

Law Matters

April 2004 News from the Monash Law School community



Photo courtesy of Monash University Archives

The first Monash Law School staff and students in 1964.

Life begins at 40!

As one of Australia's largest and most prestigious law schools, Monash Law enjoys a broad teaching base, strong international links and a world-class reputation, and all this in just four decades.

As we celebrate 40 years of the Monash Law School and the onset of a new era, we look back on its humble beginnings, the people who made the dream a reality and its graduates who have made it what it is today.

It is almost ironic that when Monash University was established in 1961 to contend with the increasing demand for education within the community, it coincided with the University of Melbourne's implementation of a quota on the number of law students it would accept. Although a law school was always planned for Monash, it was not intended to be established

until the new university had firmly planted itself onto the educational landscape. However circumstances intervened and Melbourne's decision to limit its law intake together with a demand by the legal profession for more recruits, cemented the urgent need for a new Law School at Monash.

As a result, the countdown began and enormous pressure was placed on those responsible for creating the new Faculty. With limited resources, the challenge was to develop a law school that would provide a standard of education to match that of The University of Melbourne and to ensure graduates would have the respect of the legal fraternity. The founders were conscious that Monash Law should never be seen as an 'overflow' for Melbourne but as a leader in legal education in its own right.

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Events

MAY 16–22 May 2004

Law Week 2004
www.law.monash.edu.au
www.liv.asn.au/lawweek/

5.30pm: Wednesday, 19 May 2004

The great Law Week debate:
'Babies by design': Should the law allow genetic engineering to create the perfect baby?
Legislative Council, Parliament House, Melbourne
Ph: (03) 9905 2326

5.30pm: Thursday, 20 May 2004

Twilight seminar: Responsive regulation in Australia and for developing economies
Allens Arthur Robinson, Melbourne
Ph: (03) 9905 3303

23–29 May 2004

The Greek Conference: Professional Responsibilities – where to now? Ethics, etiquette and culture – perspectives of professional lives
Rethymnon, Crete, Greece
Ph: (03) 9690 2033

SPECIAL EVENT

Thursday, 19 August 2004 Monash Law Alumni 40th Anniversary Gala Dinner

For more information call us now on
(03) 9905 2326 (see page 4 for details).

It may be legal but is it just?

Since the inaugural Costello Lecture in 2001 when Reverend Tim Costello addressed 'the power of asking questions', these stimulating lectures on social justice and ethics have attracted great interest.

This year's lecture, held at the County Court was presented by leading entrepreneurial thinker and doer on social welfare issues, Father Nic Frances. The event attracted 150 legal professionals, not-for-profit representatives, students and alumni, who were asked some challenging questions about the struggle between 'what is legal' and 'what is just'.

"The reason you are here is that you are passionate about the world, the reason you trained because you are passionate about the world, passionate about people and passionate about fairness," Father Frances said.

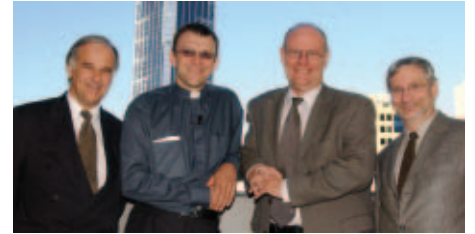
He discussed how Australia's laws disadvantage the poor and other marginalised groups.

"How many people do you think we prosecute for actually making fraudulent claims on their insurance? How many of these people do you see in the system compared with how many black kids you see for stealing bikes? Whose law is this anyway?" he asked.

Father Frances stated that in previous years about 20,000 people had gone to court and received a fine or conviction for cheating on their welfare payments.

"Thousands, tens of thousands of people are going through the court system for cheating for \$100 or \$200.

"Yet GST fraud is huge – companies are actually avoiding tens of thousands of dollars, but we don't prosecute. Why is that? What is justice and who's fair and what does fairness mean?" he asked.



From left, Mr Ian Pyman, President, Monash Law Alumni, Father Nic Frances, Reverend Tim Costello, CEO, World Vision Australia, and Monash Dean of Law, Professor Arie Freiberg.

Father Frances went on to push the envelope in regards to questions of social justice and urged us all to work towards a future where true equality could become a reality.



Are you living in the UK?

Are you a Monash Law graduate or do you know any who are currently living in the UK? If so we want to hear from you. To assist us in organising alumni events in the UK please forward your contact details including email and mailing address to janet.harris@law.monash.edu.au.

'Babies by design'

The great Law Week debate – Should the law allow genetic engineering to create the 'perfect baby'?



Law Week (16-22 May)

 MONASH University
Law



To celebrate Law Week and the 40th anniversary of the Monash Law School, we are proud to present this legal and ethical debate on the legalisation of 'designer babies'.

Featuring special guest Moderator, Campbell McComas.

Date: Wednesday, 19 May 2004

Time: 5.30pm registration,
6.00pm start

Location: Legislative Council,
Parliament House,
Spring Street, Melbourne.

RSVP: Friday, 14 May 2004
Reply to Sam Hawkins
on (03) 9905 2326
or email
sam.hawkins@law.monash.edu.au

Proudly supported by the City of Melbourne

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 on + 61 3 9905 2630 or email 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.

Age no barrier for Victoria's youngest Mayor

Councillor Clare O'Neil's final year of her Bachelor of Laws at Monash has been put on hold after recently being elected Mayor of the City of Greater Dandenong.

Clare finished the Arts element of her double degree two years ago with a major in History. She will now complete her last seven units of Law on a part time basis while juggling the demands of her new role as Mayor.

In March, after holding the position of local Ward Councillor for just one year Clare became the youngest female Mayor at the age of 23.

Clare won the majority of votes from her fellow Dandenong Councillors and will now represent the city's 124,000 residents.

"I think it's a huge responsibility but I'm looking forward to the year ahead," she said.

Having spent a considerable amount of time carrying out community work around the City of Greater Dandenong, Clare is passionate about the municipality and her new role.

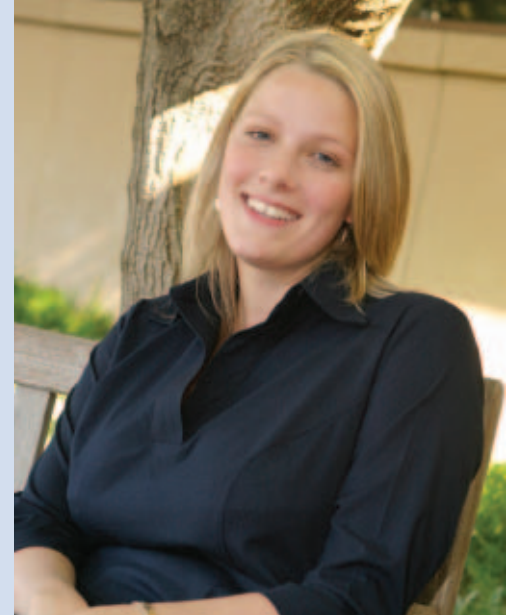
Before being elected, Clare, as a local resident, witnessed first hand issues affecting young people in the area and decided to run for Council in the hope of giving the region's youth a voice.

"In local government you have the opportunity to help people with the practical issues that are raised and you can really have a grass roots impact. Being on Council gives me the opportunity to do that in an innovative way.

"Since the age of 14 I have always been interested in policy and stepping into the role of a local representative was a natural progression," she said.

Clare has attained a number of skills during her time at Monash, many of which have helped her with her current role.

As a past board member of the Springvale Monash Legal Service, Vice-Chairwomen of the Springvale Community Aid and Advice Bureau, and an English teacher to refugees, Clare has always been an active student.



Monash Law student Clare O'Neil's law studies have been put on hold while she serves as Mayor for the City of Greater Dandenong.



Vice-Chancellor Professor Richard Larkins congratulates Young Australian of the Year, Monash Law/Science student Hugh Evans.

Australia Day pride

Australia Day 2004 saw three Monash Law School representatives acknowledged for their outstanding contribution to the community.

Second-year Monash Law/Science student Hugh Evans was announced Young Australian of the Year for his remarkable humanitarian efforts on behalf of some of the world's most underprivileged children.

Hugh, the founder of Australia's first youth-run international aid organisation, the Oak Tree Foundation, described the award as an incredible honour that reminds us all of our obligation to help others.

"We are fortunate to call ourselves Australians, living in such a prosperous nation. This prosperity gives us all a responsibility, even a duty, to be a generous nation. I think all young Australians, indeed all Australians, have no choice but to be actively involved in creating a better world," he said.

Vice-Chancellor Professor Richard Larkins joined the Monash community in congratulating Mr Evans.

"I am absolutely delighted that the outstanding work of Hugh Evans has been recognised in this way. It is particularly significant that his humanitarian activities have been acknowledged by this award.

"Monash University has a strong commitment to Hugh's efforts in creating a better world, and is delighted by the links he has built between the Oak Tree Foundation and Monash South Africa. His activities in supporting some of the world's most disadvantaged people set an example for all of us to follow," Professor Larkins said.

In addition to Hugh's remarkable achievement, two distinguished Monash Law alumni were also recognised on this year's Australia Day honours list.

Campbell McComas (BA(Hons) 1977, LLB 1978) was recognised with an AO (Officer of the Order of Australia) for his service to the entertainment industry as a speaker, actor and broadcaster, and to the community through fundraising for charitable organisations.

John Alfred Emerson (BJuris 1970, LLB 1971) was also acknowledged with an AC (Companion of the Order of Australia) for service to the law and to the community, particularly through the provision of advice to charities and non-profit organisations and the development of public administration reform to encourage philanthropy in Australia.

Life begins at 40!

continued from page 1

The success of Monash Law was dependant upon obtaining exemplary staff, the necessary research materials and of course a valued and respected Foundation Dean who could ensure the highest standard of legal education.

In October 1963, Professor David P. Derham was appointed as the first Dean of Monash Law School. Highly respected in both the legal profession and the academic world, Derham was an established barrister and lecturer in constitutional law at The University of Melbourne and was considered one of Australia's most acknowledged legal academics. His appointment allayed any fears for the future of Monash Law.

Despite the confidence in David Derham, the logistics seemed overwhelming with teaching due to begin in March 1964, just five months after his appointment. It proved challenging to convince academic staff to come and teach in a new law school located at Clayton, which was certainly not the geographic centre of Melbourne it is today!

However, with tremendous support David Derham was able to contend with these issues and appoint teaching staff, organise selection processes, develop course materials and timetables, buy furniture and supplies, and of course develop the quintessential element of any good law school; its library.

To assist with the development of the law library, Derham appointed Professor Frank Beasley who began the complex task of establishing a comprehensive law library in a very short period of time. The legacy of his tireless work is still evident today as the Monash Law School undeniably boasts one of the best law libraries in the Southern Hemisphere.

Monash Law School opened on 9 March 1964, although did not obtain its own building until 1968.



From left, Sir Robert Blackwood and Professors David Derham and Louis Waller at the opening of the David Derham School of Law.



From left, Ian Gray, Pamela Tate, Dean of Law, Arie Freiberg, Michael Rozenes, Marilyn Warren and Stuart Morris.

It might have been a hurried beginning but nobody could doubt the quality of the law degree, which is evidenced 40 years later by the quality of its graduates, many of whom now hold prominent positions across a myriad of professions and industries throughout Australia and around the world.

In Victoria alone, Monash Law graduates hold some of the most senior positions in the judiciary including: Marilyn Warren, Chief Justice of Victoria; Michael Rozenes, Chief Judge of the County Court, Ian Gray, Chief Magistrate of Victoria; Stuart Morris, President of the Victorian Civil and Administrative Tribunal; and Pamela Tate, Victorian Solicitor-General.

Other notable alumni include World Vision Australia CEO, Tim Costello; Federal Treasurer, Peter Costello; ABC radio personality Jon Faine; Victorian State Coroner, Graeme Johnstone; and National Secretary of the Australian Workers' Union, Bill Shorten, and the list goes on.

Today, some of the Faculty's students are also making a name for themselves including Hugh Evans, the 2003 Young Australian of the Year and Clare O'Neil, Mayor of the City of Greater Dandenong – the youngest ever female Mayor at age 23.

We are very proud of the achievements of the Monash Law School over the last 40 years and if life really does begin at 40 then the future will indeed be exciting for us all. 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.

40th Anniversary Gala Dinner

In celebration of our 40th year, we will be holding a dinner on 19 August 2004 to relive the last 40 years of the Law School and the Australian legal profession and to acknowledge the outstanding achievements of our graduates. Speakers will include Marilyn Warren, Michael Rozenes, Ian Gray, Stuart Morris and Pamela Tate. Watch this space and the Monash website or email alumni@law.monash.edu.au for further event details.

It's never too late to learn law

In this, the 40th year of Monash Law School, Law Matters caught up with Eileen Stuart, the Faculty's oldest graduate, who completed her Master of Laws at the age of 80.

Eileen Stuart has always had a passion for the law however she grew up in an era when only males were educated, so never in her wildest dreams did she imagine that she'd one day work in the profession and even write a thesis on the subject.

Forty years ago, when Monash Law was in its infancy, Eileen was about to embark on a life altering journey. At the age of 53, and as a mother of five children, Eileen decided to put her role as wife and mother on the backburner and pursue her dream job by enrolling in an undergraduate law degree at The University of Melbourne.

After taking 13 years to complete her Matriculation and degree, the transformation from secretary to barrister working at a Lonsdale Street chambers was not an easy task, but was enjoyable for Eileen.

"On my graduation day I had to pinch myself, I had actually finished my degree," she said.

Eileen was admitted to practice at the bar and did so for 10 years, but it was her thirst for knowledge and need for stimulation that lead her, as a 76 year old widow, to embark on a Master of Laws at Monash University. At an age when most are thinking of winding down their career, Mrs Stuart decided to seize the moment by embarking upon postgraduate studies.

"My husband passed away in 1987 and after that I decided to enrol in the Master of Laws at Monash University. Melbourne University would have been the most obvious choice in terms of location but Monash Law offered a range of subjects I was interested in," she said.

"I firmly believe there's a strong need to use the mind to keep it active. My memory was far from perfect when I began my Masters but improved immensely as I started using it," she said.

As a Masters student, Eileen was required to complete a research thesis on a topic of interest.

"When I began the course I had no idea what I wanted to write my thesis on, but I was fortunate to meet Professor Asher Maoz, a visiting academic from Israel who taught an interesting subject on Jewish Law. In these classes we discussed Jewish marriage and it was these



Eileen Stuart at Monash after graduating.

discussions that reignited my interest in religion, marriage and the law," she said.

In 1965, at about the same time when Monash Law School was established, the second Vatican Council was reviewing marriage regulations, resulting in laws relating to the annulment and dissolution of marriage being broadened. These reforms sparked Eileen's interest in the subject.

Eileen had always had a keen interest in this area, and had in fact kept a number of newspaper articles relating to the issue. Her forthcoming thesis however got her thinking about this topic from a new perspective.

"Out of interest in the subject of religious obstacles to remarriage following civil divorce, I began research on its Catholic aspect toward the end of 1988 – more than a year before its formal approval by the Faculty of Law.

"I'm forever grateful to Monash for accepting my thesis proposal and for allowing me to complete the work, which was on the somewhat unusual subject of religion and the law," she said.

Eileen's thesis came at a time when there was a lot of confusion within the community about how religion and marriage coexisted in relation to the law. In addition to the new Family Law Act, in 1983 the Church introduced a 'New Code of Cannon Law' which was made available in English by the Cannon Law Society of America as a text and commentary.

"Many changes resulted from the Code and the Family Law Act – the general public had very little understanding of the changes and as a result were confused," she said.

In 1994 most of the material from her thesis was published by Federation Press in a book titled, *Dissolution and Annulment of Marriage by the Catholic Church*, an achievement Eileen claims as her most outstanding.

After her distinguished career in law, at the age of 92, Eileen is now content in retirement helping to take care of her many grandchildren. Her dedication, passion and determination to pursue her dreams is an inspiration to us all.



Flashback!

Professor Gerard Nash was the Dean of Monash Law from 1977-1980. Here he is pictured in 1973 being escorted to the nearby Notting Hill Hotel – the local pub for Monash students, affectionately known as the 'Nott'.

First five LLM (LP) graduates secure places in the legal profession

The first five graduates of the Master of Laws (Legal Practice, Skills and Ethics), or LLM (LP), were admitted as barristers and solicitors of the Supreme Court of Victoria on 29 March 2004.

Sabine Phillips, Nina Kirby, Richard Greenfield, Richard Stanley (pictured right) and Fleur McKay (absent) began their law studies in the first intake of students for the LLM (LP) in 2001.

Despite the gruelling pace of study, all five students have succeeded in their goal of changing careers. Richard Greenfield and Richard Stanley have enrolled in the Bar Reader's Course, whilst Nina Kirby, Fleur McKay and Sabine Phillips have all secured positions as first year solicitors in well known legal firms.

The LLM(LP) is a unique degree that combines the requirements for a qualifying law degree with the practical legal training that allows graduates to be directly admitted to legal practice without completing a year of articles. It is the flagship of the Monash Law School's postgraduate practical legal education, and has become highly attractive to mature professionals wishing to change or enhance their career.



The first LLM(LP) graduates at a special celebratory dinner held in February.

The LLM (LP) is one of a growing number of alternative pathways available at Monash Law.

Graduates of the program are valued due to their diverse knowledge and understanding from previous studies and professional experience.

Faculty highlights

Indonesian goodwill

A delegation of Indonesian government officials, including Professor Abdul Bari, Director General of Intellectual Property; Dr Noorsalam Nganro, Chairman, Institute for Research and Community Empowerment, Bandung Institute of Technology; and Mr Yasmon, Chief, International Cooperation Section, Directorate General of Intellectual Property recently paid a goodwill visit to the Faculty of Law where they met Dean of Law Professor Arie Freiberg and other representatives from the Faculty and the University.

Daryl Dawson launches key Monash publication

Former High Court judge, the Honourable Daryl Dawson recently launched *Equity, Restitution and Fraud*, a new book by Associate Professor John Glover, one of Monash University's eminent legal scholars. This fundamental legal text explores restitutionary and proprietary remedies of modern equity and will assist lawyers in commercial practice.

"In an era of increasing commercial litigation this book clarifies the connection between equity and remedies, detailing the rationales and policy behind restitution for fraud," Dr Glover said.

Judge honoured

Monash Law recently paid tribute to Judge Christopher Weeramantry for his longstanding service to the law. Judge Weeramantry, who has had an extensive association with the Faculty, was made an Honorary Member (AM) of the General Division of the Order of Australia in November 2003.

Formerly the Justice of the Supreme Court of Sri Lanka, Mr Weeramantry was appointed Sir Hayden Starke Professor of Law at Monash in 1972. He went on to become a Judge of the International Court of Justice, where he was also Vice-President.

"I have great pride and pleasure to be associated with the Monash Law School. There is enormous research and excellence within the Faculty and it is exciting to see our ideas radiate through Australia and the rest of the world," Judge Weeramantry said.

Children in detention – the policy, the practice, the prognosis

In anticipation of the High Court rulings on the constitutional validity of the detention provisions in several matters now pending judgment, a panel of human rights experts recently discussed the plight of children in detention.

The half-day workshop, hosted by Monash University's Castan Centre for Human Rights Law, was addressed by Dr Sev Ozdowski, Human Rights Commissioner, HREOC; Mr Julian Burnside QC; Mr Paris Aristotle, Director, Victorian Foundation for Survivors of Torture; and Associate Professor Susan Kneebone, Ms Adiva Sifris and Ms Tania Penovic from the Faculty of Law, Monash University.

Reconnect with the Law School

As a Monash Law graduate there are a number of ways you can be involved in Faculty activities and provide support to current and prospective law students. By volunteering your time to assist with faculty-run programs, you will not only be helping Monash Law to promote our goals and values, you could also become a valuable mentor to current students.

Monash Law Mentor Scheme 2004

Our Mentor Scheme seeks to acquaint current undergraduate students with alumni working both within and outside of the legal industry. As a mentor, you will provide advice to current students on the best way for them to develop their Law degree to compliment their preferred career choices.

You will have the opportunity to help students understand what is involved in working as a legal professional or may be able to demonstrate the benefits of a law degree in careers outside of the legal industry. As a mentor you will provide guidance, support, encouragement and

confidence to current law students, skills which cannot be learned in a classroom.

To become involved or for more information, contact Sam on (03) 9905 2326 or email sam.hawkins@law.monash.edu.au

Faculty Schools Liaison Program

Alternatively, as a graduate of Monash Law you can become involved in the Schools Liaison Program, providing information, inspiration and advice about Law at Monash and career avenues and opportunities to prospective students, their families and teachers.

The Schools Liaison Program forms an effective way to communicate information about our faculty as well as the academic and social experience offered at Monash to Year 11 and 12 students. As a graduate you can provide an interesting insight into future studies and possible career directions.

We appreciate that as busy professionals your time is valuable and we will ensure that any activities you participate in are conveniently located for you, as well as providing sufficient information and support to make your role in this program as easy as possible.

If you're an enthusiastic graduate who is able to participate in this program, or would like information about how you can get involved, contact Charlotte on (03) 9905 3389 or email charlotte.holden@law.monash.edu.au.



Sponsor representatives at the Monash Law School Prize Ceremony.

Celebrating our high achievers

The annual Monash Law School Prize Ceremony took place in March this year, honouring achievements for the 2003 academic year. The ceremony provided an excellent opportunity to showcase some of the Faculty's finest talent and pay tribute to these students who, through hard work and dedication, have accomplished so much in their academic endeavours.

Recognising and encouraging outstanding achievement contributes to the personal and professional growth of students and is a vital element in the development of a university education. The financial rewards offered with the prizes were only made possible through the generous support of the many organisations, both within and outside of the legal profession, who joined with the Law School in recognising the efforts of our high achievers.

Monash Law School acknowledges and sincerely thanks the following sponsors for their generous support of the 2003 Monash Law School Prize Ceremony.

2003 MONASH LAW SCHOOL PRIZE SPONSORS:

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Office of Public Prosecutions
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Phillips Ormonde & Fitzpatrick
Supreme Court of Victoria
TAC Law
Taxpayers Australia
Thomson Legal & Regulatory
Victorian Institute of Forensic Medicine

Postgraduate studies and professional development



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 new city-based Monash Law Chambers, located in the heart of Melbourne's legal district.

Master of Laws and Masters by specialisation

Mid-year intake

Monash Law is now accepting applications for the Master of Laws and Masters by specialisation mid-year intake.

If you are interested in any of these programs why not attend our information session on

Thursday, 27 May 2004

**Monash Law Chambers
472 Bourke Street, Melbourne**

Contact Heather or Cath on + 61 3 9641 6206/6204 or email graduate@law.monash.edu.au
Alternatively call Associate Dean (Postgraduate Studies) Professor Marilyn Pittard on + 61 3 9905 3382.

www.law.monash.edu.au/postgraduate

Law graduates

As a law graduate you can undertake a specialist masters degree or the generic Master of Laws which enables you to choose from a wide range of subject areas including:

- Banking and Finance Law
- Commercial Law
- Competition Law
- Compliance, Regulation and Crime*
- Copyright and Trademark Law
- Digital Economy Law
- Dispute Resolution
- E-Laws and Law of the Internet
- Ethics
- Human Rights Law
- Intellectual Property Law
- International and Comparative Law
- Migration Law
- Privacy Law
- Tribunal Procedures
- Workplace and Employment Law.

Non-law graduates

If you have a degree in a discipline other than law but are working in a legal area or wish to gain legal qualifications or accreditation (eg. Patent Attorney) you can undertake a masters degree with a legal specialisation in:

- Commercial Law
- Digital Economy Law
- Intellectual Property Law
- International and Comparative Law
- Workplace and Employment Law.

*Compliance, Regulation and Crime

This is a new intensive masters unit offered from 5-9 July 2004. Taught by the Dean of Law, Professor Arie Freiberg and Dr Fiona Haines from The University of Melbourne, the unit will explore theory, techniques and practices.

Responsive regulation in Australia and for developing economies

In today's global environment, local economic, social and political events have worldwide repercussions. As seen in international security, free trade agreements and environmental disasters, occurrences in a single country can influence the rest of the world.

Nowhere is this more true than in the activities of international business organisations.

Global business regulation leader, Professor John Braithwaite will present a twilight seminar on responsive regulation in Australia and for developing economies, on behalf of Monash Law.

When: Thursday, 20 May 2004 at 5.30pm

RSVP/further information:

Kathleen Patterson
Ph: (03) 9905 3303
Email: kathleen.patterson@law.monash.edu.au

Where: Allens Arthur Robinson
Boardroom, level 34
Stock Exchange Centre
530 Collins Street, Melbourne

Faculty of Law

Monash University
Clayton, Victoria 3800
Australia

Monash University
Law Chambers
472 Bourke Street
Melbourne, Victoria 3000
Australia

For additional copies

Contact Jodi Rockman on + 61 3 9905 2630 or
jodi.rockman@law.monash.edu.au

Update your contact details on the central University alumni database

Online: www.monash.edu.au/alumni/faq/address.html
Email: infochange@adm.monash.edu.au
Telephone: + 61 3 9905 2636