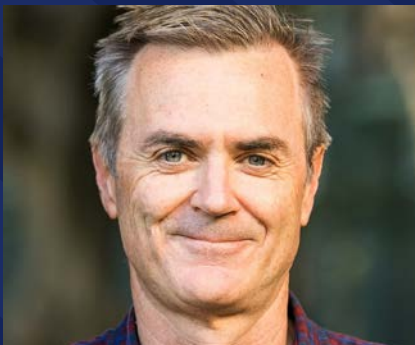




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GILBERT + TOBIN CENTRE OF PUBLIC LAW NEWSLETTER JANUARY 2018



Centre Director, Sean Brennan

Dear Friend

Welcome to the latest half-yearly newsletter from the Gilbert + Tobin Centre of Public Law, covering news and activities since July 2017. Inside, we introduce Lisa Burton Crawford, a new Centre member joining UNSW Law as a Senior Lecturer. We also hear from PhD member of the Centre, Jemimah Roberts, currently spending some research time at Stanford University in the US and now well into her thesis project on the utility of comparative US law for particular Australian constitutional doctrines. Later in the newsletter, project directors report on events and developments in comparative constitutional law, the judiciary, referendums and Indigenous legal issues. You will see there big news for Melissa Crouch, who was awarded an Australian Research Council Discovery grant, to build on her great work on legal and constitutional change in Myanmar.

In November, several Centre colleagues joined a UNSW contingent to the OP Jindal Global Law School near Delhi, as part of UNSW Law strengthening its ties with Indian lawyers and academics. There is a report on that trip as well as our usual half yearly listings of publications and presentations by Centre members and a piece from our social justice intern, Aaron Taverniti.

The national AUSPUBLAW blog has had another very strong six months, featuring more than 20 posts on a wide range of topical public law issues from academics, practitioners and other experts. Thanks again to all the contributors and to our editorial committee of Gabrielle Appleby, Lauren Butterly and Harry Hobbs. Over two and half years as Blog Co-ordinator, Gabrielle has invested enormous effort, passion and ideas into the AUSPUBLAW blog and in February she is stepping down from the position. This edition of the newsletter includes Gabrielle's reflections on the establishment and growth of the blog, as well as a rundown of posts from the past six months.

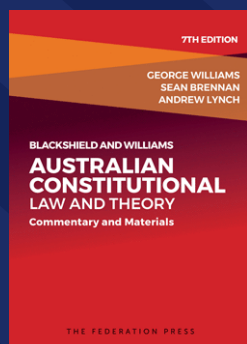
One feature of our website that you may not be aware of is the long list of books produced by Centre members in recent years (see ['Books'](#) under the ['Publications'](#) tab on the homepage). The past half-year has seen more additions to the list. Rosalind Dixon (together with Tom Ginsburg of the University of Chicago) published an edited collection on *Comparative Constitutional Law in Latin America* (Edward Elgar, 2017). Daniel Reynolds and George Williams authored the fourth edition of *A Charter of Rights for Australia* (NewSouth Books, 2017). And just out in January 2018 is the new edition of a book long associated with the Centre and with the teaching of constitutional and public law courses in many Australian law schools, *Blackshield and Williams Australian Constitutional Law and Theory* (Federation Press, 7th ed 2018) by George Williams, Sean Brennan and Andrew Lynch.

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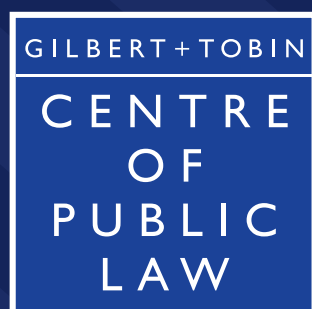
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Brendan Lim at the UNSW Book Forum for *Australia's Constitution after Whitlam*



Just published: the 7th edition of Blackshield and Williams *Australian Constitutional Law and Theory*, fully revised and updated, by George Williams, Sean Brennan and Andrew Lynch



The Centre was also pleased to join with the Faculty in hosting a UNSW Book Forum in November featuring the book based on the prize-winning Yale doctoral thesis of Centre Fellow Brendan Lim, *Australia's Constitution after Whitlam* (Cambridge University Press, 2017). Organised and chaired by our Faculty colleague Dr Daniel Joyce, this event featured Brendan in dialogue with three speakers offering excellent commentaries on different aspects of the book: Dr Elisa Arcioni (Sydney Law School), Dr Scott Stephenson (Melbourne Law School) and Centre colleague Rosalind Dixon. Brendan's distinctive take on Australian constitutionalism during and after the 1975 crisis, seen through the prism of informal constitutional change, is a must for people interested in new thinking about Australian public law.

This is always an exciting time of year for the Centre because we hold two of our flagship national events in February. On Friday 23 February, we stage our 17th annual Constitutional Law Conference at the Art Gallery of NSW. The past year has offered a rich array of constitutional cases in Australia's federal and State courts and I am delighted that our morning keynote speakers for such a big year are Justin Gleeson SC and the Hon Justice Pamela Tate of the Victorian Court of Appeal. We have an outstanding list of public law barristers and academics from around Australia to speak on the key cases from 2017 and the final session is devoted to contemporary rights issues across Australia. Thanks to our parliamentary host, the NSW Attorney-General the Hon Mark Speakman SC, the Conference Dinner will be held at NSW Parliament House and our dinner speaker is the Chief Justice of Western Australia the Hon Wayne Martin AC. Details of the event and a link to register can be found on the Centre website [here](#). A bonus feature of the day is the launch by the Hon Justice Stephen Gageler AC of *Australian Constitution Values* (Hart Publishing, 2018) at 5.15pm adjacent to the conference venue. This collection is edited by Rosalind Dixon and flows from a workshop jointly supported by the Centre and the UNSW Law Faculty in 2016. Free online registration for the book launch is available [here](#).

The day before our constitutional law conference, on Thursday 22 February, we are co-hosting *Public Law in the Classroom 2018*, the fourth staging of a national workshop for teachers of Australian public law. Organised with our colleagues from the Public Law and Policy Research Unit at the University of Adelaide, this workshop has become a favourite amongst public law teachers keen to hear about and discuss the latest perspectives on curriculum issues and teaching techniques. Details, including a link for free online registration, are available [here](#).

As reported in the last newsletter, Justice Gageler stepped down from the Centre's Advisory Committee soon after Sir Anthony Mason retired as the inaugural chair of that body in late 2016. The Advisory Committee, now chaired by the Hon Justice John Basten, gained four new members in 2017. I was delighted that our invitation to join the committee was accepted by the NSW Crown Solicitor Ms Lea Armstrong, the Hon Robert Beech-Jones of the NSW Supreme Court, Emeritus Professor John McMillan AO and Ms Kate Richardson SC of the NSW Bar. The full membership of the Advisory Committee can be found at the end of the newsletter. In other news, our Centre colleague Professor Simon Halliday returned to the UK in late 2017. We wish Simon all the best and personally I would like to thank him for his support and advice and particularly for the positive and consistent contributions he made to the Centre's work-in-progress seminar series for PhD students.



Centre Administrator Belinda McDonald

Many of you in touch with the Centre over the past 17 years will be aware of the huge contribution made by our Centre Administrator, Belinda McDonald. When George Williams began to establish a new public law centre at UNSW in 2001 Belinda was the first staff member to join him. Belinda was crucial in setting up communications and administrative systems for the Centre. She helped establish the reputation of our February conference, as an event that not only offered top quality speakers but also ran like clockwork, with a highly effective backroom operation. In her quiet way, with great professionalism and care, Belinda has offered organisational and administrative help to the many people - academics, HDR students, visitors and others - who have relied on the Centre to support their work over the past 17 years. She has formed close personal and working relationships with each of the Centre Directors. We have leaned heavily on her skills and judgment and collectively we owe her a great deal, for helping ensure that the Centre has met its commitments to colleagues, to its governance bodies, to the University and to its community of friends and supporters. I am sad to say that Belinda will be leaving us in March. On behalf of the thousands of people with whom she has had contact over the years, I thank Belinda for a wonderful contribution to the growth of our Centre from a humble beginning into a vibrant public law community. We wish Belinda, her husband Dave and her family the very best in the coming years.

That's all for now and I hope to see you at our major February events or later in the year.

Associate Professor Sean Brennan
Centre Director

For details of Centre events, publications, submissions and so on please go to our website: www.gtcentre.unsw.edu.au

The Centre's Twitter account keeps you up to date between newsletters and e-bulletins: [@GTCentre](https://twitter.com/GTCentre)

Or if you prefer Facebook:

www.facebook.com/pages/Gilbert-Tobin-Centre-of-Public-Law/138063326284705



At the Taj Mahal, from left: Sean Brennan, Melissa Crouch, Theunis Roux, Jill Hunter and Ben Golder

ACTIVITIES

JOINT CONFERENCE WITH JINDAL LAW SCHOOL

In November, Gabrielle Appleby, Sean Brennan, Melissa Crouch, Ben Golder and George Williams joined Faculty colleagues Adam Czarnota, Jill Hunter, Martin Krygier and Theunis Roux in India for a two day joint conference with OP Jindal Global University. Jindal has a relatively new law school with a very internationalist perspective and strength amongst its faculty and postgraduate students in public law areas of relevance to Australia.

We were hosted by Jindal's founding Vice-Chancellor Professor Raj Kumar, himself a constitutional scholar and Dean of the Law School. The program was organised by Theunis Roux at UNSW and at the Jindal end by Dr Alex Fischer and Professor Shaun Star, the Executive Director of the Centre for India Australia Studies. We were extremely well looked after by our friends at Jindal and Alex was kind enough to facilitate a visit to the Taj Mahal, a once-in-a-lifetime opportunity for several of us at the conclusion of the conference.

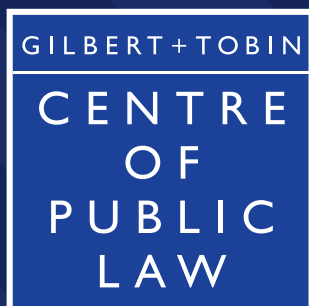
The first day of the conference, *Constitutionalism, the Rule of Law and Democratic Governance: Australian and Indian Perspectives*, was attended by a large contingent of postgraduate students from Jindal, many of whom expressed great interest in taking up further study in Australia. Guest contributors from the senior Bar at the Supreme Court of India were followed by a full program of speakers from the two law schools. At the end of the day we loaded into buses at the central Delhi location and drove out to the Jindal campus for Day Two of the event. There we heard from a range of Jindal and UNSW speakers on rights issues, including the constitutional position of indigenous peoples and scheduled castes, common law writs in South Asia, judicial contributions to rights protection and (from Satya Prateek, a Jindal visitor to UNSW Law in 2015) the overlap of religious freedom and group identity. The program also included coverage of gender, citizenship and the composition of juries, the use of temporary judicial officers, central and east European constitutionalism, Foucault on human rights, and compulsory voting comparing India and Australia.

The Jindal visit formed part of a more extensive engagement with Indian law schools in November by the Dean George Williams and the Associate Dean (International and External Engagement) Gabrielle Appleby. They returned, as we did, convinced of the great potential for future productive visits and exchange by both students and academics between UNSW and law schools in India. Already the Faculty is moving to put practical support behind such efforts, which will strengthen ties originally forged by the first team of legal academics at UNSW in the 1970s.

THE AUSPUBLAW BLOG

REFLECTIONS ON AUSPUBLAW FROM THE OUTGOING BLOG COORDINATOR

The Gilbert + Tobin Centre of Public Law established the AUSPUBLAW blog in June 2015 with the intention of creating the first Australia-wide collaborative platform for commentary and analysis on public law issues. One of the defining features of the blog is that it features posts from academics, practitioners and other leading experts from across Australia. It provides posts on recent cases and legislative changes while also providing an outlet for posts that showcase the latest research and scholarship. The blog is run by an editorial team of three: the Blog Coordinator, a Joint Editor (Academic) and a Joint Editor (HDR). I've had the great pleasure of being the Blog Coordinator since its first posts in June 2015.





Since that date, we've featured academic authors from institutions across Australia and the world, including from the Australian National University, University of Melbourne, Monash University, RMIT, Deakin University, University of New South Wales, University of Western Sydney, Macquarie University, University of Sydney, University of Tasmania, University of Western Australia, University of Adelaide, University of South Australia, University of Queensland, Bond University, Griffith University, Charles Darwin University, University of Oxford, London School of Economics, University of Leeds and Columbia University. We've featured authors from the Kingsford Legal Centre, the Adelaide Bar, the Sydney Bar, Environmental Justice Australia, Clayton Utz, Herbert Smith Freehills, the Australian Open Government Partnership Network, the National Social Security Rights Network, as well as posts from the New South Wales Ombudsman and a former High Court Judge.

Some of my favourite posts have been when we've been able to host special series around a particularly controversial or topical issue. In 2015, we hosted a series of posts responding to the government's proposed citizenship-stripping laws, and in 2016 when we hosted a special series in response to the *McCloy v New South Wales* judgment and its impact on the High Court's approach to proportionality analysis. I'm delighted that we will kick off 2018 with another special series, responding to the analysis provided by Julian Murphy in his piece 'Justice Edelman's originalism, or hints of it', posted on 6 November 2017.

I have thoroughly enjoyed my time with AUSPUBLAW, and I am proud of how quickly it has become a key resource for anyone interested in Australian public law. I have learnt so much from the posts that we receive from our amazing authors. I've valued working with the enthusiastic Gilbert + Tobin Centre Social Justice Interns, particularly in compiling the monthly events post. Again, a special thank you to Interns Brigid McManus, Andrew Roberts, Nakul Bhagwat and Aaron Taverniti, for your hard work and enthusiasm. I have also really enjoyed working with the Joint Editors. A big thank you to Lynsey Blayden (Joint Editor, HDR) and Paul Kildea (Joint Editor, Academic) who joined the AUSPUBLAW team in mid-2016, and now Harry Hobbs (Joint Editor, HDR) and Lauren Butterly (Joint Editor, Academic) who joined the AUSPUBLAW team in mid-2017.

The last six months of the blog have been as dynamic as ever. July saw a post from Peter Timmins from the Australian Open Government Partnership on Australia's commitment to open government reform. In August, the blog ran posts from AJ Brown on the case for a new Commonwealth anti-corruption agency; Michael Maley gave an overview of the myriad legal issues raised by the 2017 Australian Marriage Law postal 'plebisurvey'; and Sarah Murray explained the High Court's decision in *Knight v Victoria*, in which the High Court upheld ad hominem parole legislation. September brought a reflection by Gary Hansell and Adrienne Stone on the public servants social media guide and its effect on the implied freedom of political communication; a piece by Bruce Lindsay on strengthening the anti-corruption framework that regulates water under the Murray-Darling Basin Plan; and an interpretative analysis of section 44 of the Constitution from David Tan in the wake of the dual citizenship referrals to the High Court. In October, we had posts from Brendan Gogarty on the Tasmanian government's decision to consolidate the portfolios of Premier and Attorney-General; Sue Milne on the High Court's decision in *Plaintiff S195/2016 v Minister for Immigration and Border Protection*; Douglas McDonald – Norman on the decision in *SZTAL v Minister for Immigration and Border Protection*; and Tony Blackshield on the 'Seven little Australians' that were referred to the High Court in the first tranche of litigation relating to dual citizenship. We started November with a special series in response

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"Aboriginal and Torres Strait Islander people spoke at Uluru with historic and constructive contributions, disrupting a debate that had been dominated by the same voices, the same positions and the same seemingly intractable issues. Non-Aboriginal Australians would do well to keep listening"

Gabrielle Appleby and Gemma McKinnon,
"The Uluru Statement" (2017) 37 *Law Society Journal* 36

to the *Brown v Tasmania* decision: one from Shipra Chordia looking at the importance of the case for the High Court's proportionality analysis and the other from John Eldridge and Tim Matthews on the right to protest. The month continued with posts from Julian R Murphy, who looked at Justice Edelman's dissent in *Graham v Minister for Immigration and Border Protection* for clues as to the new justice's interpretative approach; from Lynsey Blayden on the failure of policy process in the New South Wales Council amalgamations; from Anja Hilkemeijer on the compatibility of Senator Paterson's proposed same-sex marriage bill with international human rights instruments, from Luke Beck on potential constitutional problems with the High Court's special leave process; and Anne Twomey, who provided an analysis of *Wilkie v Commonwealth*, the decision confirming the validity of the same-sex marriage postal survey, ruing the Court's retreat from tenets of responsible government evident earlier in *Pape and Williams*. The blog finished up in December with a post from Andrew Roberts on the High Court's recent decisions in its unusual jurisdiction as an appellate court from Nauru, and a post from Maria Nawaz and Anna Cody on what has to change to address the high rates of Indigenous incarceration. The final post for the year was from former High Court justice, the Honourable Michael Kirby AC CMG, on the past, present and future of institutional law reform in Australia.

I know that under Harry, Lauren and the new AUSPUBLAW Blog Coordinator, and future Social Justice Interns, the blog will continue to grow from strength to strength, setting the agenda for commentary across the myriad issues that arise in Australian public law.

To subscribe to the blog, sign up at www.auspublaw.org or follow it on Twitter [@auspublawblog](https://twitter.com/auspublawblog). To submit a post for consideration at the blog, or to advise an upcoming public law event for inclusion in our monthly events roundup, contact the editors at auspublaw@unsw.edu.au.

Gabrielle Appleby
Outgoing AUSPUBLAW Blog Coordinator
June 2015-February 2018

CENTRE SEMINARS

13 October 2017

Professor Niels Petersen (University of Munster, Germany) *Same-Sex Marriage: Reflections on the German experience and how it compares to the Australian*

WORK IN PROGRESS SEMINARS

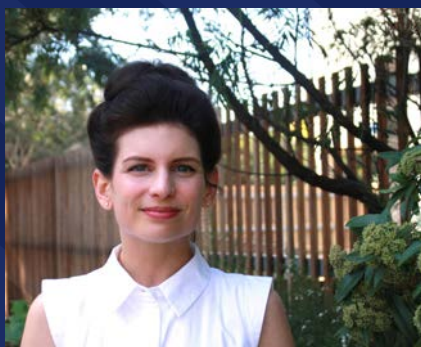
In the second half of 2017, we continued the work in progress seminar series in which PhD members of the Centre present draft chapters of their research for discussion by peers in the Higher Degree Research program and Faculty colleagues.

Jemimah Roberts - 'Constitutional Comparativism and the High Court of Australia: Towards a More Comparatively-Informed Use of United States Doctrine in Australian Constitutional Adjudication', 16 October 2017;

Shreeya Smith - 'Non-Statutory Executive Power and the Detention of Non-Citizens', 8 November 2017.

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New Centre Member Lisa Burton Crawford

"Integrity institutions brood with human-rights protective possibility. However, this largely rests on their capacity to exercise independence, and particularly decisional independence from government."

Gabrielle Appleby, 'Horizontal Accountability: The Rights-Protective Promise and Fragility of Executive Integrity Institutions' (2017) 23 *Australian Journal of Human Rights* 168



PEOPLE

NEW CENTRE MEMBER: LISA BURTON CRAWFORD

Lisa has recently joined UNSW Law and the Gilbert + Tobin Centre.

Lisa is a (relatively) familiar face at the Law School, having held a research position with the Gilbert + Tobin Centre of Public Law between 2011-2013, where she worked primarily with the ARC Laureate Project, 'Anti-Terror Laws and the Democratic Challenge', led by George Williams. Prior to joining UNSW, Lisa was a Lecturer in the Monash University Faculty of Law.

Lisa teaches and researches in the field of public law, with a special interest in the intersection of constitutional law, administrative law, and legal theory. Her book, *The Rule of Law and the Australian Constitution* (Federation Press, 2017) explored the manner and extent to which the rule of law is protected and promoted by Australian law. Lisa is also the co-author of *Public Law and Statutory Interpretation: Principles and Practice* (Federation Press, 2017), a student-focused text which examines fundamental public law principles together with the principles and process of statutory interpretation.

Lisa has published widely on the constitutional dimensions of judicial review of executive action. For example, her work has examined judicial methods for dealing with statutory conferrals of very broad executive power and other devices designed to evade judicial review, and the constitutional principles that constrain the scope of executive power that Parliament can confer. Her article, 'Can Parliament Confer Plenary Executive Power? The Limitations Imposed by Sections 51 and 52 of the *Australian Constitution*' (2016, *Federal Law Review*) was awarded the 2016 Zines Prize for excellence in legal research.

Together with a team of researchers, Lisa has recently begun a comparative project which will examine contemporary trends in the use of legislation and its interpretation, and the ramifications of both for the rule of law.

Lisa holds a PhD from Monash University (for which she was awarded the University medal for Law), a BCL (Distinction) from the University of Oxford, and a BA/LLB (Hons 1) from the University of Western Australia. She has experience teaching in constitutional law, administrative law, and public law and statutory interpretation, and is looking forward to teaching administrative law in Semester 1.

SOCIAL JUSTICE INTERN REPORT

Aaron Taverniti

I feel greatly privileged and indebted to the Gilbert + Tobin Centre of Public Law to be able to report on the semester I spent as its social justice intern, a position which far exceeded my expectations in providing me with the most fulfilling and invaluable experience of my time at law school.

The term public law is traditionally understood to cover the areas of administrative and constitutional law. However, as I quickly discovered during my internship, public law branches out into the intersections of these two areas of law with almost all other areas of law. Over the course of the semester, I was introduced to and had the opportunity to conduct research into many of these intersections. For example, I prepared a briefing paper for my supervisor, and the Centre's Director, Associate Professor Sean Brennan, on the constitutional position of Scheduled Castes and Tribes in the Indian Constitution and the ways in which their constitutional treatment



Centre Social Justice Intern, Aaron Taverniti

is analogous with that of Indigenous people in the Australian Constitution. I was also fortunate enough to assist Associate Professor Gabrielle Appleby and a number of the law school's academics in conducting research into the effectiveness of the scrutiny function of the NSW Legislation Review Committee in regards to protecting personal rights and liberties, and then with writing the Centre's submission to the Committee's inquiry into the operation of the *Legislation Review Act 1987* (NSW).

In addition, I was involved with a number of other projects and worked closely with still more of the Centre's members. I collated background information for Dr Melissa Crouch on the many local and international development and aid-focused research centres. I prepared and maintained a briefing document on the numerous constitutional law cases before the High Court in 2017 to assist Sean as he worked to devise sessions for the Centre's 2018 Constitutional Law Conference. I also assisted Gabrielle and Harry Hobbs in assembling the AUSPUBLAW blog's monthly events roundup.

Even this brief overview of the projects and activities with which I was involved during my internship exemplifies the breadth of the research interests of the Centre's members, which I consider to be one of its great strengths. The Centre seeks to draw upon the diverse legal backgrounds of its members, using this breadth of knowledge to bridge the gap in comprehension between current issues in public law and those in the community who are particularly affected by the use and misuse of public power. It was a real pleasure to be involved, if only for a short time, with the Centre's irreplaceably unique work, which has left me with a great appreciation of the import of the Centre's role in the areas of law reform and legal research and education. I am thankful for every one of its members who taught me, encouraged me, and fostered my deep passion for public law. I must, of course, especially thank Sean for the stimulating conversation on many public law issues, for being so generous with his time, and for his genuine effort in making my time at the Centre as enriching and exciting as it could be.

PHD REPORT

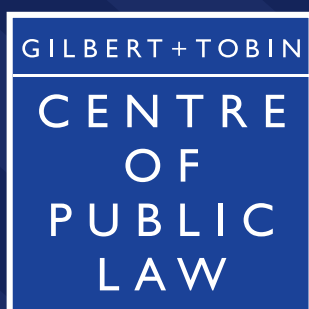
Jemimah Roberts

I commenced my PhD in July 2016, following a number of years working as a solicitor in private practice. I have long had an interest in the theory and method of comparative constitutional adjudication, and was delighted to undertake my research project at UNSW Law in this area. Under the supervision of Professor Rosalind Dixon and Associate Professor Gabrielle Appleby, my PhD examines the relationship between the United States and Australian constitutional systems – specifically, the potential contribution a critical and adaptive mode of comparison with United States doctrine could offer the Australian High Court in its constitutional jurisprudence. I am particularly interested in exploring this question in the context of the implied freedom of political communication, the free exercise and establishment clauses of s 116, and the federal trade and commerce power under s 51(i).

A large part of what attracted me to UNSW was the opportunity to be involved with the G+T Centre. As an early career researcher, it has been very enriching having insight into the wide variety of research projects and work undertaken by Centre members, given their incredible breadth and depth of experience. I have been grateful for how inclusive and approachable Centre members have been, in particular their generosity in taking the time to provide ongoing support and feedback to the PhD cohort. One such example is the regular 'Work-In-Progress' seminars run by the Centre, providing HDR members with the opportunity to present a draft paper



Centre PhD student Jemimah Roberts





David Landau (FSU), Rosalind Dixon and Ran Hirschl (Toronto) at the book launch of *Comparative Constitutional Law in Latin America* and *Colombian Constitutional Law: Leading Cases*

and receive feedback. In October last year I had the opportunity to present an early draft case study chapter of my thesis. It was stimulating and constructive being able to discuss this with my HDR peers, and to receive feedback that I can now take into account as I progress the chapter further. In addition to the support of the PhD cohort, I was also incredibly grateful for faculty members who generously took the time to also attend and provide feedback on the paper.

A highlight of my candidature to date has been the opportunity to research overseas. I am currently on a 9-week research trip at Stanford Law School (generously supported in part by the UNSW Law faculty). During my time in the US I have use of the library and research facilities at Stanford Law, and am taking a law elective taught by Professor Michael McConnell 'Constitutional Law: Speech and Religion'. This detailed look at comparative US First Amendment doctrine is of particular relevance for two of my case study chapters. It has been a fascinating time to be in the US, and my time at Stanford Law in particular has been an invaluable opportunity to gain exposure to American constitutional culture at a broader level.

PROJECT REPORTS

COMPARATIVE CONSTITUTIONAL LAW PROJECT

Project Director - Rosalind Dixon

On 10-11 August, the CCL project co-hosted a conference on Constitutions, Human Rights and Economic Inequality, jointly with the Australian Human Rights Centre and UNSW Grand Challenge on Inequality. The conference featured papers by Professor Ran Hirschl, University of Toronto; Dr Varun Gauri, World Bank; Professor Rosalind Dixon, UNSW; Assistant Professor Adam Chilton, University of Chicago; Professor Brian Ray, Cleveland-Marshall; Associate Professor Beth Goldblatt, UTS; Associate Professor Katharine Young, Boston College; Associate Professor Iddo Porat, College of Law and Business, Israel/University of Melbourne; Professor Ganesh Sitaraman, Vanderbilt; Dr Michaela Hailbronner, University of Munster; Dr James Fowkes, University of Munster and Dr Murray Wesson, UWA. It was also capped by a book launch of Ganesh Sitaraman's new book, the Middle Class Constitution and a public lecture by Prof Philip Alston, UN Special Rapporteur on extreme poverty and human rights.

Earlier the same week, on 7 August, the CCL project hosted an academic comparative constitutional roundtable, featuring papers by Professor Adrienne Stone, University of Melbourne; Professor David Landau, Florida State University; Professor Theunis Roux, UNSW; Professor Rosalind Dixon, UNSW and Dr Tom Daly, University of Melbourne. This workshop was followed by a book launch of two recent books on constitutionalism in Latin America: a new collection on Comparative Constitutional Law in Latin America, co-edited by Rosalind Dixon and Tom Ginsburg, and a new volume of translated Colombian cases co-edited by Manuel Espinosa Cepeda and David Landau. Professor Ran Hirschl, Canadian Research Chair, spoke at the launch.

On 28 November, the CCL Project hosted an international roundtable on 'Gender, Constitutions and Monarchy' bringing together scholars from Europe and the Asia-Pacific to investigate a common constitutional institution - i.e. the constitutional monarchy - from a new South-North and gender perspective. The roundtable

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Centre member Melissa Crouch meeting with socio-legal studies academics at the University of Indonesia Law Faculty, Jakarta

featured papers by Professor Anne Twomey, University of Sydney; Dr Kate Gleeson, Macquarie; Professor Ruth Rubio, EUI/Madrid; Professor Eva Brems, Ghent University; Professor Helle Krunke, University of Copenhagen; Professor Joakim Nergelius, Orebro University; Professor Masako Kamiya, Gakushuin University and Professor Rosalind Dixon, UNSW.

On 7-8 December, the CCL Project again hosted a comparative constitutional law roundtable featuring papers by Professor Simon Young, University of Hong Kong; Dr William Partlett, University of Melbourne; Dr Scott Stephenson, University of Melbourne; Associate Professor Amelia Simpson, ANU; Associate Professor Iddo Porat, University of Melbourne; Professor Tonja Jacobi, Northwestern University and Professor Rosalind Dixon, UNSW and Anna Dziedzic, University of Melbourne. The event was also preceded by a methods workshop for HDR students on historical-institutional analysis, led by Professor Mark Graber, and a book workshop on a new book manuscript on comparative constitutional law and politics by Professor Theunis Roux (UNSW).

On 7 December, the Centre also hosted a 'Final Courts' roundup updating members of the profession on recent caselaw and other constitutional developments in the US, India and Hong Kong. The event was co-hosted by the Australian Association of Constitutional Law, and included presentations by Professor Tonja Jacobi (Northwestern), A/Professor Rehan Alberyte (CUHK) and Professor Simon Young (HKU), and the session was chaired by CCL Project director Professor Rosalind Dixon.

Deputy Director - Melissa Crouch

Melissa has been successful with a number of major grants, including as Chief Investigator on an ARC Discovery Grant on *Constitutional Change in Authoritarian Regimes: the Case of Myanmar*, the Kathleen Fitzpatrick Visiting Fellowship in Comparative Constitutional Law Award, and the UNSW Institute of Global Development Myanmar Seed Funds. She has recently been appointed as co-Academic Lead (Myanmar) for the new Institute for Global Development at UNSW, and as Secretary of the Academics for Mainland Southeast Studies, an academic association affiliated with the Asian Studies Association of Australia.

In August 2017, Melissa together with Dr Fritz Siregar organised a Workshop on Electoral Accountability in Indonesia, held in Jakarta. On 26-30 August 2017, she also facilitated a major *Judicial Colloquium on Commercial Law*, for High Court and District court judges, with the Federal Court of Australia and the Union Supreme Court of Myanmar, held in Naypyidaw.

In October 2017, Melissa was an invited speaker to an international workshop on *Implementing New Constitutions*, University of Chicago Law School, Chicago. In November 2017, she was invited to speak at a seminar for the Supreme Court of Myanmar on judicial independence, and a separate roundtable with a legislative commission in Myanmar on constitutional reform. Melissa has been invited to speak at a number of events on the Rohingya humanitarian crisis and terrorism issues in Rakhine State, Myanmar, including at The Lowy Institute, the Australian National University, Windsor Law School Canada, and the University of Indonesia. She was also an invited chair at a workshop on *Religion and Constitutional Practises in Asia*, hosted by the International Centre for Ethnic Studies, Sri Lanka.

The Regional Dialogues and Uluru Convention generated a fresh approach to a long-running debate and achieved legitimacy as well as effectiveness in arriving at an outcome. It also found a way to connect two levels that each matter deeply in the politics of Indigenous affairs, the regional and the national!

Sean Brennan, 'The Uluru Statement', Symposium on the Crown, University of Auckland, 2 November 2017



Lauren Butterly speaking at the Nawi Symposium on 'History, Culture and Recent Sea Rights Campaigns' held at the Australian National Maritime Museum



INDIGENOUS LEGAL ISSUES PROJECT

Project Director: Sean Brennan

In the second half of the year, attention remained focused on the question of constitutional and other structural reform. As reported in the last newsletter, Centre colleagues Gemma McKinnon, Gabrielle Appleby and Sean Brennan provided pro bono legal support at the 12 Aboriginal and Torres Strait Islander Regional Dialogues and First Nations Constitutional Convention that culminated in the Uluru Statement at the end of May. In the second half of the year, Indigenous leaders and organisations pressed Commonwealth politicians for a positive response to this unprecedented process of Indigenous-designed and -led consultation and the unified political outcome it produced.

Sadly, the Prime Minister, Malcolm Turnbull, announced in October that his government would not propose a constitutional referendum to establish a representative Indigenous body as a voice to Parliament. A range of Centre people contributed to public engagement on the Uluru Statement through the second half of 2017, through media work, op eds, website support for the Statement and presentations to a variety of community and professional audiences. That involved the three Centre members above as well as Rosalind Dixon, Paul Kildea, Harry Hobbs and George Williams. These efforts will continue in 2018, as Indigenous leaders enlist the public's support to persuade Canberra of their case: that the moderate but significant reforms advocated in the Uluru Statement are an opportunity for Australia too important to pass up, with governments struggling to engage effectively with Indigenous communities and achieve forward progress in socio-economic outcomes.

Sean also presented on the constitutional position of First Peoples in Australia and these prospects for reform at the Jindal conference in India (described earlier in the newsletter) and at a symposium on the Crown and constitutional reform organised at the University of Auckland in November.

Lauren Butterly, a Lecturer in the Faculty, is pursuing a PhD at UNSW about the reconciliation of Aboriginal and non-Aboriginal rights and sovereignty in marine areas of the Northern Territory. During the second half of 2017, in addition to fieldwork on her PhD project, Lauren published a journal article with Justice Rachel Pepper on cultural heritage and environmental law in the courts. She also presented a joint paper with Professor Megan Davis on consultation with Aboriginal communities at the Australian Institute of Administrative Law national conference in Canberra, and on recent sea rights campaigns at the National Maritime Museum, as part of the Nawi Symposium on Indigenous watercraft sponsored by UNSW. Recently she embarked on a trip to North America, meeting students and staff at Arizona State University, teaching at the University of Arizona and attending seminars in Toronto before (weather eventually permitting) presenting to Inuit students and the Nunavut Bar Association in Iqaluit.

JUDICIARY PROJECT

Project Co-Directors: Gabrielle Appleby and Andrew Lynch

The Centre's Judiciary Project has enjoyed the final half of 2017 consolidating and disseminating its research and planning further projects in 2018.

A research team consisting of Gabrielle, Suzanne Le Mire (University of Adelaide), Andrew and Brian Opeskin (UTS), having completed their report to the Judicial Conference of Australia on *Temporary Judicial Officers in Australia: A Report for the*



Charlie Weng, Deborah Healey, George Williams, Gabrielle Appleby, Weihan Zhou and Heng Wang at Tsinghua University School of Law during their trip to Beijing in September.

Judicial Conference of Australia (now available online at http://www.jca.asn.au/wp-content/uploads/2013/11/P24_02_31-Temporary-Judicial-Officers-Report-May-2017.pdf), delivered its findings to the Judicial Conference of Australia Colloquium in Hobart in October. The findings of the report were also presented at the OP Jindal Global Law School-UNSW Law co-hosted workshop on *Constitutionalism, the Rule of Law and Democratic Governance* in India in November.

Gabrielle was also invited in October to attend and present at the National Judicial College of Australia's annual *Judicial Dialogues*. She ran an interactive session with a small group of experienced judges on lessons that could be drawn for the judiciary from the myriad issues raised by the Tim Carmody affair in Queensland. The session drew heavily on the book she co-authored with Rebecca Ananian-Welsh and Andrew, *The Tim Carmody Affair: Australia's Greatest Judicial Crisis* (NewSouth Publishing, 2016). That book was shortlisted for the Queensland Literary Awards in the history category.

Gabrielle and Professor Rosalind Dixon have continued to promote their book designed to teach critical perspectives and critical thinking to law students, *The Critical Judgments Project: Re-reading Monis v The Queen* (Federation Press, 2016). This included Gabrielle's contribution to an author-meets-reader panel on the recently published *Feminist Judgments: Rewritten Opinions of the United States Supreme Court* at the Law and Society meeting in Mexico City in July, and Gabrielle and Ros will be contributing to an on-line mini-symposium inspired by the book. Gabrielle and Ros also explained the book and how it might be used in elective and core courses at the inaugural UNSW Research in Legal Education Conference in December. In 2018, they are looking to create an online clearing-house, providing a platform for people to access the many and varied feminist and other critical judgments projects across the world, and share their experiences of teaching with them.

Gabrielle has recently been appointed to the Council of the Australian Association of Constitutional Law (AACL), and has been given the responsibility for overseeing the Association's quarterly newsletter. With the assistance of two UNSW research assistants, PhD student Jemimah Roberts and LLB student William Vu, she has been enjoying the task of reviewing the constitutional decisions and docket of the Australian courts, as well as important cases being decided overseas.

The Judiciary Project is looking forward to welcoming two international visiting scholars in 2018: Mr James Lee from the Dickson Poon School of Law at Kings College London and Dr Rachel Cahill-O'Callaghan from the School of Law and Politics at Cardiff University. Mr Lee will be conducting comparative research into the dynamics of collective judicial decision making in apex courts in the United Kingdom and Australia. Dr Cahill-O'Callaghan will continue her award winning empirical research that identifies the values being articulated in apex court decisions.

Gabrielle and Andrew have planned two events for July 2018. The first is a research workshop on the judiciary entitled, 'Uncloaking the judiciary', that will bring together Australian and international judiciary scholars to consider questions around the judicial role, judicial style and judicial image. The second is a workshop co-hosted with Rhonda Evans from the Edward A. Clark Center for Australian and New Zealand Studies at the University of Texas at Austin. This second workshop will provide a forum for beta testing of a new Clark Center dataset that contains numerous variables about decisions of the High Court of Australia.

Gabrielle's ARC Discovery Grant *Law, Order and Federalism* is coming to an end. With Anna Olijnyk (University of Adelaide) she has recently published a series



'While the postal survey proved effective in clearing the political path to marriage equality, it was deeply flawed as a process and should not be repeated.'

Paul Kildea, 'Australia's postal survey on same-sex marriage', *The Constitution Unit Blog*, 11 December 2017.

of pieces that have come out of the interviews that they conducted with State and Territory policy makers and government lawyers in relation to the impact of Chapter III constraints on the development of policy and legislation. These include 'Constitutional Influences on State and Territory Lawmaking' (2018) *Federal Law Review* (forthcoming), 'Parliamentary Deliberation on Constitutional Limits in the Legislative Process' (2017) 40 *University of New South Wales Law Journal* 976, 'Constitutional Deliberation in the Legislative Process' in Ron Levy and Graeme Orr (eds), *The Cambridge Handbook of Deliberative Constitutionalism* (Cambridge University Press, 2017) and 'Constitutional Dimensions of Law Reform' in Ron Levy, Molly O'Brien, Simon Rice, Pauline Ridge, and Margaret Thornton (eds), *New Directions for Law in Australia: Essays in Contemporary Law Reform* (Australian National University Press, 2017) 387.

Gabrielle and Andrew thank those with whom they have had the privilege of collaborating with in 2017 under the Centre's Judiciary Project, and look forward to what 2018 promises.

REFERENDUMS PROJECT

Project Director: Paul Kildea

There has been a great deal of focus on referendums and related processes in the past six months. Perhaps most notably, Australians participated in a postal survey on same-sex marriage over an eight-week period from September to November. More than 60 per cent of participants supported a change to the law to allow same-sex couples to marry, and in December the federal Parliament amended the *Marriage Act 1961* (Cth) to give effect to this sentiment.

The conduct of the survey gave rise to a range of legal and policy matters and Centre members were heavily involved in providing comment on them. When the survey was announced, George Williams told the ABC that he was 'mystified' as to why the ABS had been appointed to run it, and Paul Kildea argued in the *Conversation* that the process was legally shaky and lacked legitimacy. Two High Court challenges against the survey were subsequently launched, and George analysed their merits in a National Press Club Address. After the High Court unanimously dismissed the challenges, Gabrielle Appleby wrote about the significance of the ruling for the *Conversation*. In the aftermath of the survey Paul provided an overall assessment of the process for the *Constitution Unit Blog* in which he concluded that its shortcomings – including the circumvention of Parliament – were serious enough that it should not be repeated. Events suggest otherwise, however, with Prime Minister Malcolm Turnbull beginning the new year by suggesting that a similar survey could be held to gauge Australians' opinions on different models for a republic.

The ongoing saga around dual citizenship and the disqualification of parliamentarians has prompted debate about whether a referendum should be held to amend section 44 of the *Constitution*. George wrote in favour of this idea in the *Sydney Morning Herald*, arguing that the provision is ill-suited to modern times and should be amended so that a person can sit in Parliament as long as they are an Australian citizen.

A third significant referendum development – addressed in the Indigenous Legal Issues Project report – was the Prime Minister's rejection of the Uluru Statement's proposal for an Indigenous 'Voice' in Parliament. This is likely to continue to be a focus of public debate in 2018.

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'Section 116 has proved to be a frail and ineffective shield. Despite several attempts, the High Court has never been convinced to use this section to strike down a law. And in any event, the section applies only to laws passed by the Federal Parliament, and not to any law enacted by the states.'

George Williams 'Religious Liberty Needs Protection' *Sydney Morning Herald* (21 November 2017).

PUBLICATIONS AND PRESENTATIONS

PUBLICATIONS

Joint Publications

- Gabrielle Appleby and Alexander Reilly 'Unveiling the public interest: The parameters of executive discretion in Australian migration legislation' (2017) 28 *Public Law Review* 293;
- Gabrielle Appleby and Anna Olijnyk 'Parliamentary Deliberation on Constitutional Limits in the Legislative Process' (2017) 40 *University of New South Wales Law Journal* 976;
- Gabrielle Appleby and Gemma McKinnon, 'The Uluru Statement' (2017) 37 *Law Society Journal* 36;
- Gabrielle Appleby and Gemma McKinnon, 'Lessons of 1967 Referendum Still Apply to Debates on Constitutional Recognition' in John Watson (ed), *The Conversation Yearbook 2017: 50 Standout Articles from Australia's Top Thinkers* (Melbourne University Press, 2017);
- Gabrielle Appleby and Anna Olijnyk, 'Constitutional Dimensions of Law Reform' in Ron Levy, Molly O'Brien, Simon Rice, Pauline Ridge and Margaret Thornton (eds), *New Directions for Law in Australia: Essays in Contemporary Law Reform* (Australian National University Press, 2017) 387;
- Jimmy Bai and Harry Hobbs, 'Appointing Attorneys-General to the High Court: A Case for Reform' (2017) 42 *Alternative Law Journal* 286;
- Mark Bruerton and Paul Kildea, 'Practitioners' Opinions on Barriers to Reforming the Federal System in Mark Bruerton et al (eds), *A People's Federation* (Federation Press, 2017) 215;
- Lauren Butterly and the Hon Justice Rachel Pepper, 'Are Courts Colourblind to Country? Indigenous Cultural Heritage, Environmental Law and the Australian Judicial System' (2017) 40(4) *University of New South Wales Law Journal* 1313;
- Rosalind Dixon and Tom Ginsburg (eds), *Comparative Constitutional Law in Latin America* (Edward Elgar, 2017);
- Rosalind Dixon and Tom Ginsburg, 'Comparative Constitutional Law in Latin America: An Introduction' in Rosalind Dixon and Tom Ginsburg (eds), *Comparative Constitutional Law in Latin America* (Edward Elgar, 2017);
- Rosalind Dixon and Jade Bond, 'Comparative Reproductive Rights: Constitutional Convergence and Non-convergence' in Helen Irving (ed), *Constitutions and Gender* (Edward Elgar, 2017);
- Rosalind Dixon, Neshia Balasubramanian and Melissa Vogt, 'Treaty Implementation in Canada - A Comparative Perspective on the Tasmanian Dam Case' in Michael Coper et al (eds), *The Tasmanian Dam Case 30 Years On* (Federation Press, 2017);
- Harry Hobbs and Andrew Trotter, 'The Constitutional Conventions and Constitutional Change: Making Sense of Multiple Intentions' (2017) 37 *Adelaide Law Review* 49;
- Harry Hobbs and George Williams, 'Citizen Participation in Australia' in GR Altamirano and GNM Martinez (eds), *Mechanisms of Citizen Participation: The Global Experience* (Tirant, 2017) 49;
- Harry Hobbs and George Williams, 'The Case for a National Whole-of-Government Anti-Corruption Body' (2017) 42 *Alternative Law Journal* 178;
- Andrew Lynch and George Williams, 'The High Court on Constitutional Law: The 2016 and French Court Statistics' (2017) 40 *University of New South Wales Law Journal* 1468;

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'If the people are to have their say on policy issues in the future, they should do so through more established electoral processes that require the endorsement of parliament and better promote the goals of integrity and respectful debate.'

Paul Kildea, 'Australia's postal survey on same-sex marriage', *The Constitution Unit Blog*, 11 December 2017.

Sangeetha Pillai and George Williams, 'Twenty-First Century Banishment: Citizenship Stripping in Common Law Nations' (2017) 66 *International & Comparative Law Quarterly* 521;

Daniel Reynolds and George Williams, *A Charter of Rights for Australia* (NewSouth Books, 4th ed 2017);

Daniel Reynolds and George Williams, 'Gender Equality among Barristers before the High Court' (2017) 91 *Australian Law Journal* 483;

Daniel Reynolds and George Williams, 'Does Australia Need a Bill of Rights?', *The Boiling Frog* (27 November 2017) <https://boilingfrog.com.au/australia-need-bill-rights-two-legal-experts-say-yes/>;

Daniel Reynolds and George Williams, 'Out on a Limb: Australia's Troubling Exceptionalism on Human Rights' (2017) 38 *Law Society Journal* 40;

Daniel Reynolds and George Williams, 'Victoria Leads on Human Rights', *Law Institute Journal*, September 2017, 24;

George Williams (and six others), 'Converging Security Threats in a Changing World', *Asia Pacific Security Magazine*, 3 July 2017;

George Williams, Sean Brennan and Andrew Lynch, *Blackshield and Williams Australian Constitutional Law and Theory: Commentary and Materials* (Federation Press, 7th ed 2018).

Gabrielle Appleby

'Horizontal Accountability: The Rights-Protective Promise and Fragility of Executive Integrity Institutions' (2017) 23 *Australian Journal of Human Rights* 168.

Melissa Crouch

'Judicial Power in Myanmar and the Challenge of Judicial Independence' in HP Lee and Marilyn Pittard (ed), *Asia-Pacific Judiciaries: Independence, Impartiality and Integrity* (Cambridge University Press, 2017);

The Future of Professional Legal Education in Commercial and Corporate Law in Myanmar, December, Asian Development Bank, 1;

Book review: 'Buddhism, Politics and the Limits of Law: The Pyrrhic Constitutionalism of Sri Lanka' *Asian Journal of Law and Society*;

'The Convenience of Terrorism in Myanmar' 11 September 2017, *Lowy Institute*.

Rosalind Dixon

'Constitutional Design Two-Ways: Constitutional Drafters as Judges' (2017) 57 *Virginia Journal of International Law* 1;

'The Core Case for Weak Judicial Review' (2017) 38 *Cardozo Law Review* 2193.

Harry Hobbs

'Democratic Theory and Constitutional Design: Hearing Persistent Electoral Minorities' (2017) 24 *International Journal on Minority and Group Rights* 341.

George Williams

'The Distinctive Features of Australia's Human Rights Charters' in M Groves and C Campbell (eds), *Australian Charters of Rights A Decade On* (Federation Press, 2017) 22;

'An Australian Perspective on the UK Human Rights Act Debate', *Insights*, Vol 9(1), Institute of Advanced Study, Durham University 1.

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PRESENTATIONS

Joint Presentations

Gabrielle Appleby, Sean Brennan and Andrew Lynch, 'Keep Calm and Carry On: Why the Increasing Automation of Legal Services Should Deepen and Not Diminish Legal Education', *The Future of Legal Education*, Australian Academy of Law, Sydney, 13 August 2017;

Gabrielle Appleby, Suzanne Le Mire, Andrew Lynch and Brian Opeskin, 'Contemporary Challenges Facing the Australian Judiciary', *Courts, Power, Public Law*, ICON-S Annual Meeting, Copenhagen, 5-7 July 2017;

Gabrielle Appleby and Brian Opeskin, 'Temporary Judicial Officers in Australia', *Judicial Conference of Australia Colloquium*, Hobart, October 2017;

Megan Davis and Lauren Butterly, 'Consultation with, and obtaining the consent of, Aboriginal communities in relation to laws and government decisions', *Australian Institute of Administrative Law National Conference*, Canberra, 21 July 2017;

Khanh Hoang and Sangeetha Pillai, 'Citizenship, Migration and the Production of the Australian Community', *2nd National Advancing Community Cohesion Conference*, Western Sydney University, 21 November 2017.

Gabrielle Appleby

'Executive Integrity Institutions', University of Tasmania Staff Seminar Series, November 2017;

'The Parliament, the Court and Section 44', Department of the House of Representatives: Parliamentary Briefing, November 2017;

'Protecting the Independence of Independent Statutory Officeholders', Seminar at the Centre for the Study of Law and Governance, Jawaharlal Nehru University, November 2017;

'Duelling Law Officers', Breakfast Seminar for the Anglo-Australasian Lawyers Society, Sydney, October 2017;

'Lessons from the Tim Carmody Affair', National Judicial College of Australia, Judicial Dialogues, Hobart, October 2017;

'Integrity of Purpose: A Legal Process Approach to Designing a Federal Anti-corruption Commission', *Accountability and the Law*, The Australian Institute, Parliament House, Canberra, August 2017.

Sean Brennan

'Recognition of Indigenous Peoples' Territorial Rights and Decision-making Authority in Australia', *Joint Conference on Constitutionalism, the Rule of Law and Democratic Governance – Australian and Indian Perspectives*, OP Jindal Global University, India, 13 November 2017;

'The Uluru Statement: Has a Deliberative Process Changed the Dynamic of Constitutional and other Structural Reform regarding Australia's First Peoples?', Symposium on *The Crown: Comparative Perspectives on a Political Enigma and Symbol of Statehood*, University of Auckland, 2 November 2017.

Lauren Butterly

'History, Culture and Recent Sea Rights Campaigns', Nawi Symposium: *Travelling our Waters*, Australian National Maritime Museum, 9 November 2017.

Melissa Crouch

Invited Speaker, *The Rakhine State Crisis*, Roundtable discussion, Lowy Institute, Sydney, 5 December 2017;

Invited Speaker, *Seminar on Judicial Independence and Accountability in New Democracies*, Union Supreme Court, Naypyidaw, Myanmar, 17 November 2017;

Invited Speaker, *Seminar on Constitution-making with International Relations Committee of the Union Parliament*, Naypyidaw, Myanmar, 16 November 2017;

'Constitutional Rights and Accountability in Asia', *Workshop at Jindal Global Law School*, New Delhi, India, 12-13 November 2017;

Invited Chair, International Centre for Ethnic Studies (ICES), Sri Lanka, *Workshop on Religion and Constitutional Practices in Asia*, 9-10 November 2017;

'The Rakhine State Crisis in Myanmar', Jentera Law School, Jakarta, 2 November 2017;

'UNRESOLV Fellowship Lecture', Law Faculty, University of Indonesia, Jakarta, 30 October-7 November 2017;

'Constitutional Transformation or Authoritarian Straightjacket?', *International Workshop on 'Implementing New Constitutions*, University of Chicago Law School, Chicago. 13-14 October 2017;

'The Struggle for Constitutional Rights and Administrative Accountability in Asia', Windsor Law School, Canada, 12 October 2017;

'The Rakhine State Humanitarian Crisis', Windsor Law School, Canada, 11 October 2017;

'Security and Humanitarian Concerns in Rakhine State', Coral Bell School of Asia Pacific Affairs, ANU, 3 Oct 2017;

Facilitator, *Judicial Colloquium on Commercial Law*, for High Court and District court judges, with the Federal Court of Australia and the Union Supreme Court of Myanmar, Naypyidaw, 26-30 August 2017;

'Legal Culture in Indonesia', Law Faculty, Trisakti University, Jakarta, Indonesia, 23 August 2017;

'Law and Development in Myanmar', RMIT Law Faculty, Melbourne, 27 July 2017.

Harry Hobbs

'Treaties, Sovereignty and the Declaration in Australia', *Tenth Anniversary of the United Nations Declaration on the Rights of Indigenous Peoples' Conference to Review Progress and Challenges*, School of Advanced Study, University of London, London, 20 October 2017;

'The Swedish Sámediggi and the Limits of Corporatism', *InRights Workshop*, Stockholm University, 11 October 2017;

'Democratic Theory and Indigenous Peoples', Australasian Society of Legal Philosophy, Auckland, 15 July 2017.

Paul Kildea

'The Postal Survey on Same-Sex Marriage', Conference of the Australian Political Studies Association, Monash University, Melbourne, 26 September 2017.

Andrew Lynch

'Cultural Diversity in the Law – the William Lee Address', *Asian-Australian Lawyers' Association*, Law Society of New South Wales, 13 September 2017 (Panellist).

Sangeetha Pillai

'Constitutional Challenges to Australia's Asylum Seeker Laws: Why is it so hard to win a case?', *Kaldor Centre Emerging Scholars Network Annual Workshop 2017*, 23 November 2017.

George Williams

'Constitutional Law', Expert Roundtable on the Australian Government's Legal Responsibility for the Offshore Processing Policy and its Consequences, Andrew & Renata Kaldor Centre for International Refugee Law and UNHCR, Sydney, 5 December 2017;

The United States Constitution reflects its revolutionary origins in beginning with the famous call "We the people." By contrast, our Constitution is contained in a British Act of Parliament that opens with:

Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania...

"Whereas" is hardly the sort of beginning that gets the heart racing. In addition, these words are not even complete. They fail to mention Western Australia, which joined the Federation just before the commencement of the Constitution in 1901.

George Williams, 'Dual citizens and the Postal Survey: What Might the High Court Say?' Address to the National Press Club, Canberra, 30 August 2017

'Strategies for Counter-Terrorism', *Festschrift and Symposium for Clive Walker*, School of Law, University of Leeds, United Kingdom, 1 December 2017;

'Anti-Terrorism Laws and Countering Violent Extremism in Australia', Faculty of Law, Lund University Sweden, 28 November 2017;

'The Problem of Race and the Australian Constitution', Faculty of Law, University of Helsinki, Finland, 27 November 2017;

'The Case for Fixed Four Year Terms', Public Forum, Whitlam Institute, Sydney, 21 November 2017;

'How do Judges in Australia Protect Human Rights without a Bill of Rights?', *International Conference on Constitutionalism, the Rule of Law and Democratic Governance – Australian and Indian Perspectives*, Jindal Global Law School, OP Jindal Global University, New Delhi, 13 November 2017;

'Comparative Frameworks and Foreign Law in Domestic Courts', *International Conference on Constitutionalism, the Rule of Law and Democratic Governance – Australian and Indian Perspectives*, Jindal Global Law School, OP Jindal Global University, New Delhi, 12 November 2017;

'Strategizing Towards a 21st Century Globalized Legal Education', *2017 Global Law Deans' Forum*, Pune, India, 8 November 2017;

'Political Donations', *Dark Money and Democracy*, University of Sydney, 3 November 2017;

'The APEC Stunt 10 Years On', Giant Dwarf Theatre, Sydney, 30 October 2017;

'Integrating Human Rights Jurisprudence in Australia', *Thought Leadership 2017*, Law Society of New South Wales, 17 October 2017;

'An Australian Bill of Rights: Is it an Idea Still Worth Pursuing?', *2017 International Bar Association Annual Conference*, Sydney, 12 October 2017;

'Political Donations Reform in Australia', Public Forum, Fabian Society, Sydney, 11 October 2017;

'In Conversation: A Charter of Rights for Australia', Gleebooks, Sydney, 14 September 2017;

'Dual citizens and the Postal Survey: What Might the High Court Say?', Address to the National Press Club, Canberra, 30 August 2017;

'The Case for a Federal Anti-Corruption Commission', *Accountability and the Law Conference 2017*, The Australian Institute, Parliament House, Canberra, 17 August 2017;

'Anti-Terrorism Laws and Countering Violent Extremism in Australia', *Launch of Global Security Plus*, UNSW, 19 July 2017.

MEDIA PUBLICATIONS

Joint Media

Daniel Reynolds and George Williams, 'Time to Fix Australia's Odd Absence of Rights Protections', *Australian Financial Review* (11 August 2017);

Daniel Reynolds and George Williams, 'How a Charter of Rights could Protect Australians' Fundamental Freedoms', *The Conversation* (7 August 2017).

Gabrielle Appleby

'The High Court sticks to the letter of the law on the "citizenship seven"', *The Conversation* (27 October 2017);

'Malcolm Turnbull's announcement misunderstands Uluru, and should be rejected', *Inside Story* (27 October 2017);

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'High Court dismisses challenge, so Australia is off to the (postal) polls on same-sex marriage', *The Conversation* (7 September 2017);

'Let's see the Solicitor-General's advice on Barnaby Joyce's section 44 fate', *Australian Financial Review* (17 August 2017).

Harry Hobbs

'Why the government was wrong to reject an Indigenous "Voice to Parliament", *The Conversation* (30 October 2017);

'Response to the Referendum Council report suggests a narrow path forward on Indigenous constitutional reform', *The Conversation* (18 July 2017).

Paul Kildea

'Australia's postal survey on same-sex marriage: A flawed process that should not be repeated', *The Constitution Unit Blog*, 11 December 2017;

'Using the ABS to conduct a same-sex marriage poll is legally shaky and lacks legitimacy', *The Conversation*, 10 August 2017.

Andrew Lynch

'The Lionel Murphy papers shed more light on a controversial life', *The Conversation* (14 September 2017).

Sangeetha Pillai

'Explainer: how do Australia's proposed citizenship laws compare internationally?', *The Conversation* (9 August 2017).

George Williams

'Religious Liberty Needs Protection', *Sydney Morning Herald* (21 November 2017);

'Religious Liberty Needs Better Protection, But Only in a Law that also Recognises Other Rights', *Canberra Times* (21 November 2017);

'Two Ways Forward Now the High Court Has Ruled', *The Age* (28 October 2017);

'Two Ways Forward Now the High Court Has Ruled', *Canberra Times* (28 October 2017);

'Warnings Were There But Now it's Time to Act After Court Ruling', *Sydney Morning Herald* (28 October 2017);

'Attorney-General's Submission in Citizenship Cases a "Stretch"', *Sydney Morning Herald* (10 October 2017);

'High Court will have Many Questions to Ponder but Brandis Submission in Citizenship Case is "a Stretch"', *Canberra Times* (10 October 2017);

'Is it Time to End the Parliamentary Prayer?', *Canberra Times* (25 September 2017);

'Parliamentary Prayers Need Consigning to History', *The Age* (25 September 2017);

'Maybe it's Time to End the Parliamentary Prayer in this Secular Nation', *Sydney Morning Herald*, (25 September 2017);

'Why Court May Kill Vote', *Canberra Times* (5 September 2017);

'Court Likely to Vote "No"', *The Age* (5 September 2017);

'Postal Vote Facing Return to Sender', *Sydney Morning Herald* (5 September 2017);

'Dual Citizens and the Postal Survey: What Might the High Court Say?', *Inside Story* (30 August 2017);

'Ignorance of Law no Excuse for Breaking it', *Sydney Morning Herald* (16 August 2017);

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- 'The Prime Minister Must be Careful not to Tread on the Toes of the High Court', *Canberra Times* (16 August 2017);
- 'Tied in Knots Over Same-Sex Marriage', *Sydney Morning Herald* (7 August 2017);
- 'All Tied up in Knots over Same-Sex Marriage Says a Lot about the State of Australian Politics Today', *Canberra Times* (7 August 2017);
- 'Constitutional Convention Offers Way to Move Ahead on Aboriginal Recognition', *Sydney Morning Herald* (17 July 2017);
- 'A Criminal Act no Longer: Battle Over Voluntary Euthanasia About to be Reactivated', *Sydney Morning Herald* (17 July 2017);
- 'States Likely to Win Battle Over Voluntary Euthanasia', *The Age* (17 July 2017);
- 'Abbott's Prescription for Federal Power is Anything But Conservative', *Sydney Morning Herald* (4 July 2017);
- 'Abbott's "Solution" to Senate Deadlock Would Tilt the Balance Too Far in Favour of Federal Power', *Canberra Times* (3 July 2017);
- 'Overreaction Plays into the Hands of Real Terrorists', *The Age* (19 June 2017);
- 'Overreaction Won't Win Fight against Terrorism', *Sydney Morning Herald* (19 June 2017).

SUBMISSIONS

Joint Submissions

Gabrielle Appleby, Lynsey Blayden, Lauren Butterly, Khanh Hoang, Sangeetha Pillai and Shreeya Smith, Submission to Senate Legal and Constitutional Affairs Committee Inquiry into the Australian Citizenship Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017 (21 July 2017);

Gabrielle Appleby, Lynsey Blayden, Aaron Taverniti, Luke McNamara and George Williams, Submission to Legislation Review Committee 'Inquiry into the Operation of the *Legislation Review Act* 1987 (NSW)' (23 November 2017);

Jessie Blackbourn, Andrew Lynch, Nicola McGarrity, Tamara Tulich and George Williams, Submission to Parliamentary Joint Committee on Intelligence and Security 'Review of Police Stop, Search and Seizure Powers, the Control Order Regime and the Preventative Detention Order Regime' (22 September 2017);

Khanh Hoang and Sangeetha Pillai, Submission to Department of Immigration and Border Protection Discussion Paper on Strengthening the Test for Australian Citizenship (1 June 2017);

Khanh Hoang, Sangeetha Pillai and Shreeya Smith, Submission to Senate Legal and Constitutional Affairs Committee Inquiry into the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017 (16 October 2017);

Khanh Hoang, Sangeetha Pillai and Shreeya Smith, Submission to Senate Legal and Constitutional Affairs Committee Inquiry into the Australian Border Force Amendment (Protected Information) Bill 2017 (1 September 2017);

Nicola McGarrity and George Williams, Submission to Parliamentary Joint Committee on Intelligence and Security 'Review of the "Declared Area" Provisions' (22 September 2017);

George Williams

Submission to Select Committee into the Political Influence of Donations Inquiry into the Political Influence of Donations (13 September 2017);

Submission to Joint Standing Committee on Electoral Matters Inquiry into Political Donations (22 August 2017).

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Lisa Burton Crawford, *Senior Lecturer*, BA LLB (Hons 1) UWA, BCL (Distinction) Oxon, PhD Monash

Lauren Butterly, *Lecturer*, BA (History)/LLB (1 Hons) (UWA), GDLP

Melissa Crouch, *Senior Lecturer*, BA LLB PhD Melb

Rosalind Dixon, *Professor*, BA LLB UNSW, LLM SJD Harvard

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Grant Hoole, *Postdoctoral Fellow*, BA (Hons) Queen's, LLB BCL McGill, LLM Toronto, PhD Ottawa

Paul Kildea, *Senior Lecturer*, BA (Hons) LLB PhD UNSW

Andrew Lynch, *Professor*, LLB (Hons) LLM QUT, PhD UNSW

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Gemma McKinnon, *Associate Lecturer*, LLB, BA (Jewish Studies) UNSW

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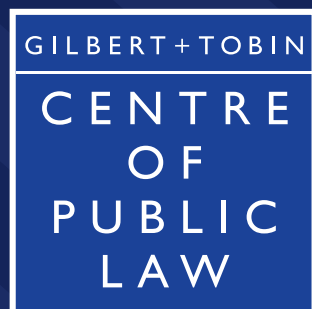
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