



Welcome to the March 2013 e-bulletin of the Gilbert + Tobin Centre of Public Law. This e-bulletin provides followers of the Centre's activities with a brief update on what has been happening since publication of our last [Newsletter](#) in January. You can always find out more about Centre projects, activities and news in between newsletters and these bulletins by going to the Centre's [website](#) which is regularly updated or following us on [Facebook](#) or [Twitter](#).

Events

On 15 January the Centre held its twelfth annual conference on constitutional law: the 2013 Constitutional Law Conference and Dinner. This event attracted over 220 participants to hear fantastic papers and discussion of recent High Court cases and contemporary public law issues. The conference proceedings were followed that night by dinner at NSW Parliament House where the guest speaker was the Hon Virginia Bell AC of the High Court of Australia. Justice Bell turned the tables on academic commentators of the Court's work and spoke to the topic 'Reviewing the reviewers' before paying tribute to her colleague Justice Dyson Heydon, also present, on the eve of his retirement from the Court.

A selection of papers and a full video webcast of the conference proceedings is available at <http://www.gtcentre.unsw.edu.au/events/2013-constitutional-law-conference-and-dinner>.

Activities and Research

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

- [trouble in Belfast](#) as the peace process fails and violence resumes;
- [constitutional change](#), recommending the holding of a referendum that would enable the Commonwealth to grant money directly to local government;
- Twentieth-century [migration in the Pacific](#) and the lessons for climate-change induced displacement

- an examination of the [Australian experience with sunset clauses](#) in the anti-terrorism context; and
- the implications of the [proposal](#) to allow voluntary assisted dying in Tasmania under the guarantee in section 117 of the Australian Constitution.

Particular highlights over recent months include:

- [Professor Jane McAdam](#) was announced as [2013 Young Global Leader](#) by the World Economic Forum;
- [Professor Fiona de Londras](#) (Durham Law School) and [Dr Fergal Davis](#) were awarded a British Academy/Leverhulme [Research Grant](#) to host a Workshop at Durham titled 'Critical Debates on Counter-Terrorist Judicial Review';
- [Andrew Lynch](#) and [George Williams](#) released their [annual statistical survey](#) of decision-making on the High Court;
- [Jessie Blackbourn](#) is published by the UK journal *Parliamentary Affairs* on '[Evaluating the Independent Reviewer of Terrorism Legislation](#)'; and
- A [review](#) of Australian legislation on the death penalty by Jo Lennan and George Williams was published in the *Sydney Law Review*.

People

The Centre is pleased to have Lyndon Goddard as its Social Justice Intern for Semester 1.

The Centre will also be welcoming later this year: [Alexander Williams](#) visiting from Durham University and arriving in July and [Janet Hiebert](#) from Queens University who will be here in September/October.

Upcoming Events

Seminar: "The Self-Stabilizing Constitution"

On Wednesday 27 March, [Professor Tonja Jacobi](#) of USA's Northwestern Law School will present a paper she has co-authored with Barry Weingast.

ABSTRACT: The three central problems for constitutional stability are commitment, coordination and adaptation – finding mechanisms that commit governing elites to respecting rights, creating means by which the public can coordinate to oppose violations of those rights, and allowing constitutional doctrines to adapt to changing technological and social developments. We argue that many of the clauses of the Constitution serve an additional purpose that is

not generally recognized in either the standard literature on democracy or the legal literature on constitutions: providing these three conditions of constitutional stability that solve each of these three problems. Our approach shows that together, these provisions create a self-stabilizing framework for political action, by ensuring that those not currently in power have incentives to nonetheless support the democratic system, and those in power obey its constraints. This analysis allows for a holistic and thematic analysis of the Constitution, providing an overall picture for why American democracy has been so stable for so long. In this paper, we apply this analysis to governmental takings, comparing the Australian acquisitions power to the U.S. takings jurisprudence.

The seminar will be held in the Faculty Staff Common Room at 4.00 pm. Please RSVP to Belinda MacDonald on gtcentre@unsw.edu.au by Monday 25 March.

Workshop: “Native Title: A vehicle for Change and Empowerment?”

At the twenty-year point for the *Native Title Act 1993*, this two-day workshop on 5-6 April at the UNSW Law School will explore the recent past and the mid-term future for native title in Australia.

Hosted by the [Indigenous Law Centre](#) (ILC), with the support of the UNSW Faculty of Law and the Gilbert + Tobin Centre for Public Law, the workshop will provide a clear-eyed appraisal of the positive and negative developments of the past twenty years and a realistic assessment of where native title might go in the next twenty. A number of renowned Aboriginal and non-Aboriginal speakers will present, and three main themes will be considered:

- native title and economic empowerment
- native title and political empowerment
- the impact of native title on wider Australian law and society.

This event is by-invitation only. Beyond speakers and discussants, the workshop will include a small number of academics, research students and people who work in the native title system. The organisers intend to have the collected papers from the workshop published after the event.

As always, we welcome any enquiries for better particulars concerning the Centre’s many activities or research. Please forward this e-bulletin or the links to information about our work over the last three months to anyone you know who may have an interest in these issues.

Professor Andrew Lynch
Director