



E-bulletin September 2015

Never Stand Still

Law

Gilbert + Tobin Centre of Public Law

Welcome to the quarterly e-bulletin of the Gilbert + Tobin Centre of Public Law to 30 September 2015. It summarises what has been happening in the Centre since the last update in our mid-year [Newsletter](#). 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 by following us on [Twitter](#) or [Facebook](#).

ACTIVITIES AND RESEARCH

It has been an active three months for research and engagement on public law and policy issues.



The AUSPUBLAW [blog](#), a national online platform for public law scholarship launched by the Centre in June is off to a strong start, picking up hundreds of subscribers and attracting a lot of attention on [Twitter](#). In four months, Blog Co-ordinator Gabrielle Appleby has brought together more than twenty contributors, from academia, legal practice and electoral administration across Australia, with analysis and commentary on issues ranging from Senate voting reform to the history of human rights to human fallibility as a basis for the separation of powers. The blog welcomes submissions and if you have an idea, check the '[Make a Submission](#)' tab on the site and email auspublaw@unsw.edu.au to discuss it.

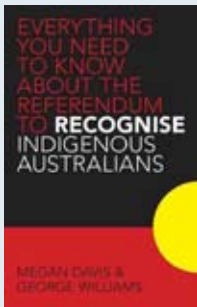


National security legislation and its wider implications have again occupied public attention. The Parliamentary Joint Committee on Intelligence and Security inquired into proposals to revoke citizenship on the basis of conduct by dual nationals. In its September [report](#), the Committee made dozens of references to the [submission](#) by Shipra Chordia and George Williams with ex-Centre colleague (now Monash academic) Sangeetha Pillai, and to George's 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.



In terms of the judiciary:

- Andrew Lynch continued his academic and media work on appointments
- Andrew and George published their statistical analysis of the 2014 High Court term in the UNSW Law Journal
- Gabrielle Appleby wrote for The Conversation, on Trade Union Royal Commissioner and former High Court judge Dyson Heydon AC QC (with Heather Roberts) and on a new approach to judicial recusal
- PhD student Robert Woods wrote on legalism in the SMH
- Melissa Crouch wrote in the Myanmar Times on the proposal to abolish that country's Constitutional Tribunal and
- AUSPUBLAW also featured a post on appointing politicians to the bench and another on apprehended bias.



Centre colleagues have contributed to the ongoing debate about constitutional change and Australia's First Peoples, including:

- pieces by Fergal Davis and Gabrielle Appleby on an Indigenous advisory body, in Vol 8(19) of the Indigenous Law Bulletin
- Paul Kildea on Indigenous conventions and
- a podcast from the Wheeler Centre in Melbourne including George Williams.



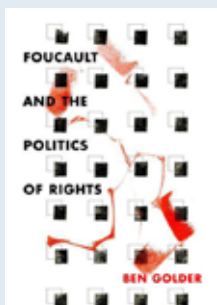
The Senate Legal and Constitutional Affairs Committee recently reported on the use of a plebiscite or referendum concerning same-sex marriage in Australia, citing evidence from both the submission of Rosalind Dixon, Paul Kildea and Andrew Lynch, and from George Williams.



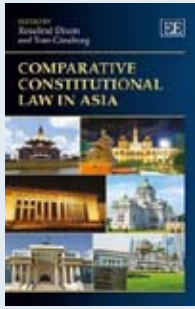
The Centre has continued to pay attention to the present and future shape of Australia's federation and its internal financial relations with articles by:

- Chordia, Lynch and Williams on the second Williams case
- Social Justice Intern Anna Rienstra with George Williams on the creation of new States from existing ones and
- George Williams with Sangeetha Pillai on the Commonwealth's constitutional powers in environmental management.

Also in the area of Commonwealth environmental management, Gabrielle Appleby made a submission to the Senate Environment and Communications Committee about proposed changes to standing for people seeking to challenge environmental decisions in the courts. Many others have joined that debate and AUSPUBLAW also featured a post on this Bill.



Ben Golder's latest publication, *Foucault and the Politics of Rights*, has been published by Stanford University Press. This book focuses on Michel Foucault's late work on rights in order to address broader questions about the politics of rights in the contemporary era. Ben seeks to answer the question why Foucault a critic of the liberal discourse of rights early in his career made increasing appeals to rights in his later philosophical and other writings. He develops this interpretation of Foucault's work while critically examining it in the context of other current thinkers on the place of rights in contemporary politics. A book launch will be held at Gleebooks in Sydney on Sunday 22 November at 3.30pm.



With the editors from both hemispheres present, Consul-General of Colombia Nancy Benitez Paez launched the softback version of *Comparative Constitutional Law in Asia* edited by Rosalind Dixon and Tom Ginsburg to an audience that included many gathered for the workshop on Comparative Constitutional Law in Latin America (see below).

RECENT EVENTS



Comparative Constitutional Law in Latin America

On 3-4 August 2015 the Centre hosted an event bringing together academics from Australia, Argentina, Chile, Colombia, Mexico and the USA to discuss a forthcoming volume on *Comparative Constitutional Law in Latin America*. The event was organised by Rosalind Dixon and contributed to UNSW Law's growing links with law schools in Latin America.



Centre seminars

Ros Dixon, Director of the Comparative Constitutional Law Project, organised a breakfast discussion with Israeli Supreme Court judge, Justice Daphne Barak-Erez on 3 August, involving students and staff.

Ros also arranged for Associate Professor Ben Berger from Osgoode Hall Law School to speak in the Faculty seminar series, in which he addressed 'Crises of Secularism, Crises of Constitutionalism?'.

Peta Stephenson, a PhD candidate and sessional teacher at the University of Queensland, visited the Centre for a month in July and presented a seminar entitled 'Measuring the Metes and Bounds of Commonwealth Executive Power: Nationhood and Section 61 of the *Constitution*.'

The Centre also commenced a new work-in-progress seminar series this semester. In August, PhD student Rob Woods presented on the seriatim tradition in judgment writing and in September Shipra Chordia presented an advanced draft of the first chapter in her PhD thesis on the role of proportionality in Australian constitutional law.

UPCOMING EVENTS



2016 Constitutional Law Conference and Dinner Friday 12 February 2016

Our annual conference on constitutional law looking at decisions of the High Court, Federal and State courts will again be held at the Art Gallery of New South Wales. The Conference Dinner that evening will be held at NSW Parliament House. The dinner speaker will be Mr Justin Gleeson SC, Solicitor-General for the Commonwealth.



Public Law in the Classroom 2016 Thursday 11 February 2016

Registrations are now open for the second Public Law in the Classroom workshop. This free annual event about public law teaching practice and research is again hosted by the Gilbert + Tobin Centre of Public Law, UNSW and the Public Law and Policy Research Unit, University of Adelaide and will be held at the UNSW Kensington campus. The Call for Abstracts for the poster session closes on 16 November.

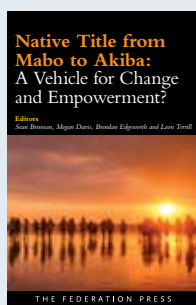


Final Courts Roundup and Comparative Constitutional Law Roundtable 10 – 11 December 2015

The Centre's Comparative Constitutional Law Project, together with the AACL, will host a 'Final Courts Roundup' on 10 December 2015. This annual seminar provides an outline of recent constitutional developments in several overseas jurisdictions that are of key interest to Australian constitutional lawyers. This year it features the Centre's Dr Jason Varuhas (UK and NZ) and Harvard Professor Jacob Gersen (USA).

On Friday 11 December, the Project will hold an invited roundtable on comparative constitutional law issues, held at UNSW.

Native Title and Indigenous Empowerment Tuesday 24 November 2015



Registrations are free and now open for 'Native Title and Indigenous Empowerment', a panel discussion and book event featuring Jason Behrendt, one of Australia's leading native title and land rights lawyers, and Dr Valerie Cooms, a full-time member of the National Native Title Tribunal. They will be joined on the panel by Sean Brennan, Megan Davis, Brendan Edgeworth and Leon Terrill, the editors of a new book published by Federation Press called *Native Title From Mabo to Akiba: A Vehicle for Change and Empowerment?*. The book features leading Indigenous and non-Indigenous academics and practitioners from the fields of law, economics, anthropology, politics, history and community development and copies will be available for sale on the night. The event will be held at Gilbert + Tobin Lawyers, Level 37, 2 Park St Sydney from 5.30pm.

Associate Professor Sean Brennan
Director



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