Welcome to the September 2010 e-bulletin of the Gilbert + Tobin Centre of Public Law. Since publication of our last Newsletter in July, Centre members have been busy with several events in the lead-up to the 2010 Federal Election, as well as continuing their teaching and research in the field of public law.

Events/Seminars

On 12-13 July, the Centre held a postgraduate conference on public law aimed at giving research students working in this area an opportunity to present their work and network with their peers. Over 20 postgraduate research students from across Australia and New Zealand participated in this event, speaking on topics as diverse as preventative detention and judicial biography. The keynote address for the Conference was given by Dr Thomas Poole, one of the United Kingdom’s leading public law academics.

The postgraduate conference was followed in the first week of August by a two-day international Anti-Terrorism Symposium aimed at discussing draft chapters in a planned second edition of Ramraj, Hor and Roach (eds), Global Anti-Terrorism Law and Policy (2005). The symposium was attended by Australian and international experts in the field. The event was structured to promote discussion of the contributors’ draft chapters, the focus being on changes that have occurred since the first edition.

On 13 August, just prior to the 2010 Federal Election, the Australian Financial Review and the Centre organised a ‘Great Legal Debate’ between the Attorney-General, the Hon. Robert McClelland MP, and the Shadow Attorney-General, Senator the Hon. George Brandis SC. The debate followed a similar format to the two previous debates held in 2004 and 2007. Chaired by James Eyers of The AFR, the three-member panel was made up of Alex Ward, President Elect of the Law Council of Australia; Robert Milliner, chair of the Large Law Firm Group and chief executive partner of Mallesons Stephen Jaques; and Associate Professor Jane McAdam of the University of New South Wales. The debate explored the policies of the major parties as they affect the Australian legal system and the legal profession. A webcast of the event is available.
Since July, the Centre has held a series of seminars as part of its Public Law and Legal Theory project. Organised by Ben Golder (Project Director), these seminars featured an exciting range of international and inter-state speakers, discussing a range of key public law issues and concepts from a series of different perspectives (philosophical, historical, sociological and legal theoretical). Speakers have included Dr Illan Rua from Oxford Brookes University, who spoke on ‘Rethinking the Radical in Human Rights’, Dr Fleur Johns from the University of Sydney, who discussed ‘Democratic Torture as Event’, and Dr Lisa Ford from UNSW, whose topic was ‘Convicts, Order and Empire’.

The Centre’s most recent event was the Asylum Debate held on 21 September. (A weblink to a video of the Debate will be available on the Centre’s website soon.) This Q&A-style panel discussion, moderated by George Williams, brought together some of the world’s leading international refugee lawyers: Guy Goodwin-Gill (Oxford), Kate Jastram (Berkeley, who was a Centre visitor), Geoff Gilbert (Essex) and Jane McAdam from the Centre. Drawing on comparative perspectives from the UK, US and Australia, the discussion canvassed issues such as the ongoing relevance of the 1951 Refugee Convention, the role of international human rights law in protecting refugees and other forced migrants, the extent to which Australia’s policies on mandatory detention and offshore processing are unique, the positive potential of regional protection frameworks, and how the movement of people displaced by climate change might impact on international law and policy in the future. The Debate was followed by the launch of Jane’s new edited collection, Climate Change and Displacement: Multidisciplinary Perspectives (Hart Publishing: Oxford, 2010), by Professor Stephen Castles (Sydney).

Activities and Research

Over the last three months Centre members have contributed to debate on various public law issues through formal submissions and media and speaking engagements. Topics on which members have contributed include:

- The reform of Australia’s federal system;
- the crackdown on motorcycle gangs and new anti-bikie laws;
- the High Court’s decision on asylum seekers;
- the inflated risk posed by terrorism to Australia’s security;
- the powers of the Australian Building and Construction Commission; and
- the disgraceful state of the Electoral Roll, which saw millions of Australians missing out on voting in the Federal Election.

The consequences of the 2010 Federal Election also generated a lot of debate, including:

- the constitutional implications of a hung parliament;
- the problem of stability and hung parliaments; and
- the rules and conventions pertaining to how a government is formed.

Particular highlights over recent months include:
• Chris Michaelsen was one of four scholars selected from the Australian and New Zealand Society of International Law to present at the Third Four Societies Conference (ASIL, JSIL, CCIL, ANZSIL) in Awaji, Japan, 27-28 August (his paper examined the UN Security Council’s emerging practice of adopting Chapter VII measures targeting individuals);

• Jane McAdam was quoted in the New York Times on her work on climate change and disappearing States;

• Paul Kildea delivered a NSW Young Lawyers CLE seminar on ‘Constitutional Politics: The Australian Experience with Referendums’;

• Edward Santow published an article in the latest issue of the UNSW Law Journal on ‘The Act that Dares Not Speak its Name: The National Human Rights Consultation Report’s Parallel Roads to Human Rights Reform’;

• Jane McAdam dispelled some common misconceptions about asylum seekers in the run-up to the Federal Election;


• George Williams and David Hume’s co-edited book, People Power: The History and Future of the Referendum in Australia was published by UNSW Press.

The Centre has been joined this semester by:

• Professor Kent Roach, Faculty of Law, University of Toronto, who participated in the Anti-Terrorism Symposium and held a number of lectures in the Faculty;

• Two new postgraduate students: Tamara Tulich, whose PhD topic is ‘The Judiciary as a Check on Anti-Terror Laws’, and Justin Carter, whose thesis is titled, ‘The Law of Contempt at the Dawn of the Human Rights Era’; and

• Social Justice intern, Melissa Chin, who has been working with Jane McAdam and Paul Kildea on their respective projects.

Coming Up…

2011 Constitutional Law Conference and Dinner

The tenth in our series of annual conferences on constitutional law will be held at the Art Gallery of New South Wales on Friday, 18 February 2011. The conference will focus on developments in the High Court and other Australian courts in 2010 and beyond, and will again be followed by a dinner at New South Wales Parliament House.

Call for Papers – Federalism Research Roundtable

On 25 March 2011, the Centre will host a Research Roundtable as part of its Federalism Project. The theme of the Roundtable is 'Mechanisms of Federal Reform', and will focus on the processes and institutions that contribute to change in Australia’s federal system.
The Centre invites anyone who is interested in participating in this workshop to submit a 250 word abstract of a paper that they would like to present at the Roundtable. The deadline for abstracts is 7 October 2010. Submission is by email to the Director of the Federalism Project, Paul Kildea. We welcome contributions from both academics and practitioners, and postgraduate students are also welcome to apply.


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