?

My degree from Sydney Law School has helped me greatly in establishing myself in Hong Kong as it is a well-regarded law degree internationally. It is regarded as giving students a sound foundation in theory-learning and training students to apply in practice the legal principles learned.

Is the degree useful in your day-to-day work?

It has helped me in many ways. It gives me different perspectives when looking at one issue, enabling me to come up with alternative solutions. It emphasised the importance of critical analysis and taught me to look at issues in the round and not just from one perspective. Also, Hong Kong was not stranger to common law rules as it was part of the Commonwealth prior to the handover of sovereignty to China in 1997. The basis of the legal system has not changed and Hong Kong still applies common law principles. Therefore, what I learnt in the Sydney law degree is directly applicable to my work here.

Do you maintain strong links to Australia?

I have kept in touch with my classmates and colleagues both in Hong Kong and in Sydney. I have also developed a network of contacts in the central banking, regulatory and academic community in this region and in the West including Australia.

Is it important to have a global outlook with experience outside one country?

Although there has been opposition to the trend of globalisation, the fact remains
that the lives of people in one region are increasingly intertwined with those in other regions, be it in terms of trade, study, leisure or the arts. The recent financial turmoil is a reminder that "no man is an island" now, and that any action taken by a country will have some effect on others. Therefore it is very important for anyone in this day and age to have a global outlook and to have exposure to different cultures and to different mindsets.

Akira Kawamura (LLM ‘78)

Akira is Partner at one of Tokyo’s largest law firms, Anderson Mori & Tomostune, as well as Vice President Elect of the International Bar Association (IBA). In his new role at the IBA, he is planning to convene an international working group of lawyers to combat the global financial crisis. He has also organised a program to train Iraqi lawyers in the rule of law which is set to be held in Prague early next year, supported by the United Nations Democracy Fund.

Why did you come to Australia to complete your Masters?

I think I wanted to go to Australia for a few reasons. Most importantly, I loved the image of Australia as it was a country of beautiful scenery and rich natural resources. Secondly, the law schools were very reputable as schools of the common law. Thirdly, in contrast to the US, it was a peaceful country which was not substantively involved in the then Vietnam War.

Does your Sydney degree help you in your Tokyo career?

I think that my Sydney Law School LLM may be helping me in my day-by-day professional life as my law practices are mostly carried out in English language using English law concepts.

Was there a specific lecturer whose teaching has stayed with you?

My mentor was Professor Ross Parsons. I still remember and respect him very much.

Do you maintain strong links with Australia?

I have a number of Australian clients as well as friends, and I occasionally counsel the Australian Embassy in Tokyo. I am also the sponsor of the Akira Kawamura Japanese Law Award that has been given to a number of the Japanese law students in Sydney.

Is it important to have a global outlook with experience outside one country?

It is indeed very important. The present day legal issues are common throughout the world and the legal profession must serve clients on a cross-border basis. Good understanding of foreign culture and business is essential for the legal profession.

Would you advise today’s law graduates to gain this experience?

I would strongly recommend that Law School students have substantive cross-border experiences. The market for Sydney Law School graduates is not limited to the territory of Australia. Because of the common law technology and their English language skills, they are very competitive service providers in the region. They should take advantage of this.

Ping Li (LLM ’97)

Based in Shanghai, Ping is Special Counsel for Blake Dawson and specialises in investment by Chinese companies in Australia.

A career highlight has been overseeing the negotiations for a joint venture between China’s largest steel company and Hamersley Iron Ore Company, which has been acclaimed as a model for China-Australia negotiations.

How did you make the journey from Sydney law student to Shanghai lawyer?

In 1995, I was the only law graduate from China to secure an AusAid Scholarship from the Australian Government to study the LLM at Sydney Law School. My Master of Laws secured me my position at Blake Dawson. After graduation in 1997, I worked for Blake Dawson in their Sydney office for three years. During this time I facilitated the first visit of the Chinese Minister of Justice to Australia which culminated in a formal reception attended by former Prime Minister Gough Whitlam, Hon Justice Michael Kirby and other Australian dignitaries who had developed long-term relationships with China. I was also instrumental in negotiations with the Chinese Government to secure a licence for Blake Dawson to operate in Shanghai in 1998.

Does your Sydney degree help you in your Shanghai career?

The combination of my study at the University of Sydney and my three years’ experience in an Australian law firm brings an added dimension to my practice of law in China. My professional links between the two countries have also enabled me to play a key role in advising large Chinese companies on investment in Australia.

Is it important to have a global outlook with experience outside one country?

When you are negotiating international transactions, clients sometimes do not have international experience. An experienced lawyer with a broader international perspective can help clients reach their business goals. In the global arena, an understanding of cultural differences and similarities can also foster fruitful working relationships.
Shanghai Winter School 2009

Sydney Law School invites expressions of interest in its intensive three-week introduction to Chinese Law given by Chinese professors on the campus of the East China University of Political Science and Law in Shanghai, People's Republic of China, scheduled to take place in late 2009.

The unit can be credited towards one of Sydney Law School's postgraduate coursework graduate diplomas or masters degrees including the Sydney LLM.

For further information please visit www.law.usyd.edu.au/cstudent/shanghai or email law.winterschools@usyd.edu.au