



THE UNIVERSITY OF  
NEW SOUTH WALES



FACULTY OF LAW

**GILBERT + TOBIN CENTRE OF PUBLIC LAW**

**ANNUAL REPORT**

**FOR THE YEAR ENDED 31 DECEMBER 2005**

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## 1. DIRECTOR'S REPORT

### **Relationship of the Centre to UNSW**

The Gilbert + Tobin of Public Law is based in the Law Faculty at UNSW.

### **Benefits to UNSW**

The Centre provides a focal point for research and other activity in the field of public law at UNSW. Further details can be found in section 2 of this report and in the attached newsletters.

### **Financial position of the Centre**

The financial position of the Centre as at 31 December 2005 recorded a surplus of \$129,732. Refer to Statement of Financial Performance attached.

### **Success or failure in meeting research objectives**

All research projects of the Centre met or exceeded their research objectives.

The **Bill of Rights Project** remains active even though Australia has yet to achieve a national Bill of Rights. The project gained significance in light of the Victorian Government's appointment of a committee to consult publicly on how best to protect human rights in Victoria. This committee consisted of George Williams (Chair), Rhonda Galbally AO, Andrew Gaze and the Hon Professor Haddon Storey QC and a report was released based on its consultations. The Government is now carefully considering the Committee's report and recommendations, and whether Victoria needs a new law on human rights. The apparent success of the ACT Bill of Rights and its lack of abuse by litigants, may encourage other jurisdictions to consider adopting their own bills. The ACT legislation has also given rise to debate about whether "Bills of Responsibilities" are necessary to balance the emphasis on rights. A similar debate is occurring at the international level and in 2005 the UN Commission on Human Rights renewed its consideration of the issue. The introduction of far-reaching anti-terrorism legislation during the year also generated renewed public interest in Bills of Rights. During the year the project advised a number of politicians on human rights issues, provided speakers at events and contributed to media debate.

The **International Law Project** in conjunction with the Centre for International and Public Law at the Australian National University, continued its review and assessment of the relationship between international law and the Australian legal system. This project has sought to engage with such issues as the Iraq war, the global "war against terror", entry into a US/Australia Free Trade Agreement and the continuing debate over Australia's refugee policy. During 2005 the project partners completed work on an edited collection published by Federation Press entitled *The Fluid State: International Law and the National Legal System* which looks at issues including the role of parliaments in treaty-making, the judiciary as gatekeeper to international legal norms and approaches to international law in national politics. The project is also engaged in analysis of Australia's approach to human rights and trade and the contrasting approaches to these spheres of international law.

The **Treaty Project** which focused its research on Indigenous and non-Indigenous notions of sovereignty came to an end in June 2005. Four issues papers were published during the life of the project which looked at different aspects of the treaty debate. The work of the Treaty Project culminated in the publication of *Treaty* co-authored by its project partners at Jumbunna Indigenous House of Learning at the University of Technology, Sydney and AIATSIS. This book looks at why Australia might choose to go down the path of modern treaty-making and how it could do so. This book, designed to be accessible to a wide audience, argues that the treaty idea deserves serious debate because it could help tackle urgent practical problems in Indigenous health, education and employment. Throughout its life, the project researched the state of Australian law relating to Indigenous peoples, the question of sovereignty, the relationship of the treaty idea to native title, and potential legal models for Australian treaty-making.

The **Homelessness, Human Rights and the Law Project** conducted in partnership with the Public Interest Law Clearing House Homeless Persons Legal Clinic is researching ways in which advocates and policy makers are using legal and human rights tools as part of efforts to improve response to homelessness in Australia. The project has developed a web-based resource in the fields of law, human rights and social policy related to homelessness, particularly in the Australian context and a monthly Resource Bulletin is published updating websites, bulletin boards and subscribers on recent developments in the area. A broad-based Advisory Group has been established to provide advice to the project and assist with resource development and the establishment of networks amongst people committed to promoting the legal and human rights of people experiencing homelessness.

The **Indigenous Rights, Land and Governance Project** continues on from the Treaty Project which concluded mid way through 2005. This project is committed to continuing its work in the area where public law and Indigenous affairs intersect. Research is continuing into the area of native title law and, in collaboration with the Indigenous Law Centre at UNSW, on the New South Wales Government's administration of trust accounts between 1900 and 1969 that denied Aboriginal people access to their wages and other entitlements.

The **International Trade and Development Project** was established to contribute to a better understanding of contemporary international trade and development issues. The project emphasises research into fundamental issues of importance related to public international trade law and examines some of the more poignant issues facing Australia and the World Trade Organisation. The project has produced a number of publications including the co-authored book *WTO Dispute Settlement Understanding: A Detailed Interpretation* released by Kluwer Law International. This book reviews the jurisprudence of the WTO's dispute settlement system and is an invaluable source to researchers and practitioners. During its first year the project won a UNSW Goldstar Award to study the effectiveness and efficiency of the dispute settlement process in the WTO. It is envisaged that there will be the completion of a scholarly article analysing the proposed amendments in the DSU Review from an Australian perspective.

The **Terrorism and Law Project** was established during 2005 to analyse Australia's legal response to terrorism and to contrast this to the responses of other comparable nations. Since the London bombings in July 2005, there has been a renewed focus and energy to the problem of terrorism and the work on this project has been very much oriented towards the contribution to those public debates. The Commonwealth's counter-terrorism laws has fuelled discussions on legal responses to terrorism and during the year there were a number of conferences and seminars addressing these issues. The project receives much stimulus from overseas researchers and local developments in counter-terrorism.

## **2. CHAIR OF MANAGEMENT COMMITTEE'S REPORT**

### **Summary of Centre's achievements**

- The Centre was successful in regard to two research grants. The Australian Policy Online Development Project was successful in gaining an Australian Research Council grant for \$158,884. Australian Policy Online is Australia's only comprehensive gateway providing access to research reports available electronically from Australian research centres and other organisations. This grant will help to broaden the range of material available, provide important new resources to users of the site and strengthen its international dimension. The Centre also won a UNSW Goldstar Grant for \$40,000 to research the Dispute Settlement Understanding (DSU) of the WTO which has been operating for ten years without amendment or alteration. This project will produce leading scholarship analysing the DSU and recommending changes that will assist the ongoing development of an appropriate regime of international trade regulation.
- In April 2005, the Victorian Attorney-General announced the creation of the Human Rights Consultation Committee to look at the broader framework in improving the protection for the human rights of Victorians. The committee, chaired by George Williams, consisted of Rhonda Galbally AO, Andrew Gaze and the Hon Professor Haddon Storey QC and assisted by the Solicitor-General for Victoria, Pamela Tate SC, looked at whether Victoria should have a Charter of Human Rights. The Committee issued a report and the Government is reviewing their recommendations.
- During 2005 the Centre assisted the work of Federal Parliamentary Committees.

The Centre was invited by the Senate Legal and Constitutional References Committee to inquire into Australians living overseas, the factors driving them there, their needs and concerns as well as the economic and social implications for Australia. The Committee raised the important question of which Australians living overseas should be entitled to vote in elections for the Federal Parliament. The Centre in its report recommended that the Commonwealth Electoral Act should be amended to assist expatriate Australians to maintain their electoral enrolment. George Williams and Bryan Mercurio submitted and later testified that Parliament should consider relaxing the restrictions currently placed on overseas voters.

Further submissions during the year were made to the Senate Legal and Constitutional Committee in its inquiries dealing with new legislation in the fields of migration and national security; to the Parliamentary Joint Committee on ASIO on the Organisation's questioning and detention powers and to the Standing Committee on Legal and Constitutional Affairs for its inquiry into harmonisation of legal systems and the issues raised by that process for Australian federalism.

The Centre made submissions on two important inquiries conducted by the Senate Legal and Constitutional Legislation Committee. The first was to the Committee's Inquiry into the Law and Justice Legislation Amendment (Video Link and Other Measures) Bill 2005. The purpose of the bill was to enable the use of testimony delivered via video link and also other forms of foreign evidence in trials of terrorism offences. A second submission was made to the same Senate Committee's Inquiry into the Provisions of the Anti-Terrorism Bill (No 2) 2005. The submission raised concerns about a number of the key features of those amendments. During its report, the Committee made extensive reference to the Centre's submission in explaining its recommendations.

A submission was also made to the Joint Standing Committee on Electoral Matters relating to the conduct of the 2004 Federal election. A range of areas were addressed in which reform might be considered to improve the electoral process. Centre staff met with the New Zealand Justice and Electoral Select Committee to discuss issues of joint Australian/New Zealand concern.

- In his lead-up to talks with the Prime Minister on David Hicks, Dick Smith asked the Centre to provide advice on avenues for the prosecution of David Hicks in Australian courts. In a nine-page advice, the Centre concluded that a majority of the charges brought against David Hicks by the United States Military Commission existed under Australian law at the relevant time. Attorney-General Philip Ruddock responded publicly to the advice.
- On 3 March 2005 the Centre Director appeared in the High Court as co-counsel with Associate Professor Kim Rubenstein from the University of Melbourne. They appeared for Mr Amos Ame in a case in which it was argued that he had not been deprived of his Australian citizenship when Papua New Guinea achieved independence in 1975. The Commonwealth was represented by the Solicitor-General David Bennett QC and the High Court reserved its decision.

### *Public Recognition and Profile*

The Centre, throughout 2005, continued to enjoy a high media profile playing a prominent, independent role in public debate on issues vital to Australia's future: including human rights, the reconciliation process, reform of the Australian Constitution and the question of an Australian republic. The Centre's bi-annual newsletter is put up on the website and is posted to the 1,730 people on the database, which includes academics, lawyers, journalists, politicians and members of the general community.

### *Website*

The Centre website [www.gtcentre.unsw.edu.au](http://www.gtcentre.unsw.edu.au) has become a popular portal into public law issues and the work of the Centre. It has undergone considerable reconstruction and is innovative in including features such as a Constitutional Law Teacher's Clearing House and resource pages linked to ongoing research. The site has led to considerable interaction between Centre researchers and international scholars and to contact with potential postgraduate students from Australia and overseas.

### *Projects*

The key projects undertaken during 2005 by the Centre were:

- Bills of Rights
- High Court of Australia
- Homelessness, Human Rights and the Law
- Indigenous Rights, Land and Governance
- International Law and the Australian Legal System
- International Trade and Development
- Public Law Litigation
- Terrorism and the Law
- The Republic
- A Treaty between Indigenous Australians and the Wider Community

During 2005 the Centre continued to work with PhD students involved in fields of law and public policy (see section on postgraduate students below).

### *Events*

The Centre held several successful events during 2005.

- 2005 Constitutional Law Conference and Dinner

On 18 February 2005, the Centre again hosted a major constitutional law conference at the Art Gallery of New South Wales. The conference, the fourth in this series of annual events, gathered together practitioners, judges, scholars and members of the general public to discuss recent events and future trends in Australian constitutional law. The event attracted 200 people and participants at the conference also enjoyed the dinner that night at New South Wales Parliament House. The speaker was The Right Honourable Dame Sian Elias, Chief Justice of the Supreme Court of New Zealand and the dinner was again followed by a High Court trivia quiz.

- Assessing the First Year of Australia's First Bill of Rights

The Regulatory Institutions Network at the Australian National University and the Centre held a one day event in Canberra assessing the first year of Australia's first Bill of Rights, the ACT Human Rights Act 2004. Speakers looked at the impact it has had in the courts, parliament and the bureaucracy. The event focussed on changes to law and policy made the this Act and was aimed at both a legal and non-legal audience.

- Sydney Writer's Festival

The Centre was involved in this festival by launching its new book *Treaty* on 27 May 2005. The launch attracted a large crowd and proved a great way to bring the Treaty Project of the Centre to a close.

- Terrorism and Law Research Workshop

On 20 June 2005 the Centre organised a terrorism and law workshop held at the Crown Plaza, Coogee Beach. The event was a success in attracting 35 scholars from Australia and New Zealand to discuss their work as well the possibilities for future research and collaboration.

- Terrorism Workshop in London

On 26 September the Centre held an event in conjunction with the Faculty of Law, University College London. Australian researchers in the field of counter-terrorism law participated in a roundtable discussion with leading UK experts in the field. The event was a great opportunity for a deeper consideration of the underlying issues and exchange of ideas.

### **Contribution to UNSW**

The Centre has boosted the already strong national profile of public law at UNSW. It has provided a platform for academics at UNSW to engage in national debates through appearances in the media and also the organisation of national conferences.

### **3. CENTRE COMMITTEES**

The composition of the Committees for 2005 were as follows:

#### **Advisory Committee**

Sir Anthony Mason, Former Chief Justice of the High Court (Chair)  
 Professor Larissa Behrendt, Jumbunna Indigenous House of Learning, University of Technology, Sydney  
 Professor James Crawford, Cambridge University  
 Associate Professor Andrea Durbach, Faculty of Law, UNSW  
 Mr Stephen Gageler SC, NSW Bar  
 Mr Danny Gilbert, Managing Partner, Gilbert + Tobin  
 Associate Professor Arthur Glass, Faculty of Law, UNSW  
 Justice Ronald Sackville, Federal Court of Australia  
 Mr Michael Sexton SC, Solicitor-General of NSW  
 Professor Leon Trakman, Dean, Faculty of Law, UNSW  
 Professor George Williams, Centre Director



The Advisory Committee held its second meeting on 26 April 2005. During this meeting the Committee discussed and offered strategic advice on the work of the Centre to date.

### **Management Committee**

Professor David Dixon, Associate Dean (Research), Faculty of Law, UNSW (Chair)

Mr Richard Pascoe, Gilbert + Tobin

Professor Peter Saunders, Social Policy Research Centre, UNSW

Dr Helen Pringle, School of Politics & International Relations, UNSW

Mr Derek Wilding, Communications Law Centre, UNSW

Professor George Williams, Centre Director

The Management Committee held its second meeting on 9 May 2005. During the meeting the Centre's budget and other operations were reviewed.

## **4. OPERATIONAL SUMMARY**

### **Objectives of the Centre**

The Centre was established as a national focal point for research into and discussion of important questions of public law for the academic, professional and wider community. The Centre has strong support from the Faculty of Law, which provides office space, computer resources etc and a part time administrator. Many members of the Faculty are Associates of the Centre.

The Centre's activities involve not only administrative and constitutional law, but also related areas of intersection and structural legal reform, such as human rights, Indigenous legal issues, cyberlaw and electoral law. In these and other areas, the Centre is involved in research and contemporary public debates of political and legal significance. It acts as a change agent through the excellence of its research, the highly visible platform it provides for key participants and its constructive community leadership in debate and opinion formation.

### **Research**

The Centre has established itself as a leading research institution in the field of public law in Australia and in the region. We are continuing to develop an international profile for our research work.

### **Funding**

Gilbert + Tobin funds the salary of its Director (this funding is provided direct to the Faculty of Law and not to the Centre).

Additional funding that enables the Centre to employ other full-time people is as follows:

*International Challenges to the Australian Legal System*

The Australian Research Council awarded the Centre and its partner the following funding for this project:

2002:	\$57,000
2003:	\$107,000
2004:	\$136,520
2005:	\$72,000

During 2004 the Centre received further funding from several of its successful events. The 2004 Constitutional Law Conference and Dinner made a profit of \$32,000 and the ACT Human Rights Act Forum added a further \$4,000 to the Centre's funding.

#### *Terrorism and Law*

2005	\$90,000
2006	\$90,000
2007	\$90,000
2008	\$70,000
2009	\$70,000

#### *Regional governance for Aboriginal and Torres Strait Islander communities*

2005	\$90,000
2006	\$90,000

#### *Australian Policy Online Enhancement Project*

2005	\$114,036
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### **Future of the Centre**

The Centre now has a solid financial base, and we are looking forward to producing more exciting and important research outcomes. A grant received in partnership with the University of Technology, Sydney for \$180,000 over two years is for a project on Regional Governance for Aboriginal and Torres Strait Islander Communities. A further grant with a number of partners is for \$114,036 for the enhancement of the Australian Policy Online website and will be based at Swinburne University of Technology.

## **5. STAFF**

### **Centre Associates**

Tony Blackshield, *Adjunct Professor*, LL.M Syd

Megan Davis, *Visiting Fellow*, BA LLB UQ, LL.M ANU

Arthur Glass, *Associate Professor*, BA LLB PhD Syd

Ben Golder, *Part-Time Lecturer at the University of East London*, BA (Hons) LLB (UNSW)

Janice Gray, *Lecturer*, BA LLB Dip Ed MA UNSW

Jill Hunter, *Associate Professor*, BA LLB UNSW, PhD Lond

Garth Nettheim, *Emeritus Professor*, LLB Syd, AM Tufts

Richard Potok, *Visiting Fellow*, BComm LLB NSW, BCL Oxon

Rosemary Rayfuse, *Senior Lecturer*, LLB Queens, LLM Cantab, PhD Utrecht

Alex Steel, *Senior Lecturer*, BA LLB (Hons) Macq, MA (Media, Tech & Law) Macq

Jeremy Webber, *Visiting Professor*, BA (British Columbia), LLB (McGill), LLM (Osgoode) 1988

### **Postgraduate Students**

The following postgraduate students were supported by the Centre:

Cassandra Goldie

Supervised by Professor George Williams

Topic: Human Rights and Homelessness in the Northern Territory and the Need for Legal and Constitutional Reform.

Katherine Lindsay

Supervised by Professor George Williams

Topic: Judicial Biography and the High Court of Australia

Dan Meagher

Supervised by Professor George Williams

Topic: The Why and How of Race Hate Speech Regulation in Australia

Anne Twomey

Supervised by Professor George Williams

Topic: The Powers of the New South Wales Government

The Centre's first PhD student graduated from the program in 2005. Andrew Lynch's doctoral thesis was entitled "The Impact of Dissenting Opinions on Australian Constitutional Law".

### **Social Justice Internship**

The Centre continues to take part in the Social Justice Intern Program, an undergraduate elective designed to give later year undergraduate students experience in various aspects of social justice advocacy. The student working with the Centre during 2005 was Frances Foster-Thorpe (semester I, 2005).

## Centre Staff

Staff as at 31 December 2005 consisted of the following:

Sean Brennan (Director, Indigenous Rights, Land and Governance Project)

Email: s.brennan@unsw.edu.au

Phone: (02) 9385 2334

*Interests:*

Public Law, Indigenous Legal Issues, Native Title.

Ben Golder (Research Assistant, Faculty of Law)

Cassandra Goldie (Director, Homelessness Legal Rights Project)

Email: c.goldie@unsw.edu.au

Phone: (02) 9385 1295

*Interests:*

Human Rights, Social Justice Law and Policy Homelessness and Housing Community Legal Education and Development

Devika Hovell (Director, International Law Project)

Email: d.hovell@unsw.edu.au

Phone: (02) 9385 2875

*Interests:*

International humanitarian law, International criminal law, Use of force, International Courts and Tribunals, International law and Human Rights in Australia

Andrew Lynch (Deputy Director, Director, Terrorism and the Law Project)

Email:

Phone: (02) 93852210

*Interests:*

Federal Constitutional Law, Legal Responses to Terrorism, Judicial Decision-making and Equitable Remedies

Belinda McDonald (Administrator)

Email: gtcentre@unsw.edu.au

Phone: (02) 9385 2257

Bryan Mercurio (Director, International Trade and Development)

Email: b.mercurio@unsw.edu.au

Phone: (02) 385 3445

*Interests:*

Electoral Law, International Trade Law and Intellectual Property.

Ben Saul (Director, Bills of Rights Project)

Email: b.sauls@unsw.edu.au

Phone: (02) 9385 1529

*Interests:*

Public international law (particularly terrorism, international criminal law, humanitarian law, use of force, human rights, refugee law, United Nations law, electoral law), Criminal law.

George Williams (Centre Director)

Email: 9385 2259

Phone: (02) 9385 2259

*Interests:*

Constitutional law, human rights and electoral law.

## 6. PUBLICATIONS

Publications for the year ending 2005 are set out below.

### **George Williams**

*Books*

*Treaty*, Federation Press, 2005 (with Sean Brennan, Larissa Behrendt and Lisa Strelein).

*The Fluid State: International Law and National Legal Systems*, Federation Press, 2005 (with Hilary Charlesworth, Devika Hovell and Madelaine Chiam).

*Book Chapters*

‘International Law and National Law: Fluid States’ in Charlesworth, Chiam, Hovell, and Williams (eds), *The Fluid State: International Law and National Legal Systems*, Federation Press, 2005, 1-16 (with Hilary Charlesworth, Devika Hovell and Madelaine Chiam).

*Articles*

‘Electoral Law: Free and Fair?’ (2004) 32 *Federal Law Review* 365-395 (with Bryan Mercurio).

‘Electoral Law Symposium: An Introduction’ (2004) 32 *Federal Law Review* 357-363 (with Bryan Mercurio).

‘The Australian Diaspora and the Right to Vote’ (2004) 32(1) *University of Western Australia Law Review* 1 (with Bryan Mercurio).

‘A Tale of Two Systems: The Use of International Law in Constitutional Interpretation in Australia and South Africa’ (2005) 29 *Melbourne University Law Review* 95 (with Devika Hovell).

‘The High Court on Constitutional Law: The 2004 Statistics’ (2005) 28 *University of New South Wales Law Journal* 14 (with Andrew Lynch).

'Bills of Responsibilities' (2005) 30 *Alternative Law Journal* 58-62 (with Lara Kostakidis-Lianos).

'Education Required Despite Success' *Educating for Democracy* (Constitution Education Fund – Australia 2004/2005 Annual Report), 18.

'Constitutional Considerations for a National IR System' *CCH Industrial Law News*, Issue 4, 5 May 2005, 1-2 and *CCH Work Alert*, Issue 3, 18 April 2005, 9-10.

'Indigenous Legal Education at UNSW: A Work-in-Progress' (2005) 6 *Indigenous Law Bulletin* 26 (with Deborah Healey, Jill Hunter, Dani Johnson, Mehera San Roque and Leon Wolff).

'The Constitution and a National Industrial Relations Regime' (2005) 10 *Deakin Law Review* 498.

'Balancing National Security and Human Rights: Lessons from Australia' (2005) 4(1) *Borderlands e-journal*.

'In any Society, it's a Risk to Take Freedoms for Granted' in J Healey (ed), *Human Rights* (Issues in Society, vol 227), Spinney Press, 2005, 37.

'Foreword: Focus on Civil Liberties' (May/June 2005) 68 *Precedent* i.

'Foreword: Terrorism and Human Rights' (2005) 4 *Queensland University of Technology Law and Justice Journal* 127.

### *Electronic*

'Victoria Leads the Way on a "Bill of Rights"' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=3992>> at 22 December 2005.

'A Beginning, Not an End' *Australian Policy Online*  
<[http://www.apo.org.au/webboard/results.shtml?filename\\_num=64606](http://www.apo.org.au/webboard/results.shtml?filename_num=64606)> at 22 December 2005.

'A Bill of Rights for Victoria'  
<[www.newmatilda.com//policytoolkit/policydetail.asp?NewsletterID=174&PolicyID=261&email=1](http://www.newmatilda.com//policytoolkit/policydetail.asp?NewsletterID=174&PolicyID=261&email=1)> *New Matilda* at 21 December 2005

'Justice Michael McHugh: A Legacy of Clarity and Vigour' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=79>> at 17 November 2005.

'Terrorism Laws an Inferior Copy' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=74>> at 7 November 2005.

'Democracy and the High Court' *Australian Policy Online*  
<[http://www.apo.org.au/webboard/results.shtml?filename\\_num=42129](http://www.apo.org.au/webboard/results.shtml?filename_num=42129)> at 1 November 2005.

- 'Essential Liberties are Lost in Imitation' *Australian Policy Online*  
<[http://www.apo.org.au/linkboard/results.shtml?filename\\_num=42130](http://www.apo.org.au/linkboard/results.shtml?filename_num=42130)> at 1 November 2005.
- 'Losing our Balance in "Fortress Australia"' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=136>> at 28 September 2005.
- 'Losing our Balance in Fortress Australia' *Australian Policy Online*  
<[http://www.apo.org.au/webboard/results.shtml?filename\\_num=36579](http://www.apo.org.au/webboard/results.shtml?filename_num=36579)> at 26 September 2005.
- 'The Constitution and a National IR Regime' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=3687>> at 20 July 2005.
- 'Federal Powers not Sufficient' *Australian Policy Online*  
<[http://www.apo.org.au/webboard/results.shtml?filename\\_num=01250](http://www.apo.org.au/webboard/results.shtml?filename_num=01250)> at 14 July 2005.
- 'Liberties Rest in the Hands of the Vigilant' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=3608>> at 30 June 2005.
- 'Balancing National Security and Human Rights' *Australian Policy Online*  
<[http://www.apo.org.au/webboard/results.shtml?filename\\_num=01211](http://www.apo.org.au/webboard/results.shtml?filename_num=01211)> at 23 June 2005.
- 'Battle to Control Ports a Test of Federal Powers' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=3441>> at 6 June 2005.
- 'Spying an Opportunity to Entrench Power' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=3507>> at 31 May 2005 (with Ben Saul).
- 'Will the PM Welcome a Compromise this Time Around?' *Australian Policy Online*  
<[http://www.apo.org.au/webboard/results.shtml?filename\\_num=01167](http://www.apo.org.au/webboard/results.shtml?filename_num=01167)> at 24 May 2005 (with Ben Saul).
- 'Dysfunctional Federalism' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=3361>> at 19 April 2005.
- 'Time for Long-term Solutions' *Australian Policy Online*  
<[http://www.apo.org.au/webboard/results.shtml?filename\\_num=01098](http://www.apo.org.au/webboard/results.shtml?filename_num=01098)> at 15 April 2005.
- 'The Tricky Problem of Defining Terrorism' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=3226>> at 11 March 2005.
- 'One-Stop Industrial Relations: coming Soon to a Workplace Near You?' *On Line Opinion*  
<<http://www.onlineopinion.com.au/view.asp?article=3036>> at 2 March 2005.
- 'A Withering Away of the States?' *Australian Policy Online*  
<[http://www.apo.org.au/webboard/results.shtml?filename\\_num=01018](http://www.apo.org.au/webboard/results.shtml?filename_num=01018)> at 22 February 2005.

‘Ancient Laws Reign in New Land’ *On Line Opinion*  
 <<http://www.onlineopinion.com.au/view.asp?article=3036>> at 16 February 2005.

‘Wedding Questions’ *Australian Policy Online*  
 <[http://www.apo.org.au/webboard/results.shtml?filename\\_num=00979](http://www.apo.org.au/webboard/results.shtml?filename_num=00979)> at 13 February 2005.

### *General Media*

‘Spying an Opportunity to Entrench Power’ *Sydney Morning Herald* (23 May 2005) (with Ben Saul).

‘Strike a Blow for Balance’ *Courier Mail* (23 May 2005) (with Ben Saul).

‘Rights and Wrongs: On How to Define Terrorism’ *The Australian Financial Review* (13 May 2005) (with Ben Golder).

‘Rights and Wrongs’ *Australian Financial Review* (13 May 2005) (with Ben Golder).

‘The Tricky Problem of Defining Terrorism’ *On Line Opinion: Australia’s e-journal of social and political debate* published (11 March 2005) (with Ben Golder).

‘Port Power Shift Could Leave National Interests All at Sea’ *Adelaide Advertiser* (20 May 2005).

‘Ports in a Storm’ *Courier Mail* (20 May 2005).

‘Battle to Control Ports a Test of Federal Powers’ *The Age* (20 May 2005).

‘Federal System at Crossroads’ *Hobart Mercury* (13 April 2005).

‘High-Stakes Horse Trading’ *Courier Mail* (12 April 2005).

‘Old Flaws in Federalism Rise Again’ *Sydney Morning Herald* (12 April 2005).

‘A Right Royal Fillip for Australian Republicans’ *Canberra Times* (17 February 2005).

‘A Single Employment System Certainly Won’t be the Devil we Know’ *Sydney Morning Herald* (14 February 2005).

‘Ancient Laws Reign in New Land’ *Courier Mail* (12 February 2005).

‘Lack of Women in High Court Undermining Justice System’ *Adelaide Advertiser* (14 January 2005).

‘McHugh of the High Court, a Leader of Clarity, Rigour’ *Canberra Times* (14 November 2005).

‘Reforming Zeal Ruled out of Court’ *Courier Mail* (1 November 2005).

‘Essential Liberties are Lost in Imitation’ *Sydney Morning Herald* (27 October 2005).

‘Jumping the Gun on Terror’ *The Age* (27 October 2005).



‘Terrorism Laws an Inferior Copy’ *Courier Mail* (27 October 2005).

‘Risk of Flawed Law’ *Hobart Mercury* (27 October 2005).

‘Losing our balance in ‘Fortress Australia’’ *Australian Financial Review* (23 September 2005).

‘Spanner in Works’ *Courier Mail* (14 July 2005).

‘Speed Bumps on the Road to IR reform’ *The Age* (14 July 2005).

‘Legal Hurdles for Industrial Relations Plan’ *Sydney Morning Herald* (14 July 2005).

## **Sean Brennan**

### *Books*

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### *Articles*

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## **Ben Golder**

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## **Devika Hovell**

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## **PRESENTATIONS**

### **George Williams**

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‘New Terror Laws’, *Laws for Insecurity?*, Public Forum, University of Melbourne, 17 November 2005.

‘Transplanting the UK Human Rights Act to Australia’ delivered at Cambridge Public Law Discussion Group, University of Cambridge Faculty of Law, United Kingdom, 31 October 2005.

‘Counter Terrorism and Civil Liberties in Australia’ delivered at University of Nottingham Faculty of Law, United Kingdom, 17 October 2005.

‘Human Rights Acts and Statements of Intent – Recent Developments in Australia’, Constitution Directorate, Department for Constitutional Affairs. London, United Kingdom, 12 October 2005.

‘Liberty in a Nation without a Bill of Rights’, University College London, United Kingdom, 12 October 2005.

‘The Role of Human Rights in the Fight Against Terror’, *Legal Responses to Terrorism – the United Kingdom and Australian Experiences*, Roundtable Discussion, University College London, United Kingdom, 26 September 2005.

‘A Charter of Human Rights for Victoria’, *Get Up Stand Up: Stand up for a Bill of Rights*, Liberty Victoria, 13 August 2005.

‘Annual Address’, *Deakin Law Review Dinner*, 11 August 2005.

‘Get Active! A Bill of Rights for Victoria?’, *Law Students for a Just Community Conference*, 7 August 2005.

‘The Constitution and a National IR Regime’, *Industrial Relations Reform: Fair Go or Anything Goes?*, 13 July 2005.

‘Counter Terrorism and Civil Liberties’, *Safeguarding Australia 2005*, National Convention Centre, Canberra, 12 July 2005.

‘The ACT Bill of Rights and Issues Surrounding the Introduction of a Bill of Rights in Victoria and the Other Australian Jurisdictions’, Mallesons Stephen Jaques, Sydney, 7 July 2005.

‘Beyond Australia’s First Bill of Rights’, *Assessing the First Year of the ACT Human Rights Act*, Australian National University, 29 June 2005.

‘Balancing National Security and Human Rights: Lessons from Australia’, *Fulbright Public Lecture*, University of Melbourne, 21 June 2005.

‘Human Rights and Reconciliation: Local Leadership’, *Moreland City Council*, 9 June 2005.

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‘A Bill of Rights’, *Sydney Writers’ Festival*, 28 May 2005 (with Larissa Behrendt).

‘Address to Award Winners’, Macquarie Law Prize-Giving Ceremony, Macquarie University, 20 April 2005.

‘Contemporary Challenges for Scrutiny Committees’, *Ninth Australasian and Pacific Conference on Delegated Legislation & Sixth Australasian and Pacific Conference on the Scrutiny of Bills*, Parliament House, Canberra, 4 March 2005.

### **Sean Brennan**

‘Chequered Progress: Recognition of Indigenous Rights, Laws and Authority in Australia’, American Society of Comparative Law Symposium on Multiple Sovereignties: Federalism in the 21st Century, Honolulu, Hawaii, 28 October 2005.

‘“Stolen Wages” and Aboriginal Trust Accounts’, CFMEU NSW Branch Delegates’ Meeting, Sydney, 27 October 2005.

‘The Treaty Idea’, Local Government Community Services Association of Australia’s Just Communities Conference, Melbourne, 26 October 2005.

‘The Treaty Project’, UNSW Faculty of Law Seminar Series, Sydney, 6 September 2005.

### **Ben Golder**

‘Democracy’s Definitional Disavowal, or The Semantic Economy of Political Violence’, paper presented to the 6<sup>th</sup> Essex Graduate Conference in Political Theory, *Difference, Borders, Others* Colchester, 13-14 May 2005.

### **Devika Hovell**

‘Testing Judicial Anxieties: Use of international law in Australia and South Africa’, Australian and New Zealand Society of International Law Annual Conference, 17 June 2005

‘Legality of the War Against Iraq’, Guest Lecture to First Year Law School students, University of Sydney, 24 May 2005.

‘Black holes or Loopholes? Human Rights in the Risk Society’ delivered at Human Rights and Equal Opportunity Commission, ‘Are human rights principles relevant to the war on terror?’, 5 April 2005.

‘“The Sound of Sirens: Limits on government action in the ‘war on terror”’, Conference: Democracy at the Crossroads, Prato, Italy, 28-30 September 2005.

‘No Country is an Island: Australia and international law’, Lowy Institute, Sydney, 14 September 2005.

### **Andrew Lynch**

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‘Terror and Exceptionalism - Can an Emergency Constitution Limit Executive Power?’ *The Executive – Third Annual Conference on the Primary Functions of Government*, Victoria University of Wellington, New Zealand, 25 November 2005.

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‘Changing Institutional Relationships in a time of Terror’ UK-Australia Roundtable on Legal Responses to Terrorism, Faculty of Law, University College London, England, 26 September 2005.

### **Bryan Mercurio**

‘Access to Medicines in the Developing World: Why Patents are not the Problem’ UNSW Researching Scholar Series, Sydney, 20 September 2005.

‘Prisoner Voting Rights in Australia’ The Institute of Criminology, University of Sydney, 1 September 2005.

‘Money Politics: Australia’s Laissez-faire attitude to Campaign Finance and Advertising Laws’ UNSW symposium on Campaign Finance Reform sponsored by the School of Politics and International Relations and the Gilbert + Tobin Centre of Public Law, 19 August 2005.

### **Ben Saul**

‘Beyond Definition of Terrorism: Justifying, Excusing and Defending Terrorist Crimes’, Australian New Zealand Society for International Law, 13<sup>th</sup> Annual Conference, Canberra, 16-18 June 2005.

‘Collective and Regional Security in the Asia-Pacific Region: The New Security Agenda’, 2<sup>nd</sup> Annual Conference of the Asian Law Institute, Bangkok, Thailand, 26-27 May 2005.

‘UN Reform’, Presentation to UNSW United Nations Society, UNSW, 24 May 2005.

‘Anglo-Saxon and European Legal Systems: Differences in Criminal Law’, Paper to North Shore Discussion Group, Sydney, 14 May 2005.

‘Defining Terrorism as an International Crime: Efforts by the United Nations and the European Union’, Human Rights Initiative, Central European University, Budapest, 27 April 2005.

‘Current Problems and Developments in the Debate about Defining Terrorism as an International Crime’, Institute for European, International and Comparative Law, Department of International Law and International Relations, University of Vienna, 26 April 2005.

‘Threats to Peace and Security in the Asia-Pacific: The Evolving Mandate of the UN Security Council in International Law’, Conference on Peace, Justice and Reconciliation in the Asia-Pacific Region (hosted by the Australian Centre for Peace and Conflict Studies, the International Peace Academy, and the Asia Pacific Peace Research Association Brisbane), 1-3 April 2005.

‘Australia’s Counter-Terrorism Laws’, Discussion Forum on Sedition with Islamic Leaders, Sydney, 17 December 2005.

‘Australia’s Counter-Terrorism Laws and Human Rights’, Australian Lawyers for Human Rights Forum, Sydney, 12 December 2005.

‘Race, Religion and Immigration in a Time of Terror’, Moving On: Forced Migration and Human Rights Conference, NSW Parliament House, Sydney, 22 November 2005.

‘Australia’s New Counter-Terrorism Laws’, Community Forum: Speaking Up for Democracy, Asquith Community Centre, Sydney, 19 November 2005.

‘Australian Counter-Terrorism Laws and Human Rights’, Amnesty International UNSW, Sydney, 11 October 2005.

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‘US Military Commissions’, Amnesty International Rally, Kirribilli House, Sydney, 18 September 2005.

Guest Lecture on Australia’s Counter-Terrorism Laws, Department of Government and International Relations, University of Sydney, 8 September 2005.

‘Defining Terrorism to Protect Human Rights’, War/Terror Seminar Series, Department of Critical and Cultural Studies, Macquarie University, Sydney, 1 September 2005.

‘The Dangers of Human Security’, United Nations Association of Australia, UN 60<sup>th</sup> Anniversary Conference on the UN High-Level Panel Report, ANU, Canberra, 13 August 2005.

“Measuring ‘Terror’: Proving Crimes of Terrorism Through the Use of Expert Psychiatric and Psychological Evidence in Court”, 29<sup>th</sup> International Congress on Law and Mental Health, Paris, France, 6-8 July 2005.

## **SUBMISSIONS**

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