



2016 CONSTITUTIONAL LAW CONFERENCE AND DINNER

Our next Constitutional Law Conference and Dinner will be held on 12 February 2016 at the Art Gallery of New South Wales and NSW Parliament House. Details, including the conference flyer and online registration can be found at www.gtcentre.unsw.edu.au

Dear Friend,

Welcome to the latest newsletter from the Gilbert + Tobin Centre of Public Law. There is news on Centre events about native title, electoral law, comparative constitutional law, the reform process underway in Myanmar and the 800th anniversary of Magna Carta, plus some student perspectives, our project reports and all the presentations and publications from the last six months. You will also find a report on AUSPUBLAW, The Australian Public Law Blog, which has been publishing research and commentary from writers around Australia since June, as well as a monthly listing of upcoming events. We are very proud of this new and popular outlet for public law scholarship and I want to thank Centre colleague Gabrielle Appleby for her outstanding work in terms of commissioning, editing and co-ordinating the blog.

We continue to value the work and celebrate the achievements of our research students. Inside you will find a piece from a recent PhD graduate and now Monash University academic, Sangeetha Pillai, on her research project, the final one in George Williams' ARC Laureate Project. We also report on our new work-in-progress seminar series for research students, which picks up on one of the most positively-received features of the Laureate Project.

Two new people will join the Centre shortly, Professor Simon Halliday (most recently of York Law School) and Dr Grant Hoole, a previous visitor to the Centre from Canada who recently won a UNSW Vice-Chancellor's Post-Doctoral Research Fellowship. I look forward to including more about Simon and Grant's work in the next newsletter.

It is also, sadly, time to farewell two colleagues. Dr Jason Varuhas has accepted an appointment at Melbourne Law School. Jason's scholarship in bridging public and private law, particularly in the area of remedies, is thought-provoking and accessible. I particularly appreciated his generous participation in our new work-in-progress seminar series for research students. We will miss him and wish him well at Melbourne. Dr Keiran Hardy has commenced a new job as a lecturer in criminology and criminal justice at Griffith University. Apart from an impressive undergraduate and postgraduate student career at UNSW, Keiran contributed on many other fronts. As well as teaching in the core and elective programs, he has been a research associate and the backbone of many Centre submissions, especially in the national security area. Most of all, he has been a great colleague, always willing to support our activities and the work of his peers in the most practical ways. Griffith University has done very well in recruiting him and we look forward to the next chapter in Keiran's career.



Centre Director, Sean Brennan

"Since the precarious transition to democracy, Muslim communities in Myanmar have been the primary targets of persecution. Australia has accepted significant numbers of refugees from Myanmar in the past, it is time to do so again."

Melissa Crouch, 'Persecution of Muslims in Myanmar is misunderstood by the West', *Sydney Morning Herald*, 3 December 2015

The Centre was recently subject to a periodic review by an external panel overseen by Peter Krug of the UNSW Centres Secretariat. The panel's report had some pleasingly positive things to say about the Centre's role in nurturing young researchers, and engaging with public debate, government policy makers, the legal fraternity and the media. I want to thank Peter and the members of the review panel for their hard work and the constructive recommendations they made for strengthening the Centre into the future.

We have lots in store for 2016, starting with our annual February events. The Centre's flagship Constitutional Law Conference, to be held on Friday 12 February, will feature keynotes from Jeremy Kirk SC and Justice Carmel McLure. An array of outstanding practitioners and academics will present papers on High Court cases from the past year in constitutional law. And I am looking forward to the concluding session on Governing and Constitutional Law, examined through the prism of three public offices: Attorney-General (a paper delivered by Walter Sofronoff QC), Solicitor-General (Dr Gabrielle Appleby) and Parliamentary Counsel (Peter Quiggin PSM). The day before, we will host Public Law in the Classroom 2016. This teaching workshop, inaugurated last year and co-organised with our friends at the Public Law and Policy Research Unit at the University of Adelaide, is free and features a keynote address and panel discussion on the politics of teaching public law, as well as other presentations and a poster session. Online registration details are available at the Centre website. I look forward to bringing you reports on these and other exciting developments in the next newsletter in mid-2016.

Associate Professor Sean Brennan
Centre Director

For details of Centre events, publications, submissions and so on please go to our website: www.gtcentre.unsw.edu.au

The Centre's Twitter account keeps you up to date between newsletters and e-bulletins: @GTCentre

Or if you prefer Facebook: www.facebook.com/pages/Gilbert-Tobin-Centre-of-Public-Law/138063326284705

"Australia's federal government remains attached to an opaque system of judicial appointments that is in retreat within the country and throughout the Commonwealth. The process is inadequate, indefensible and does a disservice to the individuals who are appointed under it."

Andrew Lynch, 'Australia is lagging behind the world's best on judicial appointments reform', *The Conversation* (13 August 2015)



Participants at Native Title and Indigenous Empowerment event



[CENTRE ACTIVITIES]

FINAL COURTS ROUNDUP – 10 DECEMBER 2015

This year's Final Courts Roundup featured two speakers: the Centre's Dr Jason Varuhas and Professor Jacob Gersen of Harvard Law School. Jason had a double brief, delivering an end-of year perspective on constitutional law developments in the final courts of both the United Kingdom and New Zealand. His focus for the UK Supreme Court was its decision in *Pham v Secretary of State for the Home Department*. Jason's view was that the Supreme Court's move to embrace proportionality in common law judicial review was based on weak reasoning and a flawed assimilation of common law 'rights' to rights codified in statute or Convention. In New Zealand, Jason noted varying levels of enthusiasm for substantive review and the use of proportionality in judicial review, and discussed the recognition of jurisdiction to declare secondary legislation incompatible with the country's statutory Bill of Rights.

Professor Gersen looked at constitutional law in the recent Supreme Court term in the United States. He observed that a canon of constitutional avoidance — a preference for non-constitutional means over constitutional ones, where possible, for resolving cases — is a standard feature of the judicial minimalism toolkit. Professor Gersen argued, however, that the Roberts Court appears often to favour an opposite approach and has a strategy of seeking out constitutional cases by marking issues for future litigation. He also discussed what he regarded as the surprising potency of the Religious Freedom Restoration Act 1993 in terms of later legislation that might otherwise prevail over it.

This annual event is co-organised by Professor Rosalind Dixon with the NSW Chapter of the Australian Association of Constitutional Law.

NATIVE TITLE AND INDIGENOUS EMPOWERMENT: PANEL DISCUSSION AND BOOK EVENT

Following the publication of *Native Title from Mabo to Akiba: A Vehicle for Change and Empowerment* (Federation Press, 2015), the Centre's Indigenous Legal Issues Project and the Indigenous Law Centre staged a panel discussion and book event on 18 November 2015.

The panel featured Jason Behrendt, one of Australia's leading native title and land rights lawyer, and Dr Valerie Cooms, a member of the National Native Title Tribunal, as well as the book's editors, Sean Brennan, Megan Davis, Brendan Edgeworth and Leon Terrill (all from UNSW).

The panel discussed the relationship between native title, land rights and Indigenous political and economic empowerment, including the roles played by Indigenous organisations, governments and the courts.

The discussion took place at the premises of the law firm Gilbert + Tobin, which generously supported the event.

[Audio](#) and [video](#) recordings of the event are available at the Centre website.



Paul Kildea and Rodney Smith
at Electoral Regulation Research
Workshop



The Right Hon the Lord Igor Judge
speaking at Magna Carta: Destiny
or Accident?



ELECTORAL REGULATION RESEARCH WORKSHOP

On 5-6 November the UNSW Law School hosted the fourth biennial Electoral Regulation Research Network (ERRN) workshop. The event was a joint initiative of the Gilbert + Tobin Centre of Public Law (through Dr Paul Kildea), the Department of Government and International Relations at the University of Sydney (through Dr Anika Gauja), and the ERRN.

The workshop brought together leading academics and practitioners in electoral law and politics. Australian Electoral Commissioner, Tom Rogers, opened the workshop with a paper on electoral integrity, in which he noted the challenges of operating in a highly complex electoral environment, and discussed the measures the AEC has adopted to enhance confidence in its management of elections. Over the next two days, speakers addressed a variety of contemporary issues in electoral regulation, including political finance, early voting, voter ID, Senate reform and electronic voting. A particular highlight was the launch of the new book by Graeme Orr (University of Queensland), *Ritual and Rhythm in Electoral Systems* (Ashgate, 2015). Michael Maley launched the book with a warm and generous speech that acknowledged Graeme's influential contribution to electoral law scholarship over the past 20 years.

One of the most enjoyable parts of the workshop was the opportunity to engage with deeply informed people who approach elections from such diverse perspectives. Workshop discussions and conversations over tea and coffee ranged widely from political philosophy to the fine details of election delivery – from talk of 'the will of the people' to the challenge of enforcing poster bans at polling places. This not only reflected the richness of this field of practice, but also the open and generous spirit with which delegates approached the workshop.

MAGNA CARTA: DESTINY OR ACCIDENT? PUBLIC LECTURE BY THE RIGHT HON THE LORD IGOR JUDGE

To celebrate the 800th anniversary of the year in which Magna Carta was first sealed, the Centre, together with UNSW Law and the Rule of Law Institute of Australia, hosted a public lecture on 1 October 2015 at the Federal Court of Australia. The lecture, titled 'Magna Carta: Destiny or Accident?', was given by Lord Igor Judge, President of the Selden Society and author (with Anthony Arlidge) of *Magna Carta Uncovered*. After a distinguished career as a barrister and judge, between 2008 and 2013 Lord Judge was Lord Chief Justice of England and Wales.

In an engaging lecture Lord Judge discussed the surprising survival of Magna Carta as a symbol of powerful ideas, such as the rule of law, and protecting citizens and their rights through the efficient administration of justice.

David Dixon, Dean of UNSW Law, compered the event and the audience also heard from Richard McHugh SC, a Governing Committee member of the Rule of Law Institute of Australia, about the Institute's support for this and many other public events and educational activities in the 800th anniversary year of Magna Carta.

The Centre acknowledged its interstate partners – Supreme Court Library Queensland and Melbourne Law School – who jointly supported Lord Judge's Australian lecture tour and Chief Justice James Allsop AO of the Federal Court, for the use of the ceremonial court.



Justice Daphne Barak-Erez,
Supreme Court of Israel, speaking
at Centre seminar



THE AUSPUBLAW BLOG

After its launch in June this year, AUSPUBLAW, The Australian Public Law Blog, has quickly become a leading platform for topical expert commentary on Australian public law issues. Averaging a new post each week, and reaching hundreds of subscribers and many more through social media, AUSPUBLAW featured 29 authors in six months.

The Blog has included posts from academic and professional commentators on a wide range of issues including a special series on the public law questions raised by the government's proposals to strip citizenship. It has provided commentary on the latest High Court decisions in areas such as native title, migration, spending, Chapter III and procedural fairness.

The blog has also introduced a regular monthly 'Australian Public Law Events Roundup'. The Roundup lists significant public lectures, conferences, as well as calls for papers for upcoming events. It includes information on upcoming events in public law hosted by a variety of institutions across Australia. From time to time, it has also included international events of interest to an Australian audience.

You can subscribe to the blog at www.auspublaw.org, or keep up to date by following it on Twitter @auspublawblog.

If you are interested in making a submission to AUSPUBLAW, you can contact Gabrielle Appleby (Blog Co-ordinator) and Sean Brennan at auspublaw@unsw.edu.au.

CENTRE SEMINARS

At a breakfast and informal discussion in August organised by Rosalind Dixon, Justice Daphne Barak-Erez addressed an audience of staff and students on the Supreme Court of Israel and its recent decisions in comparative perspective. Justice Barak-Erez, a current member of the Court and previously a legal academic, focused on social and economic rights.

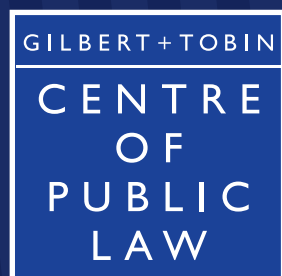
Peta Stephenson was a visitor at the Centre mid-year. Peta, a PhD candidate and sessional teacher at the University of Queensland, gave a Centre seminar on her project about Commonwealth executive power at the end of July. This was a neat segue into a new program of work-in-progress seminars by Higher Degree Research (HDR) students associated with the Centre. On each occasion, following a brief presentation, an audience of research student peers at UNSW Law, supervisors and selected Centre or Faculty colleagues provided feedback on a draft thesis chapter or similar piece of work circulated in advance. The series, which borrows one of the most popular features of the recently concluded ARC Laureate Project led by George Williams, is designed to provide HDR students with experience in both giving and receiving feedback as well as in presenting their work, as well as substantive input on their research project. Rob Woods presented on the seriatim tradition in judgment writing, Shipra Chordia brought to the series an advanced draft of her first chapter in a thesis on proportionality in Australian constitutional law, and Lynsey Blayden rounded out the year with a detailed outline of her research project on the unreasonableness ground in Australian administrative law and the separation of judicial power.



Centre Social Justice Intern,
Anna Rienstra

"It is a double standard that we can so readily recognise the need for compensation for some people, but not the Aboriginal people who have also suffered at the hands of institutions and government policies."

George Williams, 'All Victims of Abuse Sanctioned by the State Deserve the Same Right to Compensation', *Sydney Morning Herald*, 29 November 2015



Just before we closed down for the year, leading South African administrative law expert Professor Cora Hoexter (University of Witswatersand) visited UNSW briefly and presented a seminar on judicial discipline in South Africa through the prism of the long-running controversy surrounding John Hlophe, Judge President of the Western Cape High Court.

[CENTRE PEOPLE]

SOCIAL JUSTICE INTERN REPORT

ANNA RIENSTRA

My semester as a Social Justice Intern at the Gilbert + Tobin Centre of Public Law, under the guidance of Director Sean Brennan, was a fascinating and enriching experience.

My main task related to High Court litigation on the constitutionality of 'paperless arrests' in *North Australian Aboriginal Justice Agency v Northern Territory*. Before the High Court delivered its judgment, I read and analysed the parties' submissions, along with contextual materials, to write a blog post for AUSPUBLAW and a briefing paper for the Centre. I engaged with the parties' arguments on whether the new police powers of detention infringed the separation of powers and the *Kable* principle, deepening my understanding of Chapter III limitations. Coming to terms with arguments on the relationship between Chapter III and s 122 of the *Constitution* was challenging but I really enjoyed discussing with Sean the finer points of how the separation of powers at the Commonwealth level might apply to the laws of a territory legislature. Workshopping my drafts with Sean and Gabrielle Appleby, the AUSPUBLAW Blog Coordinator, was a great learning experience. It was satisfying to eventually convey the parties' arguments in a few pages (the blog post) and a single page (the briefing paper).

Through completing smaller research tasks I explored attitudes to government consultation with Indigenous people on constitutional reform proposals, the economic and industry-based arguments for changing alcohol taxation, proportions of female QCs/SCs across Australian jurisdictions and the external affairs power as a constitutional basis for Commonwealth funding of a homelessness peak body. I had the opportunity to observe a presentation on native title and Indigenous constitutional recognition for young Indigenous leaders. I read the recent decision in *McCloy v New South Wales* on the implied freedom of political communication when it was freshly handed down and attended an informal seminar on the decision. It was interesting to contribute to the work of several Centre members and to get a sense of the variety of projects that the Centre is involved in.

A highlight of the internship was engaging with contemporary public law issues. I was inspired by the Centre's use of scholarship on public law issues to influence public debate. I have also developed a better appreciation of the close connection between public law and social justice issues. For example, while the 'paperless arrest' litigation centred on competing constructions of legislation and complex constitutional issues, this was in the context of concern about violations of the right to liberty and the disproportionate effect on Indigenous people. I am extremely grateful to the Centre for hosting me this semester. I'd especially like to thank Sean for being so generous with his time and expertise.



PhD Graduate Sangeetha Pillai

"The Federal Parliament is addicted to the thrill of enacting these laws. They are often draconian and frequently unnecessary."

Fergal Davis, 'Why Australia is obsessed with anti-terror laws', *The New Daily*, 24 June 2015



PHD REPORT

SANGEETHA PILLAI

I joined the G+T Centre in 2011, as a Research Assistant for George Williams' ARC Laureate Fellowship Project 'Anti-Terror Laws and the Democratic Challenge'. Later that year, I commenced my PhD, which was awarded in October 2015.

My PhD explored the legal boundaries of Australian citizenship. I was drawn to this topic because of increased moves by governments in several countries to respond to national security threats by withdrawing rights commonly associated with citizenship, or citizenship itself. In spite of this, the legal content of Australian citizenship has, to this point, been poorly defined and the subject of considerable ambiguity.

My thesis analysed the way in which Australian citizenship is conceptualised in three legal domains: constitutional law, statute law and the common law. For each dimension, I sought to chart the limits of citizenship under current law, as well as to evaluate the potential for these limits to expand, contract or clarify in the future. I argued that while none of these dimensions individually presents a clear portrait of what Australian citizenship means, by focusing on the interconnections between the three dimensions it may be possible to conceive of Australian citizenship in a more cohesive and more rights-protective manner than conceptualisations thus far have allowed. The day after I submitted my PhD, the government introduced new citizenship stripping legislation into Parliament, and this legislation has now passed – so I may see some of my theories tested in the near future!

Being a part of the Laureate Project and of the G+T Centre was a dream job. From my very first day I felt accepted, valued and very much a part of the team. The four years I spent there was both the most intellectually challenging period I have experienced, as well as the most intellectually rewarding. I was exceptionally well-supported by my PhD supervisors, George Williams and Fergal Davis, whose guidance both sharpened my research and analytical skills and helped me to apply these skills more efficiently and strategically. Beyond this, the Centre at large provided the perfect environment in which to learn the ropes of academia. I was given the opportunity to teach a number of subjects, to travel overseas and interstate to present my research, to provide meaningful critique on other people's work, and to work with others on articles, parliamentary submissions and even a High Court case!

For anyone contemplating a PhD in public law, I wholeheartedly recommend the G+T Centre. Its members have an incredible breadth of expertise that is tough to beat. Even more importantly, they are inclusive, generous with their time and experience, and committed to creating a supportive and collaborative experience for PhD students that encourages both intellectual growth and the development of important practical skills. Upon completing my PhD, I commenced my first full time academic position, as a lecturer at Monash University, and am now 6 months into this role. My experience at the G+T Centre has made it immeasurably easier to navigate this new environment, and has left me with a clear sense of the kind of scholar I would like to become.



Latin American Workshop
Participants



Nancy Benitez Paez, Consul-General for Colombia, speaking at book event hosted by the Comparative Constitutional Law Project

[PROJECT REPORTS]

COMPARATIVE CONSTITUTIONAL LAW PROJECT

Project Director: Rosalind Dixon

Deputy Director: Melissa Crouch

The Project had its usual busy end to the year in December. After the 2015 Final Courts Roundup, held in the Federal Court building (and reported on earlier in this newsletter), the Project again hosted a Comparative Constitutional Law Roundtable the following day at UNSW. It was a very full day of presentations, from Associate Professor Ozan Varol (Lewis & Clark), Professors Jake Gersen and Jeannie Suk (Harvard), Associate Professor Mila Versteeg (Virginia), Kevin Cope (Michigan), Rosalind Dixon (UNSW) and Lael Weis (Melbourne). The commentators included a wide range of Australian academics: Professor Adrienne Stone, Dr Scott Stephenson and Dr Will Partlett from University of Melbourne; Dr Beth Goldblatt from UTS; Dr Joel Harrison from Macquarie University; and Associate Professor Chris Michaelsen, Dr Jason Varuhas and Associate Professor Cameron Holley of UNSW.

Earlier, in August, the project organised a two-day event on Comparative Constitutional Law in Latin America, co-hosted with the University of Chicago Center for Latin American Studies, with support from UNSW Law. The speakers included specialists in Latin American constitutional law based in Argentina, Colombia and Mexico as well as Australia, New Zealand and the United States. In the midst of that event, the Project also hosted a triple book event, marking the publication of *Comparative Constitutional Law in Asia* (with both co-editors, Professors Tom Ginsburg (Chicago) and Rosalind Dixon (UNSW) present), *The Constitutional Court and Democracy in Indonesia* by Associate Professor Simon Butt (Sydney), and *Who Rules Japan* edited by Associate Professor Leon Wolff (QUT), Professor Luke Nottage (Sydney) and Professor Kent Anderson (UWA). The Colombian Consul-General Nancy Benitez Paez spoke at the event.

The Reform Process in Myanmar

Dr Melissa Crouch played a central role in two events held at UNSW Law on Myanmar's reform process. In October, she participated in a panel with guest speakers Associate Professor Sean Turnell (Macquarie University) and Dr Nicholas Farrelly (ANU) entitled *Myanmar's Election November 2015: Forward to Democracy or Back to Militocracy?*. A podcast is available on the UNSW Law website page for the Asia-Pacific Law and Policy Forum, which supported the event together with the Australia Myanmar Constitutional Democracy Project.

Then in November Melissa organised *The Business of Transition*, an international workshop that brought together leading experts from Australia and overseas to discuss the opportunities and challenges for Myanmar in terms of development, economics and law reform. The workshop was supported by UNSW Law and the Herbert Smith Freehills Initiative on Law and Economics (run by Professors Rosalind Dixon and Richard Holden).

In recent months, Melissa Crouch has been actively involved in the law reform process in Myanmar. She was invited to speak at conferences in Myanmar on constitutional and administrative law reform options

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Speakers at Myanmar Elections event (Nicholas Farrelly, Martin Krygier, Sean Turnell and Melissa Crouch)

"This current round of national debate since 2007 has repeatedly involved papering over or wrestling with that tension: between the natural reluctance of federal politicians when it comes to constitutional change, and Indigenous expectations of a decent minimum, 50 years on from the 1967 referendum."

Sean Brennan, 'Three Questions and Three Episodes in Constitutional Deliberations', *Public Law Weekend: Constitutional Deliberations*, 2 October 2015



for a range of institutions, including the United Nations High Commission for Refugees, the United Nations Development Program, and the International Development Law Organisation (IDLO). In particular she provided advice to the Union Supreme Court, Attorney General's Office and President's Office on best practice in administrative law. Melissa has also recently given talks on Myanmar's reform process at the University of Otago, Sydney University, Melbourne University and Monash. Her media work has included interviews with CNN, Al Jazeera, ABC News, SBS and *The Australian*.

FEDERALISM PROJECT

Project Director: George Williams

Commonwealth spending powers and federal financial relations remain prominent questions of constitutional law and public policy. Shipra Chordia, Andrew Lynch and George Williams followed up their 2013 case note for the Melbourne University Law Review on the High Court litigation run by Queensland parent Ron Williams about the National School Chaplaincy Program with a 2015 piece in the same journal on the second round High Court decision in *Williams v Commonwealth (No 2)*.

George also published a piece with the Centre's Social Justice Intern Anna Rienstra in the Sydney Law Review on the creation of new States from existing ones, and in the Environmental and Planning Law Journal on the Commonwealth's constitutional powers in environmental management with Centre alumna (and now Monash academic) Dr Sangeetha Pillai.

INDIGENOUS LEGAL ISSUES PROJECT

Project Director: Sean Brennan

There were two notable developments in the half year to December 2015, as noted in the Referendums Project report. Sustained pressure from Indigenous leaders, including UNSW's Professor Megan Davis, for Indigenous-specific gatherings as part of the pre-referendum process eventually yielded a reversal of government policy on that matter. Then there was a change in Prime Ministers and, late in the year, the announcement of a Referendum Council to guide the next stage of a process towards constitutional change. Throughout, an underlying tension between symbolic-only change and substantive constitutional and legal reform continued. So, too, did the expression of a mix of opinions from Aboriginal and Torres Strait Islander people about the available options for change. Sean Brennan presented at the ANU Public Law Weekend on the topic in October and Paul Kildea wrote for *The Conversation* in August about the pre-referendum process. Centre colleagues Gabrielle Appleby and Fergal Davis had articles about the proposal for an Indigenous advisory body published in the *Indigenous Law Bulletin*, as did George Williams, who wrote and presented a number of times about the constitutional recognition debate in the past half-year, including giving the inaugural Inglis Clark Lecture in Tasmania's Parliament House.

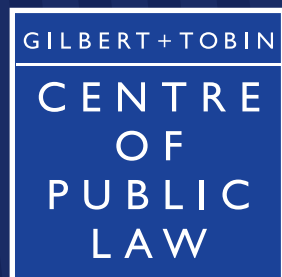
The other main activity under the umbrella of the Indigenous Legal Issues project was the panel discussion and book event on native title and empowerment held in November, reported on elsewhere in this newsletter. The event, supported by the Gilbert + Tobin law firm and held at their premises, concluded a process that began with a specialist workshop at UNSW and was marked by a book publication



George Williams speaking at The Inaugural Inglis Clark Lecture on 'Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution' delivered at the Tasmanian Parliament House on 7 July 2015

"Despite its efficiencies, the Heydon and Carmody sagas reveal that the current procedure for determining apprehended bias is unsatisfactory and is apt to injure public confidence in the judicial system, not promote it. Important reforms could be relatively easily achieved."

Gabrielle Appleby, 'After Heydon and Carmody, does Australia need a new test for judicial recusal?', *The Conversation*, 5 September 2015



in mid-2015. The workshop, which featured presentations from leading participants and scholars in the native title sphere to an invited audience of fifty people with a strong interest in the area, was another successful collaboration between the Centre and our colleagues at the Faculty's Indigenous Law Centre. The process showed the considerable benefits of the Centres pooling resources, networks and ideas. In this instance, that extended to include the involvement as a co-organiser of a Faculty colleague beyond both Centres, Professor Brendan Edgeworth whose expertise in property law encompasses a strong interest in native title. The book, *Native Title From Mabo to Akiba: A Vehicle for Change and Empowerment?*, edited by Sean Brennan, Megan Davis, Brendan Edgeworth and Leon Terrill, is published by Federation Press.

JUDICIARY PROJECT

Project Co-Directors: Gabrielle Appleby and Andrew Lynch

In recent months, the Directors of this project, Associate Professor Gabrielle Appleby and Professor Andrew Lynch, have continued their respective research programs while also collaborating on some new activities. Andrew continued his research on judicial appointments with its focus on diversity. In October, he presented a major paper on this topic in the New South Wales seminar series convened by the Australian Association of Constitutional Law. That paper assessed a number of significant Australian proposals for judicial appointments reform that had been made in response to the establishment of the Judicial Appointments Commission for the courts of England and Wales in 2005. The decade's worth of experience with those reforms provides an ideal lens through which to revisit the assumptions and specific design features of the various Australian models. Similar issues were canvassed in his invited contribution to a conference titled *Appointing Judges in an Age of Diversity* held at Birmingham University in November. Andrew was one of three international participants who gave an alternative perspective on the success of the English reforms and developments in the jurisdictions of Australia, Canada and South Africa. The remainder of his time in the second half of 2015 was spent editing the collected essays of the *Great Australian Dissents* workshop in June for publication as a book by Cambridge University Press next year.

Gabrielle has continued her research on disqualification for apprehended bias as the topic became one of increasing public interest after an application was made for Dyson Heydon to disqualify himself from his position as Royal Commissioner investigating corruption in trade unions. In September, she presented her research with Stephen McDonald considering the question of whether the self-recusal procedure currently adopted in Australia is in need of reform at the 'Perspectives on Judges' Seminar at King's College London. She has also written two pieces for *The Conversation* on the question. The first was co-written with Heather Roberts, in which they drew on their recent research on Heydon in Andrew's *Great Australian Dissents* collection to provide a background piece on Heydon's judicial philosophy. Gabrielle wrote a further piece for *The Conversation* arguing for reform of the disqualification procedure in light of the controversy over Heydon's decision, and the earlier decision of Chief Justice Tim Carmody of Queensland to step aside in the Cowan murder appeal.

Gabrielle is also working with Rosalind Dixon on an edited collection to be published by Federation Press in 2016 that 'rewrites' the High Court's 2013 judgment of *Monis v The Queen* on the implied freedom of political communication. Building on the work that has been done

"Despite the impression conveyed by the composition of the High Court, and acknowledging that female presence on the bench is steadily improving, gender equality in Australian courts still has a long way to go. Yet, the topic excites little mainstream political or professional disquiet; there has certainly not been a succession of government reviews and parliamentary inquiries into judicial diversity in Australia as in England in recent years."

Andrew Lynch, 'Diversity without a Judicial Appointments Commission – The Australian Experience', *Appointing Judges in an Age of Diversity*, Birmingham University, 6-7 November 2015

by the Feminist Judgments projects across the world, where leading cases were reimagined in their feminist form, this collection 'rewrites' the judgment in *Monis* from a wider range of critical perspectives, including feminism, critical race theory, queer theory, human rights theory, law and literature, political liberalism and law and economics. Gabrielle and Rosalind, together with a number of the authors of the judgments, will present the project at the *Public Law in the Classroom Workshop* on 11 February 2016, hosted by the Gilbert + Tobin Centre of Public Law and the University of Adelaide's Public Law and Policy Research Unit.

Rounding out the year, Gabrielle and Andrew made a substantial submission to the judicial appointments consultation held by the Queensland government in the wake of the controversy over Tim Carmody's appointment as Chief Justice of the state by the preceding Liberal National Party government. The Project Directors are currently working with Dr Rebecca Ananian-Welsh (University of Queensland) on a book dealing with that troubled episode and its significance for the Australian judiciary more generally. That title will be published by the UNSW Press and is due out by mid-2016.

PARLIAMENTS PROJECT

Project Director: Fergal Davis

With the design of Indigenous constitutional recognition still unresolved, members of the Parliaments Project have continued to contribute to that debate. The papers presented by Associate Professor Gabrielle Appleby and Dr Fergal Davis to a symposium on constitutional reform at Sydney Law School in June were later published in the *Indigenous Law Bulletin*. Gabrielle has a related piece in the forthcoming December 2015 edition of the *Australian Indigenous Law Review*.

Members of the Project made numerous appearances in the media covering the role of parliaments in maintaining liberty in the face of the ongoing threat from terrorism. Dr Davis was interviewed by ABC's *The World Today* program in October about the Prime Minister's announcement of legislation to toughen Australia's counter-terrorism laws. Fergal highlighted the apparent inability of the Federal Parliament to adequately scrutinise legislation, saying

'I'm a bit concerned by this rush to pass further legislation rather than to reflect upon the many reports that have been produced since 2005 and which give a good guide on what we should be doing with control orders. So that's not to say that reform isn't necessary, but it is to say that it is not obvious that we need to do this, this way and that we need to do it so quickly.'

On a related topic, Dr Davis visited UWA Law School in November and delivered a staff seminar: 'The Parliamentary Joint Committee on Human Rights and the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 – a case study'. This paper highlighted the ineffectiveness of the PJCHR in delivering political rights review, as demonstrated by that body's failure to influence the debate on the crucial Foreign Fighters legislation.

Papers from an earlier Project Workshop on Party Discipline and the Parliamentary Process have been accepted for publication in a *Special Section* of the journal *Parliamentary Affairs*. The Section has been edited by Jessie Blackburn (formerly of the G+T Centre) and Fergal Davis and includes separate contributions from Davis and Appleby. It is available online now.



Centre member Ben Golder at the Gleebooks' launch of his book *Foucault and the Politics of Rights*



Participants at the fourth biennial Electoral Regulation Research Network Workshop

PUBLIC LAW AND LEGAL THEORY PROJECT

Project Co-Directors: Ben Golder and Daniel McLoughlin

On Sunday 22 November Co-Director Dr Ben Golder's book *Foucault and the Politics of Rights* was launched upstairs at Gleebooks with a good crowd in attendance. The event was MC'ed by the other Co-Director of the Public Law and Legal Theory Project, Dr Daniel McLoughlin, and the book was launched by Dr Jessica Whyte from Western Sydney University.

The book brings together Dr Golder's work of the last 4-5 years on the French philosopher and social theorist, Michel Foucault and in so doing focuses on his late work on rights in order to address broader questions about the politics of rights in the contemporary era. As several commentators have observed, something quite remarkable happens in this late work. In his early career, Foucault had been a great critic of the liberal discourse of rights. Suddenly, from about 1976 onward, he makes increasing appeals to rights in his philosophical writings, political statements, interviews, and journalism. He not only defends their importance; he argues for rights new and as-yet-unrecognized. Does Foucault simply revise his former positions and endorse a liberal politics of rights? Dr Golder proposes an answer to this puzzle, which is that Foucault approaches rights in a spirit of creative and critical appropriation. He uses rights strategically for a range of political purposes that cannot be reduced to a simple endorsement of political liberalism. Dr Golder develops this interpretation of Foucault's work while analysing its shortcomings and relating it to the approaches taken by a series of current thinkers also engaged in considering the place of rights in contemporary politics, including Wendy Brown, Judith Butler, and Jacques Rancière.

REFERENDUMS PROJECT

Project Director: Paul Kildea

Progress continues to be slow on the proposed referendum on constitutional recognition of Aboriginal and Torres Islander peoples. A high profile July meeting between Prime Minister Tony Abbott, Opposition Leader Bill Shorten and 40 Indigenous leaders did little to develop consensus around a specific reform proposal, or to forge a path ahead. Following the meeting Abbott initially ruled out, and then agreed to, Indigenous-only conventions as part of a fresh round of community consultations. In early December a newly appointed, 16-member Referendum Council, led by co-chairs Professor Patrick Dodson and Mark Leibler, met with Shorten and new Prime Minister, Malcolm Turnbull. The government has asked the Council to oversee the consultation process and to prepare a report by mid-2016. The Council process marks the third wave of consultations and reports, following the work of the Expert Panel (2010-2012) and the Joint Select Committee on the Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (2012-2015). There is no firm timetable for the referendum but Council members are tentatively working towards a poll in May 2017, the 50th anniversary of the 1967 referendum.

Centre members have made several contributions on this issue in recent months. Paul Kildea, in *The Conversation*, criticised Abbott's initial rejection of Indigenous-only conventions, arguing that the reform process must reflect the issue's special relevance and application to Aboriginal and Torres Strait Islander peoples. George Williams wrote an opinion piece in the *Sydney Morning Herald* calling for a constitutional convention to restore purpose and urgency to the process.

"On the surface a plebiscite has an appealing ring to it ... but same-sex marriage is an issue that can and should be handled by the parliament."

Paul Kildea, 'Same-sex marriage: Don't let the people decide', *UK Constitutional Law Blog*, 6 October 2015

Referendums aside, there has been increasing debate around the idea of holding a plebiscite on same-sex marriage. Abbott pledged to hold a popular vote in the next parliamentary term, and Turnbull has retained that commitment. Four Centre members – Paul, George, Rosalind Dixon and Andrew Lynch – made submissions to a Senate committee inquiry in which they argued against a plebiscite, saying that it was unnecessary, expensive and ill-suited to an issue involving minority rights. The committee agreed, recommending that same-sex marriage be handled by the federal Parliament, rather than by popular vote. Both George and Paul published opinion pieces on the issue; George called the plebiscite 'a step in the wrong direction', while Paul argued that any shift towards direct democracy should be informed by a more careful debate about what issues are appropriate for popular decision.

TERRORISM LAW REFORM PROJECT

Project Directors: Keiran Hardy (to November 2015) and Nicola McGaritty (November 2015 to present)

The last six months has been a busy period for the members of the Terrorism Law Reform Project with the introduction of new anti-terrorism legislation into the Federal Parliament and several parliamentary and independent inquiries.

First, the Parliamentary Joint Committee on Intelligence and Security considered the proposals in the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015 to revoke citizenship on the basis of conduct by dual nationals. In its September report, the Committee made dozens of references to the submission by Shipra Chordia and George Williams with ex-Centre member (now Monash academic) Sangeetha Pillai, and to their oral evidence. The AUSPUBLAW blog also featured a series of posts about citizenship and the Bill from the Centre's Gabrielle Appleby as well as academic colleagues at Sydney, Monash and Adelaide Universities.

The Australian Citizenship Amendment (Allegiance to Australia) Bill 2015 was passed by both Houses of Federal Parliament on 3 December 2015. Shortly before its passage, Professor George Williams wrote in a column in the *Sydney Morning Herald* ('Citizenship rights a casualty of terrorism', 16 November 2015) that '[m]any of the worst features of the original bill have been removed by amendments ...'. However, he then went on to query the constitutionality of the Bill because 'the government will be able to act unilaterally, without a prior court decision or even giving the affected person a chance to be heard'. On a more practical note, it is 'not clear how further dividing the community by creating two classes of citizenship will build the social cohesion needed to combat terrorism'. Professor Williams has also given several speeches about the citizenship reforms, as well as other aspects of Australia's anti-terrorism legislation, at a number of universities in the United Kingdom (including the University of Oxford, University of Leeds, University of Essex, Durham University and King's College London).

Secondly, in September, ten current and former members of the Centre made a submission to the Independent National Security Legislation Monitor in relation to the adequacy of the safeguards relating to the control order regime in Division 104 of the *Criminal Code Act 1995* (Cth). A hearing – to which ex-Centre member (now University of Western Australia academic) Tamara Tulich gave evidence – was held in Canberra on 16 December 2015.

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Rosalind Dixon, Tom Ginsburg, Luke Nottage and Simon Butt at comparative constitutional law book event in August

Finally, the Federal Government introduced the Counter-Terrorism Legislation Amendment Bill (No 1) 2015 into the Senate in November. Amongst other things, this Bill proposed to lower the minimum age for control orders from 16 to 14, heighten the secrecy surrounding control order hearings, and establish a new offence of advocating genocide. In putting together a submission to the Parliamentary Joint Committee on Intelligence and Security, current and former members of the Centre were greatly assisted by the input of UNSW family law expert, Dr Noam Peleg. Professor Andrew Lynch and Dr Tamara Tulich gave oral evidence to the Committee on 14 December 2015.

[PUBLICATIONS AND PRESENTATIONS]

PUBLICATIONS

Joint Publications

Gabrielle Appleby and Stephen McDonald, 'Disqualification of judges and pre-judicial advice' (2015) 43 *Federal Law Review* 201;

Gabrielle Appleby and Ngaire Naffine, 'Civility, Gender and the Law: Critical Reflections on the Judgments in *Monis v The Queen*' (2015) 24 *Griffith Law Review* 1;

Gabrielle Appleby and Anna Oliynyk, 'The Impact of Uncertain Constitutional Norms on Government Policy: Tribunal Design after Kirk' (2015) 26 *Public Law Review* 91;

Alysia Blackham and George Williams, 'Social Media and Court Communication' (2015) *Public Law* 403;

Alysia Blackham and George Williams, 'Social Media and the Courts' on AUSPUBLAW (6 August 2015);

Shipra Chordia, Andrew Lynch and George Williams, '*Williams v Commonwealth*: Commonwealth Executive Power And Spending After *Williams (No 2)*' (2015) 39 *Melbourne University Law Review* 306;

Fergal Davis, Nicola McGarrity and George Williams, 'Australia' in Kent Roach (ed), *Comparative Counter-Terrorism Law* (Cambridge University Press, 2015) 650;

Rosalind Dixon and David Landau, 'Transnational Constitutionalism and A Limited Doctrine of Unconstitutional Constitutional Amendment' (2015) 13(3) *International Journal of Constitutional Law* 606;

Paul Kildea, Rodney Smith, Anika Gauja and Mel Keenan, *The Challenge of Informed Voting in the 21st Century*, A Research Report Commissioned by the Electoral Regulation Research Network (2015) 1-78;

Andrew Lynch and George Williams, 'The High Court on Constitutional Law – the 2014 Statistics' (2015) 38 *University of New South Wales Law Journal* 1078;

Sangeetha Pillai and George Williams, 'Commonwealth Power and Environmental Management: Constitutional Questions Revisited' (2015) 32 *Environmental Planning and Law Journal* 395;

Sangeetha Pillai and George Williams, 'The High Court, the Constitution and Family Law' (2015) 29 *Australian Journal of Family Law* 65;

Daniel Reynolds and George Williams, 'The *Racial Discrimination Act* and Inconsistency under the Australian Constitution' (2015) 36 *Adelaide Law Review* 241;

"Considerable disagreement remains about the form that recognition should take and the best path forward... The next step must be fresh talks on how to develop a process in which everyone can have confidence."

Paul Kildea, 'Confidence must be rebuilt after PM shoots down Indigenous leaders' plan', *The Conversation*, 7 August 2015

Daniel Reynolds and George Williams, 'The Racial Discrimination Act and the Australian Constitution' in *Perspectives on the Racial Discrimination Act* (Australian Human Rights Commission, 2015) 41;

Anna Rienstra and George Williams, 'Redrawing the Federation: Creating New States from Australia's Existing States' (2015) 37 *Sydney Law Review* 357.

Gabrielle Appleby

'Challenging the Orthodoxy: Giving the Court a Role in Scrutiny of Delegated Legislation' (2015) *Parliamentary Affairs*;

'An Indigenous Advisory Body: Some Questions of Design' (2015) 19(8) *Indigenous Law Bulletin* 3;

'The use (and abuse) of the Constitution in political debate' on AUSPUBLAW (23 July 2015).

Melissa Crouch

Best Practise in Administrative Law: Options for Myanmar, October 2015, Yangon: United Nations Development Program, 1-30. [*translated into Burmese].

Fergal Davis

'The Problem of Authority and the Proposal for an Indigenous Advisory Body' (2015) 19(8) *Indigenous Law Bulletin* 23.

Rosalind Dixon

'Partial Bills of Rights' (2015) 63 *American Journal of Comparative Law* 43.

Ben Golder

Foucault and the Politics of Rights (Stanford University Press, 2015).

Paul Kildea

'Same-sex marriage: Don't let the people decide', *UK Constitutional Law Blog* (6 October 2015).

Andrew Lynch

'Courts and Teamwork: What It Means for Judicial Diversity' (2015) 38 *University of New South Wales Law Journal* 1421.

Anna Rienstra

'The "paperless arrest": Chapter III and police detention powers in the Northern Territory' on AUSPUBLAW (9 November 2015).

George Williams

'Section 59 of the Constitution', NSW Society of Labor Lawyers, *Legal Tweaks that Would Change NSW and the Nation* (2015), 52;

'A Referendum or Plebiscite on Same-Sex Marriage?', *Court of Conscience* (UNSW Law Society, Issue 9, 2015), 32;

'Bryan Pape and his Legacy to the Law' (2015) 34 *University of Queensland Law Journal* 29;

'An Australian Perspective on the UK Human Rights Debate' on AUSPUBLAW (27 October 2015);

"Indigenous-specific conventions or similar gatherings offer a better chance of arriving at a proposal with a significant level of Indigenous community support, and valuable guidance to many non-Indigenous voters for whom that expression of support is a vital factor in their own vote. And if Australia's politicians and voters wish to proceed with a proposal over the opposition of a very significant mass of Indigenous opinion, there can be no shiftiness about that, no complacent self-reassurance about what is going on."

Sean Brennan, 'Three Questions and Three Episodes in Constitutional Deliberations', *Public Law Weekend: Constitutional Deliberations*, 2 October 2015

'An Australian Perspective on the UK Human Rights Act Debate', *UK Constitutional Law Blog* (27 October 2015);

'The Legal Assault on Australian Democracy', *Ethos* (June 2015, Issue 236) 18;

'Constitutional Recognition by Way of an Indigenous Advisory Body?' (2015) 8(18) *Indigenous Law Bulletin* 12.

PRESENTATIONS

Joint Presentations

Gabrielle Appleby and Anna Olijnyk, 'Constitutional Deliberation in Australian Parliaments', *Public Law Weekend: Constitutional Deliberations*, ANU, Canberra, 1 October 2015.

Gabrielle Appleby

'Government Lawyers as Integrity Institutions', *2015 University of Wisconsin Discussion Group on Constitutionalism*, 'The New Separation of Powers: Revisited', 13 November 2015;

'Pride and Prejudice: A Case for Reform of Judicial Recusal Procedure', *Inaugural 'Perspectives on Judges' Seminar*, Dickson Poon School of Law, King's College London, 24 September 2015;

'Reform of the Attorney-General: A Comparative Analysis', *Bingham Centre for the Rule of Law Seminar*, British Institute of International and Comparative Law, London, September 2015;

'Judicial Independence and Policy Distortion', *Judicial Independence in Australia: Contemporary Challenges; Future Directions*, University of Queensland, 10-11 July 2015.

Sean Brennan

Panel Member, *Native Title and Indigenous Empowerment*, Gilbert + Tobin Lawyers, Sydney, 24 November 2015;

'Three Questions and Three Episodes in Constitutional Deliberations', *Public Law Weekend: Constitutional Deliberations*, ANU, Canberra, 2 October 2015.

Melissa Crouch

'Administrative Law: History, Challenges and Options for Myanmar', Seminar, Rule of Law Centre, Mandalay, Myanmar, 14 December 2015;

'Myanmar's Constitutional Tribunal 2011-2015', *Asian Constitutionalism Workshop*, National University of Singapore, 10 December 2015;

'Myanmar's Courts in an era of Semi-Military Rule', *3rd HKU-UNSW Research Symposium*, UNSW, Sydney, 4 December 2015;

'Best Practise in Administrative Law', Seminar for the President's Office, Union Civil Service Board and Supreme Court of Myanmar, Naypyidaw, Myanmar, 16 November 2015;

'What's Law and Religion got to do with the Elections?', Seminar, UNSW, Sydney, 19 October 2015;

'Constitutional Change in Myanmar: The Role of Courts in Authoritarian Regimes', Melbourne Law School, University of Melbourne, 6 October 2015;

"Australia has had many notable scholars in the field of constitutional law, but few have had anything like the impact achieved by University of New England academic and barrister Bryan Pape. Despite a number of significant presentations and publications, his greatest success lay outside academia. It came as a result of his appearance as a litigant in person in the High Court matter that bears his name, *Pape v Commissioner of Taxation*."

George Williams, 'Bryan Pape and his Legacy to the Law' (2015) 34 *University of Queensland Law Journal* 29-46

'Law, Politics & Islam in Myanmar', Centre for Southeast Asia, Monash University, Melbourne, 5 October 2015;

'Constitutional Reform in Authoritarian Regimes: Writs as Weapons in Myanmar?', Otago Law Faculty, New Zealand, 1 September 2015;

'Myanmar's Muslims and the Struggle for a Burmese Muslim Identity', *Religion Programme*, University of Otago, New Zealand, 1 September 2015;

Speaker, *Constitutional Writs and Human Rights Workshop*, United Nations High Commissioner for Refugees (UNHCR) and the International Development Law Organisation (IDLO) in collaboration with the Public Legal Aid Network, Yangon, Myanmar, 8-9 August 2015;

'The Uses of Comparative Constitutional Law for Constitutional Courts', *Workshop for the Constitutional Tribunal of Myanmar*, Naypyidaw, Myanmar, 16 July 2015;

'The Supreme Court and Emergency Powers', *Australia-Myanmar Constitutional Democracy Workshop*, Yangon, Myanmar, 13-14 July 2015;

'Academic Research Methods: Examples from Comparative Constitutional Law', Law Department, Mandalay University, Myanmar, 9 July 2015.

Rosalind Dixon

Discussant, 'Gough Whitlam's Constitutional Vision', *Gough Whitlam and the Social Democratic Imagination: the Challenge for Contemporary Public Policy*, Whitlam Institute, Western Sydney University, 6 November 2015

Ben Golder

Author-Respondent, Book Panel on *Foucault and the Politics of Rights*, *Australasian Society for Continental Philosophy Conference*, University of New South Wales, Sydney, 2-4 December, 2015;

'Foucault and the Politics of Rights', Seminar, Julius Stone Institute, University of Sydney, Sydney, 26 November 2015;

'What is Critical about a Genealogy of Human Rights?', Castan Centre for Human Rights Law, Monash University, Melbourne, 23 September, 2015;

'On the Genealogy of Human Rights: An Essay on Nostalgia', *Aspirational Rituals: Promises and Utopias in Human Rights*, Centre for International Governance and Justice, RegNet, Australian National University, Canberra, 30-31 July 2015.

Paul Kildea

'The Challenge of Informed Voting at Constitutional Referendums', *Public Law Weekend: Constitutional Deliberations*, ANU, Canberra, 2 October 2015;

'Intergovernmental Relations and Accountability: A Policymaker Perspective', *Conference of the Australian Political Studies Association*, University of Canberra, Canberra, 29 September 2015.

Brendan Lim

'Gough Whitlam's Constitutional Vision', *Gough Whitlam and the Social Democratic Imagination: the Challenge for Contemporary Public Policy*, Whitlam Institute, Western Sydney University, 6 November 2015;

Brendan Lim, 'Deliberating the Dismissal — 40 Years On', *Public Law Weekend: Constitutional Deliberations*, ANU, Canberra, 1 October 2015.

"If a body emerges as the preferred model it is crucial that Indigenous Australians have a sense of ownership over it... To have authority – political authority – the body must be established by referendum."

Fergal Davis, 'The Problem of Authority and the Proposal for an Indigenous Advisory Body', (2015) 19(8), *Indigenous Law Bulletin* 23

Andrew Lynch

'Diversity without a Judicial Appointments Commission – The Australian Experience', *Appointing Judges in an Age of Diversity*, Birmingham University, 6-7 November 2015;

'Revisiting Judicial Appointments Reform in Australia', *Australian Association of Constitutional Law*, Federal Court of Australia, Sydney, 19 October 2015;

Discussant, 'National Security', *Constitutional Deliberations – ANU Public Law Weekend*, Australian National University, 1-2 October 2015;

'Keep Your Distance: Independence, Individualism and Decision-making on Multi-member Courts', *Judicial Independence in Australia – Contemporary Challenges, Future Directions*, University of Queensland, 10-11 July 2015.

Jason Varuhas

'Commentary on Suk and Gersen, "The Sex Bureaucracy"', *Comparative Constitutional Law Workshop*, Gilbert + Tobin Centre for Public Law, UNSW, Sydney 11 December 2015;

'Review of Public Law Developments in the UK and New Zealand', *Final Courts Roundup*, AACL and Gilbert + Tobin Centre of Public Law, Sydney, 10 December 2015.

George Williams

'Recognising Aboriginal Peoples in the Australian Constitution', Institute of Advanced Study Seminar Series, Durham University, 7 December 2015;

'Countering Terrorism by Revoking Citizenship', *Speaking about National Security Law Lecture Series*, Transnational Law Institute, Dickson Poon School of Law, King's College London, 30 November 2015;

'Bills of Rights in Australia and New Zealand: Reflections on the Statutory Bill of Rights Model and the United Kingdom Bill of Rights Debate', Human Rights Centre Seminar, Durham University, 20 November 2015;

'Anti-Terrorism Laws and Countering Violent Extremism in Australia', Durham University Philosophy, Politics and Economics Society, Durham, 16 November 2015;

'Human Rights in an Age of Terror', Institute of Advanced Study Lecture Series, Durham University, 12 November 2015;

'Developing a Research Project', Public Law Group, Essex Law School, University of Essex, 11 November 2015;

'Revoking Citizenship in Australia', Open Seminar, Essex Law School, University of Essex, 10 November 2015;

'Parliamentary Human Rights Vetting and Deliberation', *Deliberative Constitutionalism Workshop*, University College London, London, 9 November 2015;

'Australia's Proposal for Citizenship Stripping', Seminar, School of Law, University of Leeds, 3 November 2015;

'An Australian Perspective on the Human Rights Act Debate', Public Lecture, School of Law, Queen's University, Belfast, 26 October 2015;

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'Why is Australia Holding a Referendum to Recognise Aboriginal Peoples?', Constitutional Law Discussion Group, Edinburgh Centre for Constitutional Law, School of Law, University of Edinburgh, 20 October 2015;

'The UK Human Rights Act Debate', *This Way, That Way, The Other Way? Directions for Human Rights in the UK*, Bingham Centre for the Rule of Law, British Institute of International and Comparative Law, London, 19 October 2015;

'How Effective is Australia's Parliamentary System for Human Rights Protection?', *Protecting Rights – Engaging Parliament Conference*, University of Oxford, 16 October 2015;

'Countering Terrorism without a Human Rights Act: A Perspective from Australia', Public Law Discussion Group, University of Oxford, 15 October 2015;

'Lowering the Voting Age to 16', ALP Central Branch, Sydney, 20 July 2015;

'Time for Constitutional Recognition?', *Question Time*, Wheeler Centre, Melbourne Town Hall, 14 July 2015;

'Australia's New Citizenship Legislation', Public Forum, New South Wales Society of Labor Lawyers, Sydney, 13 July 2015;

'Social Media and the Judiciary: A Challenge to Judicial Independence?', *Judicial Independence in Australia: Contemporary Challenges, Future Directions*, University of Queensland, Brisbane, 11 July 2015;

'State Judges as Lieutenant Governors', *Judicial Independence in Australia: Contemporary Challenges, Future Directions*, University of Queensland, Brisbane, 11 July 2015;

'Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution', *Inaugural Inglis Clark Lecture*, Tasmanian Parliament House, Hobart, 7 July 2015;

'Safeguarding Democracy in an Age of Terror', *International Society of Public Law 2015 Conference on Public Law in an Uncertain World*, New York University, New York, 2 July 2015.

MEDIA PUBLICATIONS

Joint Media Publications

Gabrielle Appleby and Heather Roberts, 'Bias and the "black-letter" judge: who is Dyson Heydon?', *The Conversation* (20 August 2015);

Rosalind Dixon and Richard Holden, 'Charging \$22,000 for a graduate position won't solve the problem of law graduate oversupply', *The Conversation* (28 July 2015);

Rosalind Dixon and Richard Holden, 'Legal Aid vs private practice: do university fees dictate job choices?', *The Conversation* (7 July 2015).

Gabrielle Appleby

'What say do our elected representatives have in going to war?', *The Conversation* (10 December 2015);

'After Heydon and Carmody, does Australia need a new test for judicial recusal?', *The Conversation* (5 September 2015).

Melissa Crouch

'Persecution of Muslims in Myanmar is misunderstood by the West', *Sydney Morning Herald* (3 December 2015).

Paul Kildea

'Confidence must be rebuilt after PM shoots down Indigenous leaders' plan', *The Conversation* (7 August 2015).

Andrew Lynch

'Australia is lagging behind the world's best on judicial appointments reform', *The Conversation* (13 August 2015).

George Williams

'All Victims of Abuse Sanctioned by the State Deserve the Same Right to Compensation', *Sydney Morning Herald* (30 November 2015);

'All Victims of Abuse Sanctioned by the State Deserve the Same Right to Compensation', *The Age* (30 November 2015);

'Citizenship Rights a Casualty of Terrorism', *Sydney Morning Herald* (16 November 2015);

'Citizenship Rights a Casualty of Terrorism', *The Age* (16 November 2015);

'Racial Discrimination Act a Turning Point in Fight Against Legal Discrimination', *Sydney Morning Herald* (1 November 2015);

'Bid for UN Councils Made Difficult by Our Record at Home', *Sydney Morning Herald* (19 October 2015);

'Why Turnbull Should Dump Abbott's Citizenship Bill', *The Age* (5 October 2015);

'PM Must Dump Citizenship Bill', *Sydney Morning Herald* (5 October 2015);

'A Plebiscite on Same-Sex Marriage? No Thanks', *The Age* (21 September 2015);

'Under PM Turnbull, Where to Now for Same-Sex Marriage?', *Sydney Morning Herald* (21 September 2015);

'Political Tactic Designed to Maintain Focus on Heydon', *Canberra Times* (7 September 2015);

'Disquiet over Heydon's Role Difficult to Dispel', *Sydney Morning Herald* (7 September 2015);

'MP Expenses Must be Fixed', *Canberra Times* (10 August 2015);

'The Failure to Fix the Expenses System Rests with Our Politicians', *Sydney Morning Herald* (10 August 2015);

'Let's Restart the Debate over a Republic but with a Better Model than the Last', *Sydney Morning Herald* (27 July 2015);

'We Must Conclude Debate on Recognition of our First Peoples', *Sydney Morning Herald* (13 July 2015).

SUBMISSIONS

Joint Submissions

Rebecca Ananian-Welsh, Keiran Hardy, Andrew Lynch, Nicola McGarrity, Noam Peleg and Tamara Tulich, Submission to the Parliamentary Joint Committee on Intelligence and Security Inquiry into Counter-Terrorism Legislation Amendment Bill (No 1) 2015 (8 December 2015);

Shipra Chordia, Sangeetha Pillai and George Williams, Submission to Parliamentary Joint Committee on Intelligence and Security Inquiry into the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015 (16 July 2015);

Rosalind Dixon, Paul Kildea and Andrew Lynch, Submission to the Senate Legal and Constitutional Affairs Committee on Inquiry into the matter of a popular vote, in the form of a plebiscite or referendum, on the matter of marriage in Australia (3 September 2015);

Paul Kildea, Rodney Smith, Anika Gauja and Mel Keenan, Submission to Joint Select Committee on Electoral Matters Inquiry into Electoral Education (July 2015);

Andrew Lynch and Gabrielle Appleby, Submission to the Department of Justice and Attorney-General, *Review of the Judicial Appointments Process in Queensland – Discussion Paper*, October 2015;

George Williams and Laureate Project Team, Submission to Independent National Security Legislation Monitor Inquiry into the Adequacy of the Safeguards Relating to the Control Order Regime Provided for by Division 104 of the Criminal Code (18 September 2015).

Gabrielle Appleby

Submission to the Senate Environment and Communications Legislation Committee on Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015 (2 September 2015).

George Williams

Submission to Senate Legal and Constitutional Affairs Committee Inquiry into the Matter of a Popular Vote, in the Form of a Plebiscite or Referendum, on the Matter of Marriage in Australia (3 September 2015).



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