



THE UNIVERSITY  
OF  
NEW SOUTH WALES



FACULTY OF LAW

**GILBERT + TOBIN CENTRE OF PUBLIC LAW**

**ANNUAL REPORT**

**FOR THE YEAR ENDED 31 DECEMBER 2008**

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## 1. DIRECTOR'S REPORT

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

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

### **Benefits to UNSW**

The Centre provides a focal point for research, teaching and outreach activities 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 2008 recorded a surplus of \$79,517. 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 **Charter of Human Rights Project** (Project Director: Edward Santow) continues to maintain its watching brief on human rights issues in Australia, including through making submissions, presentations and engaging in public debate on legal issues particularly those involving refugees, freedom of expression and freedom of religion. During 2008 the Centre organised a number of events bringing together human rights experts to discuss how best to contribute to the current debate over the adoption of a National Human Rights Act. One was a roundtable organised with HREOC (as it was then was) which ultimately led to the establishment of a new organisation, the Australian Human Rights Group; and the other was the annual Protecting Human Rights conference organised by the Centre for Comparative Constitutional Studies, the Regulatory Institutions Network, the Australian Human Rights Centre and the Gilbert + Tobin Centre of Public Law. This conference critically examined various charters of rights by leading Australian and international speakers. This project continues to contribute in a very positive way to the ongoing debate of human rights, and significant public interest was generated during 2008 with the creation of an email list for the exchange of ideas and information.

The **Federalism Project** (Project Director Paul Kildea) began in 2008 with a funding base of \$30,000 won in an internal round from UNSW. These funds were used to convene a research roundtable of lawyers, economists and political scientists. The papers from this event formed the basis of a special thematic issue of the University of New South Wales Law Journal. Substantial funding (\$270,000) for the project has since been secured for 2009-2011 through the ARC Discovery Project scheme. The project aims to contribute to legal scholarship crucial for a modern debate about improving Australia's constitutional division of power. From 2009, the Project will proceed in two stages. The first stage will involve the development of a theoretical framework of coherent principles against which the practice of Australian federalism can be assessed. In the second stage, this framework will be applied to develop practical solutions to specific problems in the constitutional division of federal responsibility in contemporary Australia. Possible case

studies include water management and health services. The project is focussed on reform of the existing federal relationship so as to capitalise upon its strengths and to better meet the challenges facing 21st century Australia.

The **Indigenous Legal Issues Project** (formerly Indigenous Rights, Land and Governance) (Project Director: Sean Brennan) is committed to continuing its work in the area where public law and Indigenous affairs intersect. During 2008 a small team of researchers continued work on the main elements of the Commonwealth Intervention into Northern Territory Aboriginal Communities, leading to a major submission to the government's review of the exercise. The Project Director travelled to Alice Springs to give evidence to the Senate Community Affairs Committee inquiry into petrol sniffing in remote Aboriginal communities. He received a Faculty Research Grant to continue research in this area during 2009. Recently, work on this project has concerned the decisions of the High Court in *Minister Administering the Crown Lands Act v NSW Aboriginal Land Council* and *Wurridjal v Commonwealth*.

The **International Refugee and Migration Law Project** (formerly Climate Change 'Refugees' and International Law) (Project Director: Jane McAdam) consists of three key research areas: Weathering Uncertainty: Climate Change "Refugees" and International Law; Complementary Protection and War Crimes; and Refugee Status: The Application and Interpretation of International Humanitarian and International Criminal Law to the Adjudication of Refugee Status in Canada, the United States, the United Kingdom, Australia and New Zealand. The Project Director was awarded a three year ARC Discovery Grant of \$160,000 to fund research on the 'Weathering Uncertainty' aspect of this project, which has enabled the appointment of a research assistant. Additionally, the Project Director has collaborated with colleagues at other institutions to win \$343,000 in funding to support research activities in respect of 'Immigration Restriction and the Racial State, c. 1800 to the Present'. She continues to produce a wide range of research outcomes with publications, conference presentations and media appearances.

The **Terrorism and Law Project** (Project Director: Nicola McGarrity) was established to analyse Australia's legal response to terrorism and to contrast this to the responses of other comparable nations. During 2008 the research in this area was focussed on control orders for terrorism suspects and the proscription of terrorist organisations. Much of this work has now been or is about to be published in leading journals. Project staff continued to write and talk about terrorism issues in various fora, though public interest in the topic has rather diminished since the project commenced. Government interest remains strong, however, and the Centre continued to contribute in this context. Staff made a written submission to the Senate inquiry examining the private member's Independent Reviewer of Terrorism Laws Bill (No 2) 2008. This bill proposed the establishment of an office, similar to that existing in the United Kingdom, of Independent Reviewer of Terrorism Laws to review the operation, effectiveness and implications of laws relating to terrorist acts on an ongoing basis. The Centre Director and Project Director were called as witnesses to the Inquiry and many of their submissions were accepted by the final report of the committee. The Centre also continued its interest in the case of Dr Haneef through submissions to the Clarke Inquiry and subsequent media contributions discussing the final report. In 2009, the project will continue its research into the Australian terrorism trials as well as the continuing 'seepage' of anti-terrorism laws into other areas of the criminal justice system and the impact of this upon public institutions.

## 2. CHAIR OF MANAGEMENT BOARD'S REPORT

### Summary of Centre's achievements

During 2008, Centre staff made important achievements in their areas of research, including a large number of submissions to public inquiries, and the publication of books and articles.

Of the thirteen submissions made, those of particular importance include:

- A submission to the Northern Territory Emergency Response Review Board looking at the Commonwealth's intervention in Indigenous Communities one year on. The submission was authored by Sean Brennan, Director of the Centre's Indigenous Legal Rights Project.
- Andrew Lynch, Nicola McGarrity and George Williams made a submission to the Parliamentary Joint Committee on the Australian Crime Commission which was holding an inquiry into the feasibility and desirability of outlawing serious and organized crime groups.
- An unusual submission was that made to the 2020 Future Summit in April 2008. Sean Brennan, Andrew Lynch, Jane McAdam and George Williams collaborated in the submission which addressed four of the ten 'streams' around which the Summit was structured. Those streams were "Population, Sustainability, Climate Change, Water and the Future of our Cities" (Jane McAdam); "Options for the Future of Indigenous Australia" (Sean Brennan); "The Future of Australian Governance" (George Williams); and "Australia's Future Security and Prosperity in a Rapidly Changing Region and World" (Andrew Lynch). This submission drew together a great many of the areas central to the Centre's work.

Centre staff were the lead Chief Investigators on two successful grant applications for research funding from the Australian Research Council. This secures support for several projects and enables the addition of two new Centre research associates in 2009:

- Jane McAdam obtained an ARC Discovery grant of \$160,000 to fund her research on Climate Change 'Refugees' for the next three years.
- Andrew Lynch with Professors George Williams, Neil Warren and Greg Craven (ACU) obtained funding for the Centre through an ARC Discovery grant of \$273,000 to conduct a three year research program connected to the Federalism project titled "Federalism for the 21<sup>st</sup> Century A Framework for Achieving Reform and Change".

Additionally:

- Jane McAdam has collaborated with colleagues at other institutions to win \$343,000 in funding to support research activities in respect of 'Immigration Restriction and the Racial State, c. 1800 to the Present'; and

- Andrew Lynch was a participant in a successful multi-institutional ARC LIEF grant under the leadership of Swinburne University. The 2009 grant of \$175,000 will fund the further development of the successful Australian Policy Online website with the Centre providing material on legal affairs and the High Court.

### *Publications*

The Centre continues to produce research publications of significance with a highlight in 2008 being the publication of Jane McAdam's edited book "Forced Migration, Human Rights and Security" by Hart Publishing UK.

### *Public Recognition and Profile*

The Centre, throughout 2008, 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, Indigenous legal affairs, anti-terrorism laws, developments in the High Court and reform of the Australian Constitution. The Centre's bi-annual newsletter is put up on the website and is posted to the 1,550 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 is innovative in including features such as a Constitutional Law Teacher's Clearing House and resource pages linked to ongoing research. The site features a number of email distribution lists which have 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 2008 by the Centre were:

- Charter of Human Rights
- Climate Change 'Refugee' and International Law
- Federalism
- High Court of Australia
- Indigenous Rights, Land and Governance
- Public Law Litigation
- Terrorism and the Law

During 2008 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 2008:

- 2008 Constitutional Law Conference and Dinner

On 8 February 2008, the Centre again hosted a major constitutional law conference at the Art Gallery of New South Wales. The conference, the seventh 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 over 200 people and participants at the conference also enjoyed the dinner that night at New South Wales Parliament House. The speaker was the Hon Justice Susan Crennan of the High Court of Australia and the dinner was again followed by a High Court trivia quiz.

As part of an internal review of Centre operations, an online survey was conducted in late 2008. The results of this survey revealed very positive feedback on this annual event from respondents who have attended in the past. Scores of 100% for ‘organization’, ‘informative value’ and ‘interest’ were achieved; and above 90% was given for the ‘quality and diversity of speakers’ and ‘coverage of topical issues’.

- Protecting Human Rights Conference

On 3 October 2008 the University of Melbourne hosted the “Protecting Human Rights” conference which involved the collaboration of the Centre for Comparative Constitutional Studies, RegNet at the Australian National University and the Gilbert + Tobin Centre of Public Law. The conference focused on the themes of integration of human rights protection in the law-making process, the role of the courts in interpreting human rights law and moving beyond civil and political rights to protect economic, social and cultural rights. In 2009, this event is being held in Sydney with the Centre acting as host.

- Charter of Human Rights Roundtable

This roundtable, held on 2 June 2008, brought together people who support improved legal protection for human rights in Australia to discuss strategies and processes for moving forward a Charter at the federal level. This roundtable led to the establishment of a new organisation, the Australian Human Rights Group (AHRG). This organisation is designed to bring together as many stakeholders as possible to contribute to the debate of human rights protection in Australia.

- Federalism Roundtable

On 13 June the Centre held a Federalism Research Roundtable to gather a number of experts across the fields of public law, economics and political science to discuss present problems with Australia’s federal system and to suggest future directions for reform. Many of the research papers delivered on the day contributed to a thematic issue of the University of New South Wales Law Journal which was launched by Mr Ian Callinan AC at Mallesons Stephen Jacques on 8 September 2008. The publication received media coverage, most unusual for a university law journal.

### **Contribution to UNSW**

The Centre is pivotal to the strength of the 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. Additionally, the Centre's continued success in obtaining external grant funding has enabled the employment of talented research staff whose publications and teaching add to the community of public lawyers in the Faculty.

### **3. CENTRE COMMITTEES**

The composition of the Committees for 2008 were as follows:

#### **Advisory Committee**

Sir Anthony Mason, Former Chief Justice of the High Court (Chair)  
 Ms Robin Banks, Public Interest Advocacy Centre  
 Professor Larissa Behrendt, Jumbunna Indigenous House of Learning, University of Technology, Sydney  
 Professor James Crawford, Cambridge University  
 Professor David Dixon, Dean, 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  
 Dr Andrew Lynch, Centre Director  
 Mr Michael Sexton SC, Solicitor-General of NSW

The Advisory Committee held its third meeting on 24 April 2007. During this meeting the Committee discussed and offered strategic advice on the work of the Centre to date. No meeting was held in 2008 due to the vacancy of the Director's position in the first half of the year.

#### **Management Committee**

Professor Andrew Byrnes, Associate Dean (Research), Faculty of Law, UNSW (Chair)  
 Associate Professor Andrea Durbach, Faculty of Law, UNSW  
 Dr Andrew Lynch, Deputy Centre Director  
 Mr Richard Pascoe, Gilbert + Tobin  
 Dr Helen Pringle, School of Politics & International Relations, UNSW  
 Professor Peter Saunders, Social Policy Research Centre, UNSW

The Management Committee held its meeting on 23 April 2008. 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 and discussion of important questions of public law for the academic, professional and wider community. The Centre is an integral part of the Faculty of Law, which provides considerable support



in the form of office space, computer resources and a part-time administrator. In return, in 2008 the Centre provided the Faculty with delivery of a half-time teaching load, valued at \$23,000, and \$7928 in payment of UNSW levy on commercial activities. In 2008, three of the Centre's Project Directors were academic staff employed full-time by the Faculty and one was employed by the Centre directly using external funds. Several other Faculty members are Associates of the Centre.

The Centre's research and other activities involve not only constitutional and administrative law, but also related areas of intersection between law and government and legal reform in areas such as human rights, Indigenous legal issues, immigration law and terrorism 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**

During 2008 the Centre was successful in being awarded a number of research grants. Dr Andrew Lynch led a team that was awarded a UNSW Goldstar grant of \$30,000 which enabled the beginning of the Centre's new project on Federalism. In September, the same team of researchers won a further three year ARC Discovery grant to support their continuing research activities in this area and the employment of a full-time staff member.

A further ARC Discovery grant was obtained by Dr Jane McAdam to fund her research on Climate Change "Refugees" for the next three years.

### **Future of the Centre**

The Centre has a solid financial base, and we are looking forward to producing more exciting and important research outcomes.

## **5. STAFF**

### **Centre Associates**

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

Megan Davis, *Senior Lecturer*, 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)

Cassandra Goldie, B Juris LLB (Hons) UWA LLM Dist UCL, PhD UNSW

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

Devika Hovell, PhD Program, Balliol College, University of Oxford, BA LLB (Hons) UWA, LLM NYU

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, *Associate Professor*, LLB Queens, LLM Cantab, PhD Utrecht

Ben Saul, *Senior Lecturer*, University of Sydney, BA (Hons) LLB (Hons) Syd, DPhil Oxon

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 during 2008:

Andrew Dahdal

Supervised by George Williams

Topic: Section 51(xiii) - The Commonwealth Banking Power

Dominique Dalla-Pozza

Supervised by George Williams and Andrew Lynch

Topic: Australian Approach to Enacting Counter-Terrorism Laws

Cassandra Goldie

Supervised by Professor George Williams

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

Jennifer Ireland

Supervised by George Williams and Andrew Lynch

Topic: Free Speech, Sedition and Political Dissent: A Comparative Analysis

Jacqueline James

Supervised by Andrew Lynch

Topic: Contemporary Australian Anti-Terror Laws: Do They Disproportionately Restrict Freedom of the Press?

Mitchell Landrigan

Supervised by George Williams  
 Topic: The Interface of Political and Religious Discourse Under the Commonwealth Constitution

Katherine Lindsay  
 Supervised by Professor George Williams  
 Topic: Judicial Biography and the High Court of Australia

### **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 students working with the Centre during 2008 were Jemma Hollands (Semester I, 2008) and Jonathan Dillon (Semester II, 2008).

### **Centre Staff**

Centre Staff as at 31 December 2008 consisted of the following:

Sean Brennan (Director, Indigenous Legal Issues Project)

Email: s.brennan@unsw.edu.au

Phone: (02) 9385 2334

*Interests:*

Public Law, Indigenous Legal Issues, Native Title.

Andrew Lynch (Centre Director)

Email: a.lynch@unsw.edu.au

Phone: (02) 93859654

*Interests:*

Federal Constitutional Law, Legal responses to Terrorism, Judicial Dissent

Jane McAdam (Director, International Refugee and Migration Law Project)

Email: j.mcadam@unsw.edu.au

Phone: (02) 9385 2210

*Interests:*

International Refugee Law, International Human Rights Law, Public International Law, Forced Migration, Climate-Induced Displacement, Statelessness, EU Law relating to Asylum and Human Rights.

Belinda McDonald (Administrator)

Email: gtcentre@unsw.edu.au

Phone: (02) 9385 2257

Nicola McGarrity (Director, Terrorism Project)

Email: n.mcgarrity@unsw.edu.au

Phone: (02) 9385 3445

*Interests:*

Constitutional law, Legal responses to terrorism, Human rights, Constitutional reform.

Ed Santow (Director, Charter of Rights Project)  
 Email: e.santow@unsw.edu.au  
 Phone: (02) 9385 9656

*Interests:*

Human Rights, Administrative Law and Constitutional Law.

George Williams (Foundation Director)  
 Email: george.williams@unsw.edu.au

*Interests:*

Constitutional Law, Human Rights and Electoral Law.

## 6. PUBLICATIONS

Publications for the year ending 2008 are set out below.

### **Andrew Lynch**

*Articles*

‘Control Orders in Australia: A Further Case Study in the Migration of British Counter-Terrorism Law’ (2008) 8 *Oxford University Commonwealth Law Journal* 159;

‘*Thomas v Mowbray*: Australia’s ‘War on Terror’ Reaches the High Court’ (2008) 32 *Melbourne University Law Journal* 1182;

The High Court on Constitutional Law – the 2007 Statistics’ (2008) 31 *University of New South Wales Law Journal* 31 (with George Williams);

‘Australia’s Counter-Terrorism Laws: How Neutral Laws create Fear and Anxiety in Muslim Communities, (2008) 33 *Alternative Law Journal* 225 (with Nicola McGarrity);

‘Beyond a Federal Structure: Is a Constitutional Commitment to a Federal Relationship Possible?’ (2008) 32 *University of New South Wales Law Journal* 395 (with George Williams);

‘Exceptionalism, politics and liberty: a response to Professor Tushnet from the Antipodes’ (2008) 3 *International Journal of Law in Context* 305;

Review: ‘*Security and Human Rights*’ by Benjamin J Goold and Liora Lazarus (eds), (2008) 10 *Constitutional Law and Policy Review* 51.

*Media*

‘Spotlight on security forces’, *The Australian* (21 November 2008);

‘Unusual and Invasive’, *Inside Story* (1 November 2008);

‘Legislative tightrope needs constant review’, *The Australian Financial Review* (19 September 2008);

‘French’s Influence to be decided by Court’, *The Australian* (1 August 2008);

‘Disentangling the story of Mamdouh Habib’ *Australian Policy Online* (with Nicola McGarrity) (6 June 2008);

‘Bill of rights will help the hoi polloi, not just the haughty torty’ *The Australian* (25 April 2008);

‘Shaky foundations’ *Australian Policy Online* (29 January 2008);

‘A change in anti-terrorism tactics’ *The Courier-Mail* (22 January 2008);

‘When ‘sorry’ is not enough’ *Australian Policy Online* (11 January 2008).

## **Sean Brennan**

### *Articles*

‘Wet or Dry, It’s Aboriginal Land: The Blue Mud Bay Decision on the Intertidal Zone’ (2008) 7(7) *Indigenous Law Bulletin* 6;

‘Compulsory acquisition of native title land for private use by third parties’ (2008) 19 *Public Law Review* 179;

‘Fishing Case Tests Economic Waters for Traditional Owners’ (2008) 7(2) *Indigenous Law Bulletin* 18 (with Peta MacGillivray);

‘Government Expropriation for Private Profit Hits Aboriginal Land Hardest’ (2008) 7(6) *Indigenous Law Bulletin* 2.

## **Jane McAdam**

### *Books*

*Forced Migration, Human Rights and Security*, Hart Publishing: Oxford.

### *Book Chapters*

‘The Refugee Convention as a Rights Blueprint for People in Need of International Protection’ in J McAdam (ed), *Forced Migration, Human Rights and Security*, Hart Publishing: Oxford: 263–82.

### *Articles*

‘An Insecure Climate for Human Security? Climate-Induced Displacement and International Law’, Sydney Centre Working Paper No 4 (2008) (with Ben Saul);

‘Refugee Protection in the Howard Years: Obstructing the Right to Seek Asylum’ (2008) 27 *Aust YBIL* 87 (with Kate Purcell);

‘Visas’ and ‘Overstayers’, *The New Oxford Companion to Law* (Oxford University Press, Oxford, 2008).

‘Climate-Induced Displacement and the Challenges for Protection: A Case Study from the Pacific’ (2008) 31 *Forced Migration Review* 51 (with M Loughry);

Review: ‘*International Migration Law: Developing Paradigms and Key Challenges*, by R Cholewinski, R Perruchoud and E MacDonald (eds)’, (2007) 19 *International Journal of Refugee Law* 776–79.

#### *Media*

‘Complementary Protection: Labor’s Point of Departure’, *Inside Story* (3 December 2008).

### **Nicola McGarrity**

#### *Articles*

‘Australia’s Counter-Terrorism Laws: How Neutral Laws create Fear and Anxiety in Muslim Communities, (2008) 33 *Alternative Law Journal* 225 (with Andrew Lynch);

‘The Investigatory Powers of the Australian Building and Construction Commission’ (2008) 21 *Australian Journal of Labour Law* 244 (with George Williams).

#### *Media*

‘A Tangled Tale of Two Houses’ *The Age* (with George Williams) (24 September 2008);

‘A Victory Only until the Next Time’, *Sydney Morning Herald* (with George Williams) (16 July 2008);

‘Disentangling the story of Mamdouh Habib’ *Australian Policy Online* (with Andrew Lynch) (6 June 2008).

### **Edward Santow**

#### *Articles*

‘What can the Victorian Charter do for homeless people?’ (2008) 21 *Parity* 16.

## George Williams

### *Book Chapters*

‘What is “Terrorism”? Problems of Legal Definition’ in VB Malleswari (ed), *Anti-Terrorism Laws: Global Scenario* (Amicus Books, 2008), 1 (with Ben Golder).

### *Articles*

‘The High Court on Constitutional Law – the 2007 Statistics’ (2008) 31 *University of New South Wales Law Journal* 31 (with Andrew Lynch);

‘High Court Appointments: The Need for Reform’ (2008) 30 *Sydney Law Review* 163;

‘Inclusion Must Begin with Racism-Free Law’ *Mosaic*, Iss 18, April 2008, 27;

‘A National IR Model’ *CCH Industrial Law News*, Iss 2, 6 March 2008, 3;

‘A National IR Model’ *CCH Work Alert*, Issue 1, 19 February 2008, 1;

‘Thawing the Frozen Continent’ (2008) 19 *Griffith Review* 11;

‘A Charter of Rights for Australia’ (2008) *Pandora’s Box: Justice and the Law Society Academic Journal* 26;

‘Re-imagining Our Democracy’ in Healey, J (ed), *Australia’s System of Government* (Issues in Society, vol 283, Spinney Press, 2008), 37;

‘Beyond a Federal Structure: Is a Constitutional Commitment to a Federal Relationship Possible?’ (2008) 32 *University of New South Wales Law Journal* 395 (with Andrew Lynch);

‘The Investigatory Powers of the Australian Building and Construction Commission’ (2008) 21 *Australian Journal of Labour Law* 244 (with Nicola McGarrity);

‘A Charter of Rights for Australia’ *Dissent* (Spring 2008, No 27), 10.

### *Media*

‘Mess of Contradiction’, *Canberra Times* (22 November 2008);

‘Time for New Numbers’, *Canberra Times* (8 November 2008);

‘Case for a New Umpire’, *Canberra Times* (25 October 2008);

‘Rudd's Charter of Rights a Modest Proposal’, *Australian Financial Review* (24 October 2008);

‘Our Electoral Lottery’, *Canberra Times* (11 October 2008);

- ‘A Tangled Tale of Two Houses’ *The Age* (with Nicola McGarrity) (24 September 2008);
- ‘Four Rules for Reform’, *Canberra Times* (27 September 2008);
- ‘No Early Mark for Rees’, *Canberra Times* (13 September 2008);
- ‘Work Laws Don’t Work’, *Canberra Times* (30 August 2008);
- ‘The Limits of Freedom’, *Canberra Times* (16 August 2008);
- ‘105 years – Not One High Court Judge From SA’, *Sunday Mail* (Adelaide) (3 August 2008);
- ‘New Solution Needs Legal Help’, *Canberra Times* (2 August 2008);
- ‘Consult More Widely on Bench’, *Canberra Times* (21 July 2008);
- ‘A Victory Only until the Next Time’, *Sydney Morning Herald* (with Nicola McGarrity) (16 July 2008);
- ‘Without Fear or Favour’, *Canberra Times* (5 July 2008);
- ‘Securing our Safety’, *Canberra Times* (21 June 2008);
- ‘Now to Say, Never Again’, *Canberra Times* (7 June 2008).
- ‘Now to Say, Never Again’ *Canberra Times* (7 June May 2008);
- ‘Odds are Against Rudd Hearing a Resounding Yes to Reform’ *The Age* (31 May 2008);
- ‘Truth Takes a Beating’ *Canberra Times* (24 May 2008);
- ‘Peril in Self-Rule Gaps’ *Canberra Times* (10 May 2008);
- ‘A Wild, Inspiring Ride’ *Canberra Times* (26 April 2008);
- ‘In the Republic Domain’ *The Australian* (19 April 2008);
- ‘Getting Down to Brass Tacks on Indigenous Treaty’ *Canberra Times* (12 April 2008);
- ‘Pollies’ Inertia Stalls Law Reform Action’ *Hobart Mercury* (8 April 2008);
- ‘More than Just a Flag’ *Canberra Times* (5 April 2008);
- ‘Bickering Aside, we need a Rights Charter’ *The Australian* (4 April 2008);
- ‘Frozen Continent’ *Sydney Morning Herald* (29 March 2008);
- ‘It’s Time to repair Australia’s Tattered Federalism’ *Canberra Times* (28 March 2008);



- ‘New Laws Whittle Away Academic Freedom’ *Canberra Times* (1 March 2008);
- ‘Next Step: A Treaty and Racism-free Law’ *Canberra Times* (16 February 2008);
- ‘All People Need a Say in Constitutional Reform’ *Canberra Times* (9 February 2008);
- ‘Speculation on Queen Before any Choice Needs to be Made’ *Herald Sun* (31 January 2008);
- ‘A Court Short on Answers’ *The Australian* (26 January 2008).

## 7. PRESENTATIONS

### Joint Presentations

Les McCrimmon and Edward Santow, ‘Justice, Law Reform and the Clinical Method’, *Global Alliance for Justice Education International Conference*, Manila, 8 December 2008;

Andrew Lynch and George Williams, ‘Beyond a Federal Structure: Is a Constitutional Commitment to a Federal Relationship Possible?’ Federalism Roundtable, Gilbert + Tobin Centre of Public Law, University of New South Wales, 13 June 2008.

### Andrew Lynch

‘Restricting Liberty under Australian Law and Practice’, Joint Workshop, *Restrictions of Liberty of Terror Suspects*, The Israel Democracy Institute and the International Committee of the Red Cross (Tel-Aviv Delegation), Jerusalem, 14 December 2008;

‘Security’, *Exploding Media Myths: Misrepresenting Australia?*, Journalism and Media Research Centre, UNSW and Edith Cowan University, Sydney, 20 November 2008;

‘An Independent Reviewer for Australian Terror Laws?’, *Federal Criminal Law Conference*, NSW Bar Association and Law Council of Australia, Sydney, 5 September 2008;

‘Australia’s Terrorism Laws: Exploring their counter-productive impact on Muslim communities’, *12<sup>th</sup> Biennial Conference of the International Society for Justice Research*, Flinders University, Adelaide, 14-17 August 2008;

‘Control Orders in Australia: The Securitization of Public Life’, *Law and Justice in the Risk Society*, Annual Meeting of the Research Committee on Sociology of Law, International Sociological Association, Milan/Como, 9-12 July 2008;

‘National Security and Australia’s Culture of Control’, Division of Law, Macquarie University, Sydney, 1 May 2008;

‘From Blair’s Britain with Love: Control Orders in Australia’, Socio-Legal Research Centre, Griffith University, Brisbane, 10 March 2008.

### **Jane McAdam**

‘Complementary Protection and Australia’, Australian Human Rights Commission, 3 November 2008;

‘Environmental Migration’, Research Workshop on ‘Global Migration Governance’, Dept of Politics and International Relations, University of Oxford, 3-4 October 2008;

‘Climate-Induced Displacement and International Law’, *International Conference on Environment, Forced Migration and Social Vulnerability*, Bonn, 9–11 October 2008;

‘Human Rights at the Frontier: The New Immigration Act in International Perspective’, Conference organised by the Legal Research Foundation and the Faculty of Law, Auckland University, Auckland, 11 September 2008;

Address on ‘Climate Change “Refugees”’ to Large Law Firm Pro Bono Coordinators, Law Society of NSW, 11 June 2008;

Training on ‘Climate-Induced Displacement and International Law’, Green Cross Australia’s ‘Sea-Level Rise: A People’s Assembly’, 6-7 June 2008;

‘Climate Change and Migration’, UNSW Environment and Development Public Forum, 23 May 2008 (with Prof Andy Pitman);

‘Environmental Law Forum’, Sydney University Law Students’ Society, 14 May 2008 (with Prof Andy Pitman and Dr Tim Stephens);

Keynote address to launch NSW Young Lawyers’ *New Land New Law: A Guide to the Legal System in NSW*, Law Society of NSW, 13 May 2008;

‘The Standard of Proof in Complementary Protection Cases: Comparative Approaches in North America and Europe’, *Research Workshop on Critical Issues in International Refugee Law*, York University, Toronto, 1-2 May 2008.

### **Nicola McGarrity**

The Future of Guantanamo Bay and the Military Commission System’, *W(h)ither Human Rights Conference*, University of Sydney, 11 December 2008.

### **Edward Santow**

‘Human Rights, China and Studying Law’, Closing Ceremony, China Model United Nations Conference, Xiamen, China, 16 November 2008;

‘Protecting Human Rights in Australia: the State of Play’, *Protecting Human Rights Conference*, Melbourne, 3 October 2008;

‘The 60th anniversary of the Universal Declaration of Human Rights: is the golden thread of human rights unravelling?’, *Talking Heads at the Toxteth*, Sydney, 27 November 2008;

‘A Charter of Human Rights: Issues for Lawyers’, Australian Lawyers Alliance, Sydney, 27 November 2008;

‘A Bill of Rights for Australia: is it desirable or even possible?’, Uniting Church Human Rights Forum, Sydney, 20 November 2008;

‘Agitating for Change, Getting Involved: New State and Federal Human Rights Initiatives’, *Rights, Reconciliation, Respect and Responsibility Conference*, University of Technology, Sydney, 1 October 2008;

‘Human Rights as a Career’, UNSW Combined Colleges Commerce/Law Dinner, 11 September 2008;

‘A Bill of Rights for Australia’, Building Bridges Forum, Sydney, 27 August 2008;  
 ‘Putting the Charter to good use: now and in the future’, *To Make a Difference: Human Rights and Homelessness Conference*, Melbourne, 14 March 2008;

‘Fostering Civic Professionalism’, *Future of Legal Education Conference*, Georgia State University, Atlanta, USA, 24 February 2008.

### **George Williams**

‘Strategies for Referendum Success’, *Local Government Constitutional Summit*, Australian Local Government Association, Melbourne Convention and Exhibition Centre, 9 December 2008;

‘Reconciliation and the Constitution’, ANTaR (ACT Branch), Canberra, 24 November 2008;

‘Human Rights: Official Opening’, *Human Rights Arts and Film Festival*, Canberra, 20 November 2008;

‘Referendums and the Republic’, Australian Republican Movement (ACT Branch) Daytime Seminar, Canberra, 18 November 2008;

‘The Move Towards a National Charter of Human Rights’, *Public Law Weekend -Public Law: Public Leadership*, Centre for International and Public Law, ANU, National Museum of Australia, 1 November 2008;

- ‘The Australian Building and Construction Commission: An Appropriate Use of Public Power?’, Public Forum, Canberra, 27 October 2008;
- ‘Charter of Rights for Australia’, *World Matters 2008: Rights, Responsibilities And Risks*, Eltham Bookshop and Diamond Valley Oxfam, Eltham, Victoria, 26 October 2008;
- ‘Bringing about an Australian Republic: How can Republicans win the Next Referendum?’, Australian Republican Movement, Melbourne, 26 October 2008;
- ‘A Legal Framework for a 21st Century System of Industrial Relations’, *2010: Forward to Where?*, Convention of the Industrial Relations Society of South Australia, Adelaide, 24 October 2008;
- ‘The UDHR – What it Means for Australia Today’, Amnesty International Australia, ACT Legislative Assembly, Canberra, 22 October 2008;
- ‘Courts and Coups: Fiji’s October 2008 High Court Judgment in *Qarase v Bainimarama*’ State, Society and Governance in Melanesia Program Seminar, ANU College of Asia and the Pacific, 21 October 2008;
- ‘A Charter of Rights for Australia? Where are we Headed?’, *Australian Lawyers Alliance 2008 National Conference*, Auckland, 17 October 2008;
- ‘Charters of Rights’, *Judicial Conference of Australia 2008 Colloquium*, Gold Coast, 11 October 2008;
- ‘Bringing about an Australian Republic: How can Republicans win the Next Referendum?’, Australian Republican Movement, Hobart, 7 October 2008;
- ‘Does Tasmania Need a Charter of Rights?’, International Commission of Jurists/Australian Fabian Society/Amnesty International, Hobart, 6 October 2008;
- ‘Constitutional Reform’, University of Tasmania Law Faculty, Hobart, 6 October 2008;
- ‘Anti-Terror Laws and an Australian Charter of Human Rights’, University of Tasmania Law Faculty Seminar, Hobart, 6 October 2008;
- ‘A Right to Housing’, Launch of Charter of Rights for Tasmania Campaign, Tenants’ Union of Tasmania Inc, Hobart, 6 October 2008;
- ‘Is “New Federalism” “Old Centralism” in Small Print?’, University of the Third Age and Council of the Aging Seminar, Canberra, 30 September 2008;
- ‘Australia’s Anti-Terror Laws and Labor’s Push for a National Charter of Rights’, Public Dinner, Canberra, 18 September 2008;
- ‘Charter of Human Rights – Why do we Need it?’, Wolfgang Sievers Human Rights Forum, Melbourne, 17 September 2008;
- ‘The Entrepreneurial Executive Government: Branching Into Uncharted Waters’,

Macquarie University Law Society Commemorative Law Dinner, Sydney, 13 September 2008;

‘How, Where and When to Publish’, Forum on Research Publication, ANU College of Law, 10 September 2008;

‘The Gleeson Court’, ‘Talking Constitution’ Discussion Group, Australian Association of Constitutional Law (ACT Branch), Australian National University, 3 September 2008;

‘The Australian Building and Construction Commission: An Appropriate Use of Public Power?’, Forum on Industrial Laws Applying in the Australian Construction Industry, National Press Club, Canberra, 25 August 2008;

‘Designing the Process’, Experts Forum on Constitutional Recognition for Local Government, Australian Local Government Association, Canberra, 22 August 2008;

‘Incorporating the Convention on the Rights of Persons with Disabilities into Australian Law’, Human Rights Indicators Seminar, Queensland Advocacy Inc, Brisbane, 20 August 2008;

‘Constitutional Underpinnings’, 2008 *Annual Labour Law Conference*, Sydney, 15 August 2008;

‘The Defence Power after *Thomas v Mowbray*’, Office of Parliamentary Counsel, Canberra, 30 July 2008;

‘Australia’s Eroding Freedoms’, Noosa Long Weekend, Noosa, 12 July 2008;

‘Challenging Ideas: Inspiring Action’, Amnesty International Australia, Melbourne Town Hall, 4 July 2008;

‘A Charter of Rights for Australia’, Federal Government General and Administrative Policy Caucus Committee, Parliament House, Canberra, 23 June 2008;

‘Human Rights and “Your Rights at Work”’ CPSU Forum, Canberra, 16 June 2008;

‘Research and Charters of Rights’ *Mapping the Law: Postgraduate Research Conference*, ANU College of Law, Canberra, 12 June 2008;

‘Lessons from the Victorian Charter of Human Rights and Responsibilities’ ANU College of Law, Canberra, 5 June 2008;

‘Educating Young Australians about their System of Government: Meeting the Challenge’ 2008 *National Civics and Citizenship Education Forum: From Curriculum to Community — The Impact of Civics and Citizenship Education*, Australian Curriculum Studies Association, National Museum of Australia, Canberra, 3 June 2008;

‘The Current State of Australian Law and Policy in Protecting of Human Rights’ *Charter of Human Rights Roundtable*, Gilbert + Tobin Centre of Public Law and Human Rights and Equal Opportunity Commission, Sydney, 2 June 2008;

‘Government Accountability under the Constitution’ *AboveBoard Public Accountability Forum: Minds and Machinery*, Canberra, 24 May 2008;

‘New Federalism’, Association of Former Members of the Parliament of Australia, Old Parliament House, Canberra, 15 May 2008;

‘Stepping Forward from the Summit’, Griffith Review Seminar, State Library of Queensland, Brisbane, 7 May 2008;

‘Recognising and Protecting Human Rights and Freedoms’ Justice & Governance Policy Forum, Parliament House, Brisbane, 7 May 2008;

‘A National IR System for Australia’ *Life after WorkChoices – Forward with Fairness*, Employment and Industrial Forum, Canberra, 6 May 2008;

‘2020 Summit Debrief’, Centre for International and Public Law and Centre for International Governance and Justice seminar, Australian National University, Canberra, 5 May 2008;

‘The Great Debate: Our Sporting heroes: Human Rights Defenders Too?’, Amnesty International Australia, Canberra, 3 May 2008;

‘Alteration of the Constitution’ Roundtable on Constitutional Reform, House of Representatives Standing Committee on Legal and Constitutional Affairs, Parliament House, Canberra, 1 May 2008;

‘A Bigger Picture: Towards a National Charter of Rights’ Breakfast Seminar, Australian Lawyers for Human Rights (ACT Branch) and ACT Human Rights Commission, Canberra, 15 April 2008;

‘Reconciliation and the Constitution’, Reconciliation Australia seminar, Canberra, 9 April 2008;

‘A Charter of Rights/Responsibilities for Australia – When will we Catch up with the United Kingdom...or Europe’ Civil Liberties Australia Annual General Meeting, National Europe Centre, Australian National University, 5 April 2008;

‘Under a Centralising Government, what is the Future for States’ Rights and the Separation of Powers between the Commonwealth and the States embodied in the Australian Constitution of 2001?’ *Manning Clark House 2008 Weekend of Ideas*, Canberra, 30 March 2008;

‘Re-imagining Australia: A New Vision’ Griffith Review Seminar, National Library of Australia, Canberra, 12 March 2008;

‘Human Rights Strategies’ Australian Lawyers for Human Rights, National Meeting, Sydney, 7 March 2008;

‘The Path to a National IR System’ Centre for Employment & Labour Relations Law,

University of Melbourne, 6 March 2008;

‘Reviving Australian Radicalism’ Griffith Review Seminar, Gleebooks, Sydney, 28 February 2008;

‘Reflections on Rights and Obligations, Academic Freedom, and Scientific Independence’ *Forum on the Rights and Obligations of Scientists and Researchers*, Federation of Australian Scientific and Technological Societies Canberra, 22 February 2008;

‘A National Industrial Relations System?’ Industrial Relations Society of the ACT, Canberra, 20 February 2008.

## **8. SUBMISSIONS TO INQUIRIES**

### **Joint submissions**

Nicola McGarrity and George Williams, Submission to the Hon Murray Wilcox ‘Inquiry on the Transition to Fair Work Australia for the Building and Construction Industry’ (14 November 2008);

Nicola McGarrity and George Williams, Submission to Senate Education, Employment and Workplace Relations Committee ‘Inquiry into Building and Construction Industry (Restoring Workplace Rights) Bill 2008’ (10 October 2008);

Andrew Lynch, Nicola McGarrity and George Williams, Submission to Parliamentary Joint Committee on the Australian Crime Commission ‘Inquiry into the Legislative Arrangements to Outlaw Serious and Organised Crime Groups’ (29 September 2008);

Andrew Lynch, Nicola McGarrity and George Williams, Additional Submission to Hon John Clarke QC ‘Inquiry into the Case of Dr Mohamed Haneef’ (22 September 2008);

Andrew Lynch, Nicola McGarrity and George Williams, Submission to the Senate Legal and Constitutional Affairs Committee on Inquiry into the Independent Reviewer of Terrorism Laws Bill 2008 [No 2] (10 September 2008);

Sean Brennan and Jonathan Dillon, Submission to Senate Community Affairs Committee inquiry into Petrol Sniffing and Substance Abuse in Central Australia (27 August 2008);

Andrew Lynch, Nicola McGarrity and George Williams, Submission made to the Clarke Inquiry into the case of Dr Mohamed Haneef (16 June 2008);

Andrew Lynch and Jemma Holland, Submission made to the Parliamentary Joint Committee on the Australian Crime Commission, ‘Inquiry into the legislative arrangements to outlaw serious and organised crime groups’ (30 April 2008);

Sean Brennan, Andrew Lynch, Jane McAdam and George Williams, Submission to the 2020 Future Summit (April 2008);

Andrew Lynch and George Williams, Submission made to the Senate Legal and Constitutional Affairs Committee on 'Inquiry into the Rights of the Terminally Ill (Euthanasia Law Repeal) Bill 2008' (27 March 2008).

**Sean Brennan**

Submission to Northern Territory Emergency Response Review Board on Northern Territory Intervention Measures (22 August 2008).

**Jane McAdam**

Submission to the Senate Foreign Affairs, Defence and Trade Inquiry into the Economic and Security Challenges Facing Papua New Guinea and the Island States of the Southwest Pacific (July 2008).

**George Williams**

Submission to Senate Standing Committee on Education, Employment and Workplace Relations 'Inquiry into Academic Freedom' (21 July 2008).