

GILBERT+TOBIN

CENTRE  
OF  
PUBLIC  
LAW

# Newsletter January 2011



Dear Friend

Welcome to the latest newsletter of the Gilbert + Tobin Centre of Public Law, letting you know of the activities and research of Centre members in the last six months, from July to December 2010.

Having been a recipient of these newsletters for the last several years, first in South Africa and then in my new home in Australia, it is now my pleasure to introduce this one. 'Pleasure' because, in my role as Acting Director these last six months, I have been able to witness at first hand some of the many activities in which members of the Centre have been involved, and to take vicarious pride in their achievements.

Before introducing those achievements, I hope you will allow me a few reflections, as someone who has been attached to one or another university research centre for most of his career, on the role of such centres, and the role of the G + T Centre in particular.

The precise role of any particular university research centre is, of course, contingent on the purpose of the centre, the institutional environment in which it finds itself, and the field of research in which it is engaged. As a general matter, however, it is fair to say that the role of such centres is conditioned by the contradictory pressures under which university research is today conducted. On the one hand, universities are supposed to be inter-generational repositories of knowledge, operating a little above (or beneath, if you prefer) the daily thrust and counter-thrust of electoral politics. On the other, universities are under increasing pressure to be socially relevant – to justify the still sizeable levels of public investment in their upkeep by producing research that has some immediate and measurable public benefit.

The role of the G + T Centre in this context has long been to make targeted interventions across a range of public policy debates that are critical to Australia's future success as a country – not just economically, but also morally, as a nation whose reputation in the international community depends as much on its inhabitants' compassion for those less fortunate than themselves as it does on its value as a trading partner.

Centre members have thus been involved for a number of years in the ongoing national conversation about whether the content and limits of human rights should best be left to Parliament to determine, or whether some role might be found for the courts in this process. If anything, this question has be-



Acting Centre Director,  
Professor Theunis Roux (left)  
with Centre Members Paul  
Kildea and Jane McAdam

There is at present no internationally agreed definition of what it means to be an environmental "migrant", "refugee", or "displaced person", and consequently, no agreed label for those affected.

Jane McAdam, *New York Times*, 23 August 2010

## 2011 Constitutional Law Conference and Dinner

Tickets for our next Constitutional Law Conference and Dinner to be held on 18 February 2011 at the Art Gallery of New South Wales and NSW Parliament House are selling fast, to register, see <http://www.gtcentre.unsw.edu.au/events>



GILBERT + TOBIN CENTRE OF PUBLIC LAW  
NEWSLETTER JANUARY 2011 > 2

come even more pressing in the age of global terrorism as the Commonwealth Parliament tries to reconcile Australia's commitment to individual freedom and the rule of law with national security concerns. The question of Australia's international law obligations towards refugees and asylum-seekers has also been the subject of much research, with the issue now further complicated by the movement of people in response to climate change. Most recently, researchers at the Centre have begun to focus more directly on the strengths and weaknesses of Australia's federal system and the question whether the institutional arrangements adopted in 1901 are still serving the needs of a country very different from the one that it was then.

In intervening in public debates on these and other issues, Centre members have long recognised, the goal of influencing public policy cannot be pursued at the expense of academic rigour. Indeed, whatever authority Centre members possess as participants in these debates depends on their observance of this rule.

In practice, what this means is that some invitations to speak on public radio or write a column in the newspaper must be refused. In other instances, the cutting rhetorical remark must be resisted in favour of the more moderate comment that can be supported by relevant research. The public want and expect academics to be socially engaged, but they also want and expect them to be academics – to bring a more sober, dispassionate perspective to bear on public policy debates, and above all, to remain within their areas of expertise.

Having watched the G + T Centre grow, first from afar, and latterly up close, I can testify to a developed maturity in this respect. Following in George Williams's footsteps, all the Centre's members are now seasoned media practitioners, remarkably adept at presenting their research in a way that is relevant and yet academically credible. As someone not yet confident enough about my own grasp of Australian affairs to play this role, I can only marvel at their industry, skill and commitment to making a difference across the wide range of issues reflected in this newsletter.

Some highlights: As the detailed project reports in this newsletter indicate, the last six months have been a particularly busy time for the Centre, with two major public events and several academic conferences. The federal election in August provided an opportunity for the Centre to co-host, in conjunction with *The Australian Financial Review*, the Great Legal Debate between the federal Attorney-General and his opposition counterpart. This is the third time that this debate has been held, making it a firmly established institution in the Australian legal community. For me, the memorable thing about the debate was the generous spirit in which it was conducted. For all their famed combativeness, it would seem that lawyer-politicians in Australia have grasped what other politicians can't seem to understand: that spiteful, unnecessarily rancorous public debates don't impress anyone, and simply impede public understanding of the policy differences between the two major parties.

The second major public event was the Asylum Debate in September at which three international refugee law experts, together with the Centre's Jane McAdam, discussed a range of issues relating to their discipline. Further details of this event are contained in Jane's project report.

The two academic conferences hosted by the Centre, in addition to a range of smaller seminars, were the Global Anti-Terrorism Law and Policy Forum and the Postgraduate Conference in Public Law. The first event, held in August, brought together a number of international and Australian researchers to discuss the draft chapters they are writing for the second edition of Victor Ramraj et al. (eds.), *Global Anti-Terrorism Law and Policy* (CUP, forthcoming 2011). The second event provided an opportunity for postgraduate researchers in public law from the UNSW Law Faculty and other universities in Australia to present their research and receive feedback from their peers and senior academics. Given my other Faculty role as Director of Postgraduate Research, I was particularly pleased that the Centre was able to host this event, and am grateful to Ben Golder and Andrew Lynch for all the time and energy they put into organising it.

On a sadder note, this newsletter marks the last report from Ed Santow, the Director of the Charter of Rights Project. Ed has been an inspiring member of the Centre for many years now and his enthusiasm, wit and intelligence will be sorely missed. Happily, Ed will not be moving far away, having taken up a post as CEO of the Public Interest Advocacy Centre in Sydney. This is a tremendous honour for Ed and a mark of the high esteem in which he is held in the legal community. We wish him all the best in his new role.

**Professor Theunis Roux**  
**Acting Director**

## CENTRE ACTIVITIES

### 2010 Global Anti-Terrorism Law and Policy Forum

On 5 and 6 August the Laureate Project and Centre hosted a forum on global responses to terrorism. The forum attracted the largest number of international visitors yet to attend any Centre event. The visitors included leading international figures in anti-terror law research such as Kent Roach from Canada, Victor V Ramraj from Singapore, Cathleen Powell from South Africa, Ujjwal Kumar Singh from India and Helen Fenwick and Gavin Philipson from the UK.

The aim of the event was to present and discuss draft chapters for the second edition of *Global Anti-Terrorism Law and Policy*. The first edition of the book (published by Cambridge University Press in 2005) has established itself as the leading international work on international and comparative responses to terrorism. The second edition, to be published in 2011, will take account of the many developments over recent years and provide an important international snapshot of the area for the 10th anniversary of September 11.

The symposium was very successful in helping chapter writers to further develop their ideas and analyses. A particular success was that the forum attracted leading Australian researchers to contribute to the discussion and to critique the work of the international participants. Australian attendees included Patrick Emerton, Ben Saul, James Renwick and Greg Carne, as well as a number of postgraduate students in the area.



Chris Oxtoby, University of Cape Town, with PhD students, Wenwen Lu and Rebecca Welsh, at the 2010 Anti-Terrorism Symposium



## Postgraduate Conference in Public Law



Professor Kent Roach, University of Toronto (Co-editor of the second edition of *Global Anti-Terrorism Law and Policy*) and Professor Ujjwal Singh, University of Delhi (participant at the 2010 Anti-Terrorism Symposium)



Dr Thomas Poole speaking at the Post-Graduate Conference

In July, the Centre hosted a two-day conference for postgraduate research students working in the broad field of public law. The aim was to provide a forum in which emerging scholars in this area could present aspects of their research and discuss methodological and other challenges with their peers. The Centre's own postgraduate students all took part and were joined by research students from other institutions in Sydney, New South Wales and from interstate. Abstracts had earlier been invited from the Australian postgraduate community and the final program showcased new research under a range of themes, including: public law and private bodies; judicial biography; customary law and Indigenous studies; preventative detention and the State; public/international law and identity; and freedom of speech.

We were especially fortunate to be able to commence the event with a keynote address by Dr Thomas Poole of the London School of Economics. Tom's presentation, titled 'Proportionality in Perspective', provided a suitably stimulating start to the conference, taking his audience back to the writings of Plato and Cicero on law and justice with illuminations from classical and modern art, before articulating a contemporary vision of proportionality's operation in the determination of constitutional dilemmas and the protection of human rights.

The conference concluded with a panel discussion on methodology in public law research, chaired by Professor Theunis Roux. The participants, each explaining quite distinctive methodological approaches, were the Centre's Paul Kildea and Dr Christopher Michaelson, joined by Professor Denise Meyerson from the Division of Law at Macquarie University, who had just concluded a six-month visit with the Centre.

We were extremely grateful to all staff members who gave time to chair sessions and discuss students' work with them over the course of the two days. Particular thanks go to Tom and Denise for their presentations. Additionally, thanks are due to the Centre's Dr Ben Golder, for his initiative and enthusiasm as the main organiser of the conference. Lastly though, we thank all the students who took part and hope that they found the event one which assisted them with fresh ideas, feedback and contacts – all of which can help reduce the notorious isolation of the postgraduate experience!



Speaker and participants at the Post-Graduate Conference





## Great Legal Debate



Great Legal Debate

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, held in the offices of Gilbert + Tobin in Sydney's CBD, attracted over 100 people and was 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. Discussion centred around the policies of the major parties and their affect on the Australian legal system and profession. A webcast of the event is available.

## CENTRE COMMENT

### The Bill of Rights Debate: An Interloper's Post Mortem

It seems inconceivable that the Rann government will let the High Court's decision be the last word on anti-bikie laws. It presumably will tailor its legislation with a keener eye on constitutional compliance. Indeed, it is puzzling why this was not done in response to the Supreme Court's ruling. Instead of the cost-free option of legislative amendment, the state pursued a doomed appeal to the High Court at taxpayers' expense.

Andrew Lynch, 'Bikies face bumpy ride despite ruling' *The Australian* (19 November 2010)

As Ed Santow notes in his report, the federal government decided in April this year not to follow the National Human Rights Consultation's recommendation that Australia adopt a statutory bill of rights. This decision obviously came as a disappointment to those Centre members who have long argued for this reform. Attention will now turn to the bill on pre-legislative human rights scrutiny and the performance of the various charters at State and Territory level. As someone who lived under a bill of rights regime in South Africa for the better part of fifteen years, I thought I would use this opportunity to reflect very briefly on these developments.

I must declare at the outset that I am not an evangelist for bills of rights in all situations. Their performance as guarantors of human freedom very much depends on the political circumstances in which they are introduced. In South Africa, where human rights had been denied for so long, and where it was necessary to reconstruct a new national identity from the ruins of apartheid, the adoption of a bill of rights was a natural constitutional design choice. Although it may seem ironic that black South Africans, having been denied self-government for so long, should agree to limit their democratic power even as it was being achieved, there were reasons of *realpolitik* for making this decision.

Not so in Australia, where the debate over the adoption of a bill of rights is driven by less powerful social forces. In this country, where the vast majority of people live relatively comfortable lives, the benefits of a bill of rights seem remote and the potential downside – represented by the opponents of a federal bill of rights as a profound and unpredictable change in legal and political culture – all too apparent. Although one might quibble that those who support the maintenance of the existing legal and political culture tend to be those who benefit most from it, there is much to be said for a cautious approach. Wrongly handled, the introduction of a federal bill of rights could leave all Australians worse off.





Centre Research Assistants Keiran Hardy and Jesse Galdston

Providing asylum is underscored by the basic notion of human dignity. Yet in Australia this has been overwhelmed by hostility and scapegoating.

Jane McAdam, Opinion, 'Gillard's Missing the Boat on Asylum', *Sydney Morning Herald* (7 July 2010)



When I first visited Australia some eight or nine years ago, I was in fact struck by how rights-conscious a country it already was. I remember reading the *Sydney Morning Herald* for the first time (a shamefully vacuous rag I know, reflective of the city's shallow culture). The front page featured a story about how some or other proposed change to the tax system would affect an actual Sydney family. It seemed to me that this refraction of a national policy debate through its impact on individual Australians was precisely what introducing a bill of rights is supposed to achieve, and that in this country the combination of a free press and a competitive party system provide many of the benefits that, in less mature democracies, only the courts interpreting a bill of rights can guarantee.

To my mind, therefore, the onus of proof lies very much with proponents of a bill of rights to show (a) that the existing legal and political culture excludes vulnerable and disadvantaged groups in a way that should be profoundly troubling to fair-minded Australians of both the right and the left; (b) that the introduction of a bill of rights is more likely to solve these problems than some or other more incremental change to the political system.

Although it would be comforting to think that the ALP's decision not to proceed with the Brennan Committee's recommendation was based on a considered (and inherently revisable) view that the case for a statutory bill of rights had not been made out, I suspect that the real reason was that there was no political advantage to be had in backing so controversial a proposal. The problem with introducing a federal bill of rights in Australia is the short electoral cycle, and the fact that the risks attendant on nailing one's political colours to the mast of human rights almost always outweigh the benefits. Absent a change in the external environment, this political calculus is unlikely to change any time soon.

Having said all that, I have never quite understood the vehemence of the opposition to a statutory (as opposed to a constitutional) bill of rights. If both the need for a bill of rights and the reason to be cautious about its introduction have to do with the way it would alter the existing legal and political culture, a statutory bill of rights is somewhat beside the point. The powers judges acquire under such an arrangement simply do not trigger so profound a change. By the same token, the compromise proponents of a bill of rights make when agreeing to a 'dialogue model' has always struck me as one that defeats the very object of the exercise. If the problem lies with the exclusionary nature of the existing legal and political culture, then adopting a model that promises no great change to that culture seems like a waste of effort.

Having taught federal constitutional law these last two years, I have also been somewhat bamboozled by the argument that the problem with a constitutional bill of rights is that it would require judges to enforce vaguely formulated human rights, and that this would somehow run counter to Australia's legalist tradition, on which cordial relations between the different branches of government allegedly depend. Anyone who has tried to explain the test for 'sufficient connection' to a group of exam-oriented students, or discussed the practical consequences of *Re Wakim*, knows this argument to be fallacious. Federalism review is no more legally certain and no less disruptive of democratic decision-making than rights review. The only question is whether judges should have the power to hold legislatures to account for inattention to human rights or whether this function is best left to the opposition party in Parliament. On that question, I remain – for the moment – agnostic.

Theunis Roux

# CENTRE PEOPLE

## PhD Report - Dominique Dalla-Pozza



Centre PhD Graduate Dominique Dalla-Pozza

One of the first pieces of useful advice given to me by George Williams and Andrew Lynch in their capacity as my PhD supervisors was the importance of perfecting my 'dinner party line'. They explained to me that, during my PhD candidature, I would often be asked to describe my research, and that it would be useful to be able to encapsulate it in a sentence. Once I had delivered the 'line', I could then assess whether the person I was talking to wanted to hear more (which sometimes occurred) or whether it would be more socially acceptable to move on to other topics. From the beginning of 2006 until mid way through 2010 my 'line' went something like, 'I am looking at the process by which the Federal Parliament passed laws specifically directed towards countering terrorism, after the events of September 11'. Upon having my PhD conferred in August this year, I have had the great pleasure of being able to change the tense in my 'dinner party line'. These days, I am thrilled to be able to tell people that during my PhD research 'I *looked* at the process by which the Federal Parliament' passed these important laws. What can I say? Completing my PhD gave me an appreciation of how important the little details can sometimes be.

My PhD was an incredible learning experience. I was given the support to plunge into an examination of the parliamentary record to make my assessment of the approach taken by Australia as the Parliament crafted changes to the law in the wake of the events in the United States of 11 September 2001. Establishing precisely which mix of quantitative and qualitative methods I would use to generate this assessment was one of the exciting challenges presented by my project. I also enjoyed being able to conduct research which had an interdisciplinary element, as I used ideas drawn from the literature on deliberative democracy to develop the framework against which I assessed the process by which Australia's federal counter-terrorism law framework was developed.

I am extraordinarily grateful for the opportunity to have completed my research at the Gilbert + Tobin Centre of Public Law. It is a truly inspiring research environment. I was given multiple opportunities to attend stimulating conferences and events, and to meet and discuss my work with the many amazing visitors who spent time with the Centre. I was also extremely fortunate to work with the talented scholars who work with the Centre. I have learnt so much from these colleagues who were incredibly generous with their time and experience. There is not enough space here for me to thank each of them for their help and support. I am, however particularly indebted to the past and present directors of the Terrorism and the Law project (to which I was attached), Ms Edwina MacDonald, Ms Nicola McGaritty and Mr Edward Santow, for their enthusiasm for my project. My deepest thanks is reserved for my supervisors, Professor George Williams and Associate Professor Andrew Lynch. The time and effort they invested in my PhD and their continual encouragement was pivotal to its success. They have provided me with a fantastic foundation for my future career as an academic.

I look forward to continuing to attend events organised by the Centre, and to help to contribute in the future to the work they do investigating and analysing important public law issues.



# PROJECT REPORTS

## Charter of Rights

Project Director: Edward Santow



Edward Santow and Mary Kostakidis at launch of the latest issue of UNSW Law Journal

Although Mr Abbott certainly did not go so far as to unreservedly advocate electing judges, he did suggest that doing so might be an 'inevitable' endpoint unless community satisfaction improved. Those are not, no matter how one looks at them, the views of a 'constitutional conservative'.

Andrew Lynch, 'Electing judges would totally undermine our legal system' *The Punch* (12 November 2010)



GILBERT + TOBIN CENTRE OF PUBLIC LAW  
NEWSLETTER JANUARY 2011 > 8

In April 2010, the federal Government announced its decision not to proceed with a national Charter of Human Rights, as recommended by the National Human Rights Consultation report. Nevertheless, the Government introduced a Bill that would establish one of the key features of a 'dialogue model' Charter—namely, enhanced pre-legislative scrutiny of human rights.

This Bill, which is currently being debated, would create a new Committee of both Houses of Parliament, with responsibility for scrutinising new laws against human rights standards. It would also require each new Bill to be accompanied by a 'statement of compatibility', which would address the Bill's human rights impact.

Otherwise, those interested in Charters of Human Rights have largely shifted their focus to Australia's States and Territories, where there have been a number of significant developments. In October 2010, the Tasmanian Government released a Directions Paper, indicating that it was seriously considering the introduction of a Charter, largely following a model proposed in 2007 by the Tasmanian Law Reform Institute.

This Tasmanian Charter would be based largely on the 'dialogue model' that has been enacted in Victoria, the Australian Capital Territory (ACT), the United Kingdom and New Zealand. However, there are some novel aspects to the Tasmanian model. For instance, rather than being confined to civil and political rights, it proposes the inclusion of some economic, social and cultural rights. The Tasmanian Government is currently consulting the community on its model.

There has also been some important Charter case law. In the Victorian case of *R v Momcilovic*, the Court of Appeal articulated its approach regarding the use of the Victorian Charter's interpretive provision, which requires other legislation to be interpreted consistently with the rights set out in the Charter, subject to contrary legislative intent.

The case concerned a Victorian statutory provision stating that, where the police find illegal drugs at a person's home, the person must prove that the drugs were not theirs. This effectively reverses the usual onus of proof. The Court of Appeal held that the provision could not be interpreted compatibly with the presumption of innocence, a finding that does not invalidate the law, but rather alerts Parliament to the incompatibility. The High Court has granted special leave to appeal this decision.

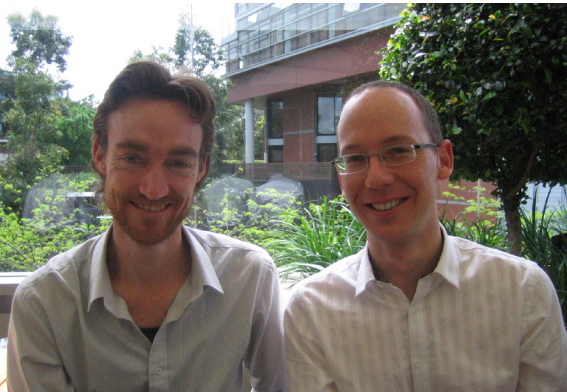
Similarly, on 19 November 2010, the ACT Supreme Court issued its first declaration of incompatibility in the *Isa Islam* case. In this case, the Court held that a provision in ACT law that imposes a presumption against bail being granted in relation to certain criminal charges could not be interpreted consistently with the ACT's *Human Rights Act*.



On a personal note, this is my last report as Director of the Charter of Human Rights Project. In October 2010, I moved to the Public Interest Advocacy Centre. While no longer a full-time UNSW academic, I have stayed on as a Senior Visiting Fellow and intend to remain involved with the Charter Debate and with the Gilbert + Tobin Centre of Public Law. I would like to take this opportunity to thank all of my colleagues at the Centre for their wit, warmth and forbearance.

## Federalism Project

### Project Director: Paul Kildea



Centre Director Paul Kildea and  
PhD Student Leon Terrill

The Federalism Project continues to make contributions to one of the most pressing public policy debates in the federation - the health of the Murray-Darling Basin. Paul Kildea, Andrew Lynch and George Williams gave evidence before the Senate Standing Committee on Environment, Communications and the Arts inquiry into the *Water (Crisis Powers and Flood-water Diversion) Bill 2010*. The Centre's contribution, cited in the inquiry's final report, focused on doubts surrounding the constitutional validity of the bill, which sought to invest the Murray-Darling Basin Authority (MDBA) with enhanced powers during times of 'extreme crisis'. In October, following the MDBA's release of its Guide to the Draft Basin Plan, a debate arose as to whether the MDBA had to give environmental considerations precedence over social and economic factors in preparing the Basin Plan. Water Minister, Tony Burke, released legal advice which he said confirmed that the MDBA could optimise all three. George Williams has subsequently made extensive contributions to the continuing public debate on this question, arguing that the Basin Plan must prioritise environmental factors or risk constitutional challenge.

The Project has also been conducting research into the Council of Australian Governments (COAG). In particular, it has been looking at whether or not COAG should be given a firmer legal foundation, either in the Constitution or in ordinary legislation. Paul Kildea and Andrew Lynch have canvassed the various arguments for and against such a reform in a variety of forums, including the NSW Conference of the Institute of Public Affairs and Administration, the annual conference of the Australian Political Studies Association and, most recently, at the VIIIth World Congress of Constitutional Law in Mexico City. Paul and Andrew argue that, while constitutional entrenchment does have merit, the better course is to provide statutory recognition to COAG and its core governance arrangements. This could encompass a statutory commitment to regular meetings - after an average of four meetings a year in 2008 and 2009, COAG has now not met since April 2010.

Paul, Andrew and George incorporated these arguments about COAG reform in their submission to an inquiry by the Senate Select Committee on the Reform of the Australian Federation. This submission, which was expanded upon in evidence before the committee in December, also argued for clarification regarding the operation of the referrals power, and for the establishment of a Constitutional Convention to discuss broader reforms to the federal system. The Committee is due to issue its report in May 2011.





**The Asylum Debate panellists:  
Guy Goodwin-Gill, Geoff Gilbert, Jane  
McAdam, Kate Jastram and George  
Williams (Chair)**



The Project is looking forward to a busy start to the New Year - in March, it will host leading academics and practitioners at a Federalism Research Roundtable. The theme of the Roundtable is 'Mechanisms of Federalism Reform', and will focus on recent developments in intergovernmental relations and the potential drivers of future reforms to the Australian federal system.

## **Indigenous Legal Issues**

### **Project director: Sean Brennan**

Three journal publications have appeared here and overseas reflecting the work done in the past year on judicial interpretation of Indigenous property rights in Australia. In particular this focused on the degree to which Australian courts have applied the protections available generally for property rights, under the Constitution and the traditional canons of statutory interpretation.

The Project Director, Sean Brennan, also presented on native title, land rights, reconciliation and constitutional change at the recent National Indigenous Policy and Dialogue Conference in Sydney.

Sean has also continued postgraduate research student supervision in these areas, with doctoral candidates working on tenure and housing reform in the Northern Territory, tax treatment of Indigenous land-related organisations and the recognition of customary property rights in Malaysia.

## **International Refugee and Migration Law Project**

### **Project Director: Jane McAdam**

The project has continued to focus on two main areas: climate change and human movement, and refugee law.

#### ***Climate Change and Human Movement***

In June, the Project Director travelled to Bangladesh and India to undertake field research on the legal and policy responses to climate change and its migration and security challenges in the South Asian region. This research trip tested conventional assumptions about the patterns of displacement and the attendant security risks predicted to flow from climate change impacts, as well as examining the legal and policy responses proposed to deal with them. As part of the research, interviews were held with NGOs (such as ASK, Voice, COAST, Tagore Society for Rural Development), think tanks (Bangladesh Centre for Advanced Studies, Bangladesh Institute of International and Strategic Studies, Calcutta Research Group), government officials, parliamentarians, international agencies (UN High Commissioner for Refugees, International Organization for Migration, UN Population Fund), academics (Refugee and Migratory Movements Research Unit at the University of Dhaka, BRAC University, National University of Juridical Sciences Kolkata), human rights lawyers and journalists. Slum dwellers were also interviewed about the causes of their movement from rural to urban areas, in many cases due to environmental and climate related factors.

Australia's asylum policy too often responds to the optics of border protection and border security, rather than the international protection and human security issues at the heart of the refugee regime. True leadership on asylum is not about pandering to insecurities based on ill-informed assumptions and fears, lurching from poll to poll, but is about transcending the chatter to educate, enlighten and take the nation forward through meaningful, informed conversation.

Jane McAdam, 'Missing the Boat on a Regional Solution?' (2010) 19 *Human Rights Defender*



Centre Director, Jane McAdam with children in a slum in Dhaka, Bangladesh

Working with Associate Professor Ben Saul of Sydney Law School, the findings of this research will be published in a co-authored article in the next issue of the *German Yearbook of International Law*, entitled 'Displacement with Dignity: Climate Change, Migration and Security in Bangladesh'.

In September, the first major output of the ARC grant on climate change and displacement was published: an edited book on climate change and displacement. It was launched by Professor Stephen Castles (University of Sydney). Entitled *Climate Change and Displacement: Multidisciplinary Perspectives* (Hart Publishing, Oxford, 2010) (<http://www.hartpub.co.uk/books/details.asp?isbn=9781849460385>), the book brings together a variety of disciplinary perspectives on the phenomenon of climate-induced displacement. With chapters by leading scholars in their field, it collects in one place a rigorous, holistic analysis of the phenomenon, which can better inform academic understanding and policy development alike.

In November, the Project Director was invited to the University of the South Pacific in Vanuatu to help steer a research project on the 'Legal and Policy Implications of Climate Change Induced Migration in Kiribati, Tuvalu, Yap and the Marshall Islands'. The project is headed by Dr Justin Rose at USP, and in-country research will be undertaken over the summer by USP students from the countries mentioned above. The project aims to make a substantial contribution to the rapidly growing body of research and literature on climate change-induced migration in the Pacific island region. Questions of ongoing sovereignty, understood in the broadest senses of the concept, will be central to the empirical investigations of the project. It will ask whether, and in what respects, Kiribati, the Marshall Islands, Tuvalu and the sub-national communities in Yap's outer-islands will exist if sea level rise renders those territories impossible for continued habitation by people? In other words, to the extent that I-Kiribati, Marshall Islanders, Tuvaluans and Yapese outer-islanders identify themselves as distinct societies and communities, how do they aspire to continue to exist in a world after sea levels have risen beyond a threshold that prevents them from remaining upon their traditional lands?

In December, the Project Director will travel to Geneva at the invitation of UNHCR. She will attend the UNHCR Expert Meeting on Statelessness Determination Procedures and Statelessness Status in Geneva, followed by the High Commissioner's Dialogue on Protection Challenges, at which climate change and displacement will be a focal point. She has also been



George Williams speaking at the Town and Gown Dinner

Important questions arise about equivalence of treatment for indigenous property rights. Are traditional common law presumptions protective of property rights being consistently applied when it comes to Aboriginal land rights and native title? Have indigenous groups shared the benefit of other normative principles in the law of statutory interpretation?

Sean Brennan, 'Statutory Interpretation and Indigenous Property Rights' (2010) 21 PLR 239



GILBERT + TOBIN CENTRE OF PUBLIC LAW  
NEWSLETTER JANUARY 2011 > 12

commissioned to author a background research paper for UNHCR on the legal and policy options to be considered with respect to climate related cross-border displacement.

## Refugee Law

UNSW was fortunate to host three leading international refugee law experts in semester two of 2010. Professor Guy Goodwin-Gill (All Souls College, University of Oxford) spent six weeks here as the 2010 Julius Stone Visiting Fellow and taught International Refugee Law. Professor Geoff Gilbert (Faculty of Law, University of Essex) taught Advanced Issues in International Law, and Professor Kate Jastram (Berkeley Law) was a Gilbert + Tobin Visitor. On 21 September, they were panellists (along with the Project Director) in *The Asylum Debate*, in which they discussed some of the most pressing issues relating to refugees and asylum seekers in Australia and internationally. This Q&A-style debate was expertly moderated by former Centre Director, Professor George Williams. The event can be viewed here: <https://tv.unsw.edu.au/video/the-asylum-debate>.

A new Refugee Law and Policy Group was created to showcase the various researchers within and linked to the Law Faculty who are working on asylum issues: <http://www.law.unsw.edu.au/centres/rllpg/>. This provides a web portal into the diverse research and clinical work in the Faculty relating to refugee and migration law.

## Public Law and Legal Theory Project

### Project Director: Ben Golder

The Public Law and Legal Theory Project has had a successful first six months. In the second semester of 2010 the Project hosted a seminar series on Thursdays at the Law School that featured the following speakers: Dr Tom Poole (London School of Economics); Dr Illan Wall (Oxford Brookes University); Dr Fleur Johns (University of Sydney); Dr Kevin Walton (University of Sydney); Dr Lisa Ford (UNSW); Dr Charles Barbour (University of Western Sydney) and Professor Gary Wickham (Murdoch University).

The aim of the seminar series is to bring to bear on the foundational concerns of the Centre some diverse theoretical perspectives. So, this semester speakers in the series addressed a range of familiar topics (sovereignty, colonialism, rights, and democracy) from a range of different philosophical, historical and sociological perspectives.

The seminar series will run again in both sessions of 2011, with unconfirmed speakers at this stage including Professor Paul Patton (UNSW), Associate Professor Irene Watson (UniSA), and Professor Stuart Elden (Durham).

The Project has also supported a range of different scholarly projects, the outcomes of which are listed under the 'Publications' of the Project Director, Dr Ben Golder, listed at the conclusion of this Newsletter. However, the main upcoming event that the Project will support in 2011 will be a Roundtable on the 'The Politics of Rights', held at UNSW, which will engage with the question of the contemporary politics of human rights from a range of different disciplinary perspectives – legal theory, philosophy, history, and political and social theory.



Responses to climate-related movement need to be guided by considered, well-informed research, not by sensationalism, assumptions or fear.

'Introduction', in Jane McAdam (ed), *Climate Change and Displacement: Multidisciplinary Perspectives* (Hart Publishing, Oxford, 2010)



## Referendums Project

### Project Directors: Paul Kildea/George Williams

The Project's biggest event of the past few months has been the launch in September 2010 of the book *People Power: The History and Future of the Referendum in Australia*, co-authored by George Williams and David Hume. It is the first book to be dedicated to the subject in Australia, and analyses the law, history and politics of referendums. In the final chapter, the authors argue that, if future referendums are to be successful, governments will need to do a better job of engaging people in the process of constitutional reform.

In November 2010, the Gillard government announced the creation of an expert panel to advise the government on options for constitutional recognition of Aborigines and Torres Strait Islanders. The following day, the government confirmed its commitment to holding a referendum at the same time on recognition of local government. Following these announcements, Paul Kildea wrote in the *Australian Financial Review* on the importance of engaging the public early in the process, and giving them opportunities to contribute to ongoing debates in meaningful ways. The government's commitment to put two referendum questions before the next federal election likely foreshadows a busy time for the Project, as issues of process and substance are certain to be hotly debated in the year ahead.

## Terrorism and Law Project

### Project Director: Nicola McGarrity

This project, which includes the Laureate Project on responses to terrorism since September 11, continues to actively engage in domestic and international scholarly and policy debates around how best to protect the community from terrorism while maintaining important democratic and other values.

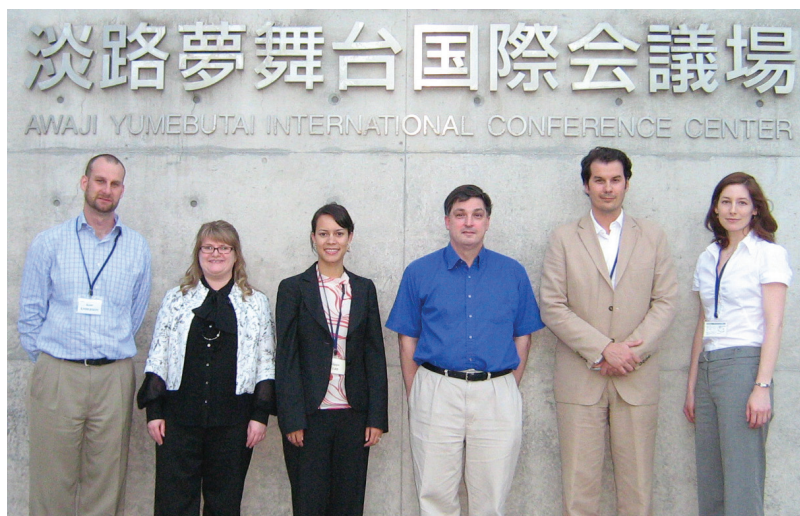
The project is tackling a range of research in the field, including a further look at attempts to define terrorism in domestic law, the receipt of evidence in terror cases and the classification of terrorist related material.



George Williams with Scientia Professor Michelle Simmons, UNSW Vice-Chancellor Fred Hilmer AO and UNSW Chancellor David Gonski AC at the Town and Gown Dinner

[T]he ways in which terrorism threat assessments are used, especially in constitutional litigation, can lead to a government effectively accreting to itself power that is not subject to the normal checks and balances...

Edward Santow and George Williams, 'Terrorism Threat Assessments: A Gap in the Rule of Law?' (Paper presented at the International Association of Constitutional Law Congress, Mexico City, 8 December 2010).



Christopher Michaelson (second from right) with ANZSIL delegation at the Four Societies Conference in Awaji, Japan (Kent Anderson, Karen Scott, Philippa Webb, Andrew Byrnes, Sarah McCosker)

Over the last six months the project has seen an important departure and a new appointment. Academic member of the project Edward Santow was appointed as Chief Executive Officer of the Public Interest Advocacy Centre in Sydney. His position recognises his exemplary contributions to academic and public debate in areas such as human rights and anti-terror law, and no doubt he will prove a great success in his new role.

Ed Santow's position has been filled through the appointment of Fergal Davis from the United Kingdom. Fergal is well known to Centre through his participation in a 2009 Centre Terrorism and Law Expert Roundtable. His contribution to that event was published in *Counter-Terrorism and Beyond: The Culture of Law and Justice after 9/11* by Routledge in 2010. As a new member of the team from February 2011, Fergal will not only bring strong academic credentials, but the capacity to strengthen links with United Kingdom research in this area. Fergal will join the other academic member of the project Nicola McGarrity, who has been on leave without pay over recent months as junior counsel in a Melbourne terrorism trial.

A new PhD student has joined the project. Tamara Tulich has won a PhD scholarship on the project as part of a competitive advertised process. Her PhD deals with prevention in anti-terror and the challenges this poses for the judiciary. This will involve comparative work in the United Kingdom as well as an analysis of prevention as a legislative strategy in the areas of mental health and sex offenders. Tamara joins other Centre PhD students in the area, Rebecca Welsh and Jennifer Norberry.

Rishi Gulati has also joined the Laureate team on a one-year contract. Rishi, who recently completed a Masters of law overseas, will complete a number of publications for the project. His first deals with the use of sunset clauses in Australian anti-terror legislation.

In 2011, the project will be advertising for two postdoctoral positions. Anyone interested in undertaking such a role in the area of anti-terror law is invited to contact Professor George Williams.

The main event run by this project was the 2010 *Global Anti-Terrorism Law and Policy*, which is discussed elsewhere in this newsletter.

# PUBLICATIONS AND PRESENTATIONS

## PUBLICATIONS

An exaggerated sense of determinacy in statutory language has choked off resort to the normative principles embedded in the common law of interpretation, sometimes to the cost of Indigenous people and their property rights.

Sean Brennan, 'Indigenous Property Rights, the Judiciary and the Australian Constitution', *VIIIth World Congress of the IACL*, Mexico, December 2010.



GILBERT + TOBIN CENTRE OF PUBLIC LAW  
NEWSLETTER JANUARY 2011 > 15

### Joint Publications

Tony Blackshield, Roger Douglas and George Williams, *Public Law in Australia: Commentary and Materials* (Federation Press, 2010);

Peter Fitzpatrick and Ben Golder (eds) *Foucault and Law* (Aldershot: Ashgate, 2010);

Peter Fitzpatrick and Ben Golder, 'The Laws of Michel Foucault', in B Golder and P Fitzpatrick (eds) *Foucault and Law* (Aldershot: Ashgate, 2010), xi-xxvi;

David Hume and George Williams, *People Power: The History and Future of the Referendum in Australia* (University of New South Wales Press, 2010);

Jonathan Klaaren and Theunis Roux, 'The Nicholson Judgment: An Exercise in Law and Politics' (2010) 54 *Journal of African Law* 143;

Andrew Lynch and Nicola McGarrity, 'A 'Watch Dog' of Australia's Counter-Terrorism Laws – The Coming of the National Security Legislation Monitor' (2010) 12 *Flinders Journal of Law Reform* 83;

Andrew Lynch and George Williams, 'The High Court on Constitutional Law: The 2009 Statistics' (2010) 33 *University of New South Wales Law Journal* 267;

Nicola McGarrity and George Williams, 'Recognition of Local Government in the Commonwealth Constitution' (2010) 21 *Public Law Review* 164;

Nicola McGarrity and George Williams, 'Counter-Terrorism Laws in a Nation without a Bill of Rights: The Australian Experience' (2010) 2 *City University of Hong Kong Law Review* 45;

Susan Priest and George Williams, 'Women and Public Law' in Easteal, P (ed), *Women and the Law in Australia* (LexisNexis Butterworths, 2010), 407.

### Sean Brennan

'Statutory Interpretation and Indigenous Property Rights' (2010) 21 *Public Law Review* 239;

'Territory Exceptionalism and Indigenous Property Holders: Federalism, Rights Protection and the Australian Constitution' (2010) 2 *City University of Hong Kong Law Review* 117;

'The Northern Territory Intervention and Just Terms for the Acquisition of Property' (2009) 33 *Melbourne University Law Review* 957.

It is surprising that the Commonwealth denied that a [compulsory] lease on Aboriginal land involved an acquisition of property and that the argument attracted the support of a member of the High Court.

Sean Brennan, 'The Northern Territory Intervention and Just Terms for the Acquisition of Property' (2009) 33 MULR 957



## Ben Golder

'Liberal Law's Fear of "Culture"' (2010) 35(4) *Alternative Law Journal* 194;

'What is an Anti-Humanist Human Right?' (2010) 16(5) *Social Identities* 651;

'Foucault and the Unfinished Human of Rights' (2010) 6(3) *Law, Culture and the Humanities* 354.

## Andrew Lynch

'After A Referral: The Amendment and Termination of Commonwealth Laws Relying on s 51(xxxvii)' (2010) 32 *Sydney Law Review* 363;

'State Referrals and Terrorism Law Reform Paralysis: Cause and Effect?' (2010) 21 *Public Law Review* 155;

Review 'Emergencies and the Limits of Legality edited by Victor V Ramraj (Cambridge University Press, 2008)'. Reviewed in [2010] *Public Law* 831.

## Jane McAdam

*Climate Change and Displacement: Multidisciplinary Perspectives* (Hart Publishing, Oxford, 2010);

"Disappearing States", Statelessness and the Boundaries of International Law', in J McAdam (ed), *Climate Change and Displacement: Multidisciplinary Perspectives* (Hart Publishing, Oxford, 2010);

'Introduction', in J McAdam (ed), *Climate Change and Displacement: Multidisciplinary Perspectives* (Hart Publishing, Oxford, 2010);

'Individual Risk, Armed Conflict and the Standard of Proof in Complementary Protection Claims: The European Union and Canada Compared', in JC Simeon (ed), *Critical Issues in International Refugee Law: Strategies for Interpretative Harmony* (CUP, Cambridge, 2010) 59;

'Missing the Boat on a Regional Solution?' (2010) 19 *Human Rights Defender* 2.

## Christopher Michaelson

'Australia and the Threat of Terrorism in the Decade after 9/11' (2010) 18 *Asian Journal of Political Science*, 248;

'The Security Council's Practice of Blacklisting Alleged Terrorist and Associates: Rule of Law Concerns and Prospects for Reform' (2010) 8, *New Zealand Journal of Public and International Law*, 71;

'The Proportionality Principle, Counterterrorism and Human Rights: A German-Australian Comparison' (2010) 2, *City University of Hong Kong Law Review*, 19;

'Terrorism in Australia: An Inflated Threat' (2010) 6 *Security Challenges*, 19.

## Theunis Roux

'The Constitutional Value System and Social Values in South Africa', in A Sajó & Renáta Uitz (eds) *Constitutional Topography: Values and Constitutions* (Eleven International Publishing, The Hague, 2010), 205;



It would be better to have a single national law providing for same-sex marriage. However, such a law may not be legally possible, and in the short term may be politically unachievable. In these circumstances, we should not discount the possibility of a State leading the way in allowing same-sex couples to marry.

George Williams, 'States could Legalise Same-Sex Marriage' *Sydney Morning Herald* (28 September 2010).



'The Moral Quandary of Sterilising a Child' in Healey, J (ed), *Disability Rights and Awareness* (Issues in Society, vol 316 Spinney Press, 2010), 37-38;

'The Future of the Australian Bill of Rights Debate' *UNSW Law Research Paper* No 2010-39 23 October 2010;

'Local Government Requires Financial Recognition' *Government News* 22 June 2010.

## PRESENTATIONS

### Joint Presentations

Ben Golder and Christopher Michaelson, 'Men from the Forest: Political Criminals, Terrorists and Extra-Criminal Regimes of Punishment', paper presented to the *Centre for International and Public Law (ANU) Workshop, Connecting International Law with Public Law - Allegiance and Identity in a Globalised World*, 19-21 July, 2010;

Paul Kildea and Andrew Lynch, 'Federalism at the Sub-constitutional Level: The Case of the Council of Australian Governments', *VIIIth World Congress of the International Association of Constitutional Law Mexico*, 6-10 December 2010;

Paul Kildea and Andrew Lynch, 'Entrenching 'Cooperative Federalism': Is It Time To Formalise COAG's Place In The Australian Federation?', *Conference of the Australian Political Studies Association*, University of Melbourne, 27-29 September 2010;

Nicola McGarrrity and Edward Santow, 'Anti-terrorism laws: Balancing national security and a fair hearing in civil proceedings', *International Anti-Terrorism Symposium*, Gilbert + Tobin Centre of Public Law, 6 August 2010;

Edward Santow and George Williams, 'Terrorism Threat Assessments: A Gap in the Rule of Law?' *VIIIth World Congress of the International Association of Constitutional Law Mexico*, 6-10 December 2010.

### Sean Brennan

'Indigenous Property Rights, the Judiciary and the Australian Constitution', *VIIIth World Congress of the International Association of Constitutional Law*, Mexico City, 6-10 December 2010;

'Reconciliation: Reflections on the Past Decade', *National Indigenous Policy and Dialogue Conference*, Sydney, 19 November 2010;

'What Happened to Native Title After 1992?', *Australian Mensa Conference*, Sydney, 16 October 2010.

### Ben Golder

'On the Use and Disadvantage of (Foucault for) a Critique of Human Rights', paper presented to *Critic and Conscience?*, *27th Annual Conference of the Law and Society Association of Australia and New Zealand*, Victoria University of Wellington, 8-10 December, 2010;

... his Honour's understanding of (certain) 'cultures' as monolithic and enduring actually marginalises resistant voices both outside and within those cultures who are struggling to rearticulate and contest patriarchal norms.

Ben Golder, 'Liberal Law's Fear of "Culture"' (2010) 35(4) *Alternative Law Journal* (forthcoming)



'Foucault's Critical Affirmation of Human Rights', paper presented to *Affect, Australasian Society for Continental Philosophy Annual Conference*, University of Queensland, 3-5 December 2010;

'Foucault's Critical (Yet Ambivalent) Affirmation: Three Figures of Rights', seminar paper presented to the *Law Research Seminar Series*, University of Technology Sydney (27 October, 2010); the *Institute for International Law and the Humanities*, University of Melbourne (26 October, 2010); and the *Law School Seminar Series*, University of New South Wales (12 October, 2010).

Commentary on Harry Roque, 'The Philippines Human Security Act: A Critical Analysis', paper presented to the *Anti-Terrorism Symposium*, Gilbert + Tobin Centre of Public Law, Faculty of Law, University of New South Wales, 5-6 August, 2010;

'The Differential Distribution of Death: Criminal Law as Biopolitics', paper presented to the *Australian and New Zealand Critical Criminology Conference, Sydney Institute of Criminology* (University of Sydney) and the School of Social Sciences (University of Western Sydney), 1-2 July 2010.

### Paul Kildea

'The Future of the Council of Australian Governments', *Annual Conference of the Institute of Public Administration Australia* (NSW), Sydney Convention Centre, Sydney, 22 July 2010.

### Andrew Lynch

'The Tenacity of Bad Law – Why Anti-Terrorism Laws Proliferate and Persist', *VIIIth World Congress of the International Association of Constitutional Law* Mexico, 6-10 December 2010;

'Legislating Anti-terrorism: Observations on Form and Process', *International Anti-Terrorism Symposium*, Gilbert + Tobin Centre of Public Law, 5 August 2010.

### Jane McAdam

'Climate Change and Human Rights: Whose Rights, What Protection?', *Castan Centre for Human Rights Law Annual Conference*, Melbourne, 16 July 2010;

'Citizenship in a Globalised World: Perspectives from the Immigrant Democracies' *UNSW-Harvard Collaboration*, 14-15 July 2010;

'Climate Change, Displacement and International Law', BRAC University, Dhaka, Bangladesh, 16 June 2010.

### Christopher Michaelsen

'Interception and International Law', *Amnesty International Overboard Seminar* Sydney, 9 September 2010);

'The Security Council's Authority under the UN Charter to Adopt Sanctions Targeting 'Independent' Individuals', *Third Four Societies Conference (ANZSIL, ASIL, CCIL, JSIL)*, *International Law in the New Era of Globalisation*, Japan, 27-28 August 2010.

The Gillard government has an opportunity to learn from past failures and put in place the conditions for an inclusive, constructive public debate on constitutional reform.

Paul Kildea, 'Referendum education must start without delay', *Australian Financial Review*, 12 November 2010



## Edward Santow

Edward Santow, 'Public Interest Litigation' *NSW Young Lawyers Conference*, 13 November 2010;

Edward Santow, 'Enhanced scrutiny of human rights: Of parliament, pigs and lipstick' *Australian Institute of Administrative Law National Forum*, Sydney, 23 July 2010;

Edward Santow, 'Law reform and clinical legal education' *Iran-US-Australia Human Rights Advocates Course*, Sydney, 23 July 2010).

## George Williams

'Where to Now for the Australian Bill of Rights Debate?' *UniSA Law School Evening Research Seminar*, Adelaide, 2 December 2010;

'In Conversation about *People Power*' *Gleebooks*, Sydney, 18 November 2010;

'The ABCC and the Rule of Law' *2010 Rule of Law Conference*, NSW Bar Association, Sydney, 6 November 2010;

'The Laureate Research Project' *Town and Gown Dinner*, UNSW, 26 October 2010;

'The Constitution and Property Rights' *NSW Department of Environment, Climate Change and Water Seminar*, Sydney, 8 October 2010;

'The Charter of Rights Debate' *UNYA National Youth Summit*, Sydney, 1 October 2010;

'Academic Research Forum: Engaging with the Media' *UNSW Law School*, 1 October 2010;

'The Future of the Australian Bill of Rights Debate' *Alice Tay Lecture on Law and Human Rights*, Freilich Foundation, ANU, 16 September 2010;

'Land and Water Rights and the Law' *National Farmers' Federation 2010 National Congress*, Melbourne, 7 September 2010;

'Anti-Terror Legislation in Australia and New Zealand' *2010 Global Anti-Terrorism Law and Policy Forum*, UNSW, 6 August 2010;

'Opening Address: Property Rights and Just Terms Compensation' *NSW Farmers Association Annual Conference*, Sydney Olympic Park, 20 July 2010;

'Australia's Human Rights Debate' *Commonwealth Womens Parliamentarians Conference*, NSW Parliament House, 2 July 2010;

'Speech to Award Winners' *Think Rights Awards Presentation*, Burwood Council, 29 June 2010.

## MEDIA PUBLICATIONS

### Joint Media Publications

'David Hume and George Williams, Convincing a Nation of Naysayers' *Sydney Morning Herald* (11 September 2010).

### David Hume

'Offshore processing: has the bar been lifted?', *Australian Policy Online* (25 November 2010);

'Asylum and the High Court', *Australian Policy Online* (30 July 2010).

### Paul Kildea

'Referendum education must start without delay', *Australian Financial Review* (12 November 2010).

### Andrew Lynch

'Bikies face bumpy ride despite ruling' *The Australian* (19 November 2010);

'Electing judges would totally undermine our legal system' *The Punch* (12 November 2010).

### Jane McAdam

'What Would You Do?', *Sydney Morning Herald* (9 July 2010);

'Gillard's Missing the Boat on Asylum', *Sydney Morning Herald* (7 July 2010).

### Christopher Michaelsen

'Gillard must take tough line on Liu's jailing', *Canberra Times* (12 October 2010).

### George Williams

'PM Would be Wise not to Play Catch-up with High Court' *Sydney Morning Herald* (24 November 2010);

'Euthanasia Bill needed for Healthy Democracy' *Sydney Morning Herald* (9 November 2010);

'When Water Pours into Legal Minefields' *Sydney Morning Herald* (26 October 2010);

'Abortion Law Stuck in the 19th Century' *Sydney Morning Herald* (12 October 2010);

'States could Legalise Same-Sex Marriage' *Sydney Morning Herald* (28 September 2010);

'Old-Style Racism Still in Constitution' *Sydney Morning Herald* (14 September 2010);

'Everything you Probably Wanted to Know about Forming Government' *Sydney Morning Herald* (8 September 2010);

Australia needs more than just a new government. It also needs a workable parliament able to pass new laws and to agree on how to meet the many challenges facing the nation.

George Williams, 'Too Much Stability can be a Problem' *Sydney Morning Herald* (31 August 2010).





Once again, how we manage our scarce water resources is being held hostage by our 1901 constitution.

George Williams, 'When water pours in legal minefields', *Sydney Morning Herald*, 26 October 2010.



'Too Much Stability can be a Problem' *Sydney Morning Herald* (31 August 2010);

'Guide to a Hung Parliament: How a Government is Formed' *Sydney Morning Herald* (25 August 2010);

'Instability Certain as Gillard, Abbott Face up to the Task' *The Age* (23 August 2010);

'Buckle up for a Rocky Ride to a Majority' *Sydney Morning Herald* (23 August 2010);

'Democracy Set for a Digital Revolution' *Sydney Morning Herald* (17 August 2010);

'Electoral Roll Makes a Mockery of Election' *Sydney Morning Herald* (19 July 2010);

'Building Watchdog Undermines Liberty' *Sydney Morning Herald* (6 July 2010);

'Top Judicial Posts Merit Scrutiny' *Sydney Morning Herald* (22 June 2010).

## SUBMISSIONS

### Joint Submissions

Paul Kildea, Andrew Lynch and George Williams, Submission to the UK House of Lords Select Committee on the Constitution Inquiry into Fixed-term Parliaments, September 2010;

Paul Kildea, Andrew Lynch and George Williams, Submission to the Senate Select Committee on the Reform of the Australian Federation, August 2010;

Edward Santow and George Williams, Submission to the Standing Committee on Legal and Constitutional Affairs, *Inquiry into the Human Rights (Parliamentary Scrutiny) Bill 2010* (8 July 2010).

### Jane McAdam

Briefing Note for Parliamentarians: Migration Amendment (Complementary Protection) Bill 2009, sent on behalf of academics and NGOs to Federal MPs (November 2010).

### George Williams

Submission to Senate Legal and Constitutional Committee 'Inquiry into the Australian Film and Literature Classification Scheme' (24 November 2010);

Submission to Tasmanian Department of Justice 'Consultation on A Charter of Human Rights and Responsibilities for Tasmania' (17 November 2010);

Submission to House Standing Committee on Economics 'Inquiry into Issues Affecting Indigenous Economic Development in Queensland' (9 November 2010);

Submission to Aboriginal Affairs NSW 'Inquiry into Constitutional Recognition of Aboriginal People' (20 July 2010).



Centre staff at the VIIIth World Congress of the International Association of Constitutional Law Mexico

## CENTRE PERSONNEL

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**Leon Terrill**, BA LLB (Hons) Melbourne

**Rebecca Welsh**, BA LLB (Hons) Wollongong

**Kelvin Widdows**, LLB (Hons) Syd, LLM (Hons) MLitt Cantab

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**Mr Danny Gilbert**, Managing Partner, Gilbert + Tobin

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