

President's Report: AGM

5 July 2022

This report has been prepared for the 2022 AGM and covers the activities of the Society of Corporate Law Academics (SCoLA) for the period January 2021 to July 2022.

Executive Committee of SCoLA

The Corporate Law Teachers Association (CLTA) was formally established as an unincorporated association in 1994, by scholars of corporate law. The association changed its name in 2021 to the Society of Corporate Law Academics (SCoLA). The association seeks to represent the voices of the various corporate law scholars in Australia, New Zealand and the Asia Pacific region. The goals of SCoLA include:

- Advancing corporate law teaching, research and scholarship.
- Promoting cooperation and exchange of ideas between corporate law scholars in the region.
- Promoting active cooperation between corporate law teachers and universities.
- Promoting cooperation with professional legal associations and law reform agencies.
- Hosting an annual conference to highlight current developments in corporate law scholarship.

The Executive Committee of SCoLA for 2021-2022 (July) comprised:

- Susan Watson, University of Auckland (President)
- Vivienne Brand, Flinders University (Secretary)
- Anil Hargovan, UNSW (Treasurer)
- Suzanne Le Mire, University of Adelaide (Immediate Past President)
- Beth Nosworthy, University of Adelaide
- Marina Nehme, UNSW
- Michelle Welsh, Monash University (Co-opted)
- Ellie Chapple, QUT (Co-opted)
- Michael Duffy, Monash University (Co-opted)
- Tim Peters, University of the Sunshine Coast (Conference organiser)

2021 Conference

The 2021 conference was hosted by Professor Jason Harris and Dr Kym Sheehan and their colleagues at University of Sydney Law School. At the 2020 CLTA conference it was resolved

that the conference would be hosted by Pearlie Koh and Pey Woan Lee from Singapore Management University in Singapore. When the impact of Covid19 made it apparent that participants would not be able to travel to Singapore, Jason and Kym and Sydney Law School stepped into the breach and agreed to organise and host the conference in dual format.

The conference theme “Thirty Years of Corporate Law: Still Fit for Purpose?” marked the 30th anniversary of CLTA conferences. Participants were invited to reflect on the principles of corporate law and how they have developed over the past 30 years.

This conference asked whether the current corporate law framework remains fit for purpose? What have we learnt from the past 3 decades? What has worked, what hasn’t worked? What can we learn from corporate law reforms in other jurisdictions?

The conference featured a keynote presentation from Dr Robert Austin. Dr Austin is a barrister at Level 22 chambers in Sydney and Challis Lecturer in Corporate Law at The University of Sydney, where he has taught for over 50 years. Dr Austin is a former Head of the Department of Law at The University of Sydney and a former Justice of the Supreme Court of New South Wales, as well as the co-author of several leading texts including *Ford, Austin and Ramsay’s Principles of Corporations Law*.

The conference also featured a plenary panel discussion on the scholarship of former CLTA presidents Professor Peta Spender and Professor Stephen Bottomley and a plenary panel featuring the life members of the Association, Professors John Farrar, Paul Redmond, Ian Ramsay and Jennifer Hill discussing the past 30 years of corporate law. The teaching session, Lessons from the 2020 teaching year, on Sunday afternoon gave participants an opportunity to reflect on the impacts of Covid19 on teaching.

Jason and Kym did an excellent job organizing the conference in hybrid mode for the first time. There was strong support shown by people attending either in person or through the hybrid mode. We are very grateful to the University of Sydney for hosting our conference at short notice in particular in such challenging circumstances.

2022 Conference

The 2022 Conference was deferred from February 2022 to July 2022. It was hosted by Dr Tim Peters and his colleagues at the School of Law and Society at the University of the Sunshine Coast from July 3 2022 to July 5 2022. The theme of the conference was “Re-The Corporation – Re-Thinking, Re-Forming, Re-Imagining.”

The conference was run in blended/hybrid mode, with the options for in-person or virtual participation for all sessions.

The call for papers focussed on the global need for us to live sustainability into the future, keep pace with technological development and respond to social and economic inequalities (exacerbated by the COVID-19 pandemic) that have given rise to multiple calls to re-think, re-theorise, re-construct, re-configure, re-define, re-conceptualise, re-purpose and re-invent the corporation. These calls accompany diverse proposals: imbuing existing legal frameworks with a new emphasis on corporate virtue, ethical standards, a social licence to operate or corporate

purpose; minor or major reforms of national and global legal frameworks; moving beyond existing legal frameworks and emphasising non-legal forms of norm-creation; or progressing alternatives to the shareholder-dominant corporation (co-operatives, benefit corporations, digital platforms). The emphasis of the prefix 're', in each of these calls, however, encapsulates a return, a do-over, a need to perform a task again, which extends at times to a process of literally re-forming the corporate form, imagining alternative possibilities and thinking it anew.

This conference, the first under the association's new name emphasising its commitment to leading scholarship in corporate law across Australia, New Zealand and the region, asked for papers to critically, conceptually and pragmatically engage with these calls that re-think, re-form and re-imagine the corporation seeing the processes of thinking and re-thinking, imagining and re-imagining, the corporation and its regulation as central to the task of both reform and the corporate law scholar.

The keynote speaker was Professor Sundhya Pahuja the ARC Kathleen Fitzpatrick Laureate Professor, and Director of the Institute for International Law and the Humanities at the Melbourne Law School. Professor Pahuja gave a highly engaging and thought-provoking address based on the questions underpinning her research project. The project will in part re-examine the place of the corporation in the international legal framework adopting in part an historical lens.

The second plenary speaker was Professor Bronwen Morgan. Professor Morgan is a Professor of Law at University of NSW, and co-founder of the New Economy Network of Australia. Her research explores creative ways of re-imagining the economy to respond to contemporary challenges.

The teaching session on Sunday afternoon focussed on incorporating Indigenous Content, Knowledges and Contexts into Teaching Corporate Law. *Dr Robin Bowley, from UTS spoke on Strategies for incorporating Indigenous cultural capability into the teaching of corporate law).*

There were two Panel discussions the first involving

- Uncle Kevin Williams, from the University of the Sunshine Coast, Dr Fady Aoun, University of Sydney, Peter Mitchell, University of the Sunshine Coast and Dr Robin Bowley, UTS

The second Panel discussion involved *Professor Rebecca Johnson from the University of Victoria, British Columbia and Assistant Professor Bradley Bryan, University of Victoria, British Columbia. Participants commented on the quality of the teaching session and the thought-provoking and ground-breaking content*

There were also two plenary panels. The first "Thinking and Re-Thinking the Best Interests of the Corporation: From Shareholder to Entity Primacy, Stakeholder Capitalism to Corporate Purpose" comprised Professor Susan Watson, Dr Tim Connor and Professor Rosemary Langford. The second "Reforming the Corporation: Past, Present and Potential Futures for Corporate and Financial Services Law Reform" comprised Associate Professor Andrew Godwin, Matthew Corrigan, and Professor Elise Bant. There were also papers presented at the conference in person or remotely in parallel sessions over the two days.

Dr Tim Peters and his team did a wonderful job organising the conference in hybrid mode in

the trying context of the pandemic. The theme facilitated highly thought-provoking and high quality papers and engaged discussions. The plenary sessions and keynotes were excellent. Our thanks to Tim and the team for organising an excellent conference; our first under the auspices of our new name and banner.

2022 Life Member Bursaries

The bursary is offered to current members of the SCOLA to attend and participate in the conference online to present their accepted paper and participate in the full conference program. The overall aim of the bursary is to fund corporate law researchers to register for the conference, who may not otherwise have the resources.

In 2022 four life member bursaries were awarded. These went to:

- John Tearle Newcastle University. John is an LLB Hons student. His supervisor is Tim O'Connor. John's topic was "Can compulsory stakeholder representation on corporate boards improve corporations' social and environmental impact? A proposed research agenda." John was awarded the Paul Redmond bursary.
- Param Pandy from NUS. Patan is a PhD student. Param's topic was "Directors' Duties & Stakeholders' Interests: Recognition and Enforcement Approach" She was awarded the Jennifer Hill bursary.
- Joseph Lee from AN. Joseph is a PhD student. His topic is "Independent Directors in Australian Private Limited Corporations: From the National Security Perspective." Joseph was awarded the Ian Ramsay bursary.
- Nadia Hess from Adelaide. Nadia is a PhD student working under the supervision of Chris Symes and Beth Nosworthy. Nadia's topic is "Oppression and the Subordination of Claims under s 563A." Nadia was awarded the John Farrar bursary.

2022 Best Paper Prize

Every year one paper is selected from the annual conference for the best paper prize. A full description of the terms of the award can be found on the SCoLA website. The prize is designed to encourage scholarship by authors at Senior Lecturer level or below. Accordingly, papers submitted by authors whose appointment is above Senior Lecturer (or equivalent) are ineligible for the prize.

The 2022 best paper prize went to Alan K. Koh for the paper "Corporate Purpose and Director Accountability: Towards a Quasi-Private Enforcement Model"

Student Paper Prize

The judging panel commented on the high standard of papers and said that the winning paper was outstanding.

This year the winner is:

- Elise Jensen (Uni of Newcastle) for the paper 'Blood from a Stepping Stone: An Analysis of Directors' Liability After Cassimatis'.
- Second Place - Paige Reberger (Uni of the Sunshine Coast) for the paper 'Punishing the Corporate Entity'.

- Third Place - Joseph Grant (Uni of the Sunshine Coast) for the paper 'Unprincipled Participation: An Analysis of the Jobkeeper Program's Role in Subsidising Shareholder Dividends in the Context of Theoretical Corporate Frameworks'.)

General Activities of the Executive

The primary focus of the executive as always was the organization of the annual conference. Due to the likely travel restrictions connected with the pandemic, the executive made the difficult decision to defer the 2022 conference from the usual February date until July 2022. The high level of restrictions in February 2022 showed that this was probably in retrospect the right decision to make. Given the ongoing pandemic challenges, the attendance at the July conference was gratifying in particular because the conference was out of cycle.

The association formally changed its name to ScoLA in 2021. That change of name resulted in the need to redesign and redevelop the logo, brand and other collateral connected with the association. Beth, Vivienne, and Tim were particularly invoked in this aspect.

I have very much enjoyed my time as President of the association. It is an honour to be asked to lead a longstanding association that is an exemplar of how it is possible to be both academically excellent and rigorous, and also highly collegial and supportive. I have made some great friends through the association who I look forward to catching up with at the annual conference which always proves to be a highlight of the academic year. I know others share those sentiments. The association is in good heart and as it approaches 30 years of existence and with new members joining us to carry us forward, I am confident that it will continue to be a beacon of what is best about academia well into the future.

Susan Watson

CLTA President