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GILBERT + TOBIN CENTRE OF PUBLIC LAW NEWSLETTER JULY 2021



Rosalind Dixon
Centre Director



Lisa Burton Crawford
Centre Deputy-Director

Dear Friends,

The year has got off to a busy start. In February, we hosted our annual Constitutional Law conference – for the first time on Zoom. We missed the chance to catch up with friends and colleagues, but the conference was attended by record numbers of public lawyers across Australia and featured a range of interesting and insightful papers. We are very grateful to all of you who attended and supported the event. We have also asked all those who attended in both 2019 and 2020 for their views on what the conference format should look like in 2022 and beyond and look forward to sharing the results of that survey and our plans with you in the coming months.

Many of you will have a sense of the many other activities of the Centre, and debates it has contributed to, through the work of the AUPUBLAW blog. This blog continues to strengthen its reputation as a valued source of commentary on contemporary public law developments. Its recent activities are explained in detail in the report below.

One of the key priorities of the Centre remains our attempt to support the Uluru Statement from the Heart, and the call for a First Nations Voice to Parliament. As part of that, on April 27 we also hosted a small expert workshop on constitutional options for a Voice. The workshop produced a number of options to inform the next stage of the campaign for a constitutional Voice.

All of the Centre's research projects have been busy pursuing their respective agendas. This includes the work of the Administrative Law and Justice Project, whose members continue to work closely with the Allens Hub for Law, Technology and Innovation to examine the public law challenges posed by the use of automated systems by government. This has included a very successful online workshop and edited collection on 'The Automated State', led by Centre member and Project Director Dr Janina Boughey, and innovative research on the idea of 'rules as code'. The details of this research and the extensive work of other Centre Projects are explained in detail in the reports below.

The Centre has also collaborated with the Australian Human Rights Institute, Social Policy Research Centre, AGSM and Division for Equity Diversity and Inclusion, to launch a new "Pathways to Politics Program for Women" in NSW, in partnership with the Trawalla Foundation. The program will involve a series of evening training sessions for participants on a wide range of topics designed to encourage and equip women to run for local, state and federal office – and contribute once elected to making positive change on a range of issues, including the creation of a more gender equal society. Given its connection to the Centre, it will also feature sessions on human rights, ethics and the rule of law, and an introduction for candidates to the basics of Australian constitutional law.

The Centre continues to expand its global reach and audience. Centre members, Theunis Roux and Melissa Crouch, run a reading group on Constitutionalism in the Global South to foster scholarship and interest in this research area. Members of this group include G+T Centre PhD students Siddharth Narrain, Ayesha Wijayalath and Elisabeth Perham. Theunis Roux is also co-hosting a Working Group meeting at the upcoming ICON-S Mundo conference in July on the same topic. Future initiatives include the teaching of a combined LLM/JD elective course on Global South perspectives on constitutionalism that has just been approved by the Faculty's Postgraduate Education and Qualifying Degree Committees.

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* SAVE THE DATE *

11 FEBRUARY 2022

Constitutional Law
Conference

Online with pod/satellite
cocktail parties in Sydney,
Brisbane, Canberra,
Melbourne and Perth.

In addition, this year saw the launch of a new Global Public Law Virtual Book Seminar Series. Following on from our highly successful series of online webinars examining the public law implications of the pandemic, this series brings together global authors and leading Australian scholars to discuss new monographs in the field of public law. Thus far, we have hosted four book panels: on Julie Suk's *The Unstoppable Mothers of the Equal Rights Amendment*, Ran Hirsch's *City, State: Constitutionalism and the Megacity*, Richard Albert's *Constitutional Amendments: Making, Breaking and Changing Constitutions* and Philipp Dann's *The Global South and Comparative Constitutional Law and Democratic Constitutionalism in India and the European Union: Comparing the Law of Democracy in Continental Polities*. The penultimate of these was jointly hosted by the Indigenous Law Centre and marked the 4th anniversary of the Uluru Statement from the Heart. We thank our Australian public law colleagues Professors Helen Irving, Kim Rubenstein and Adrienne Stone, and Dr Erika Arban, as well as Centre members Professors Gabrielle Appleby, Melissa Crouch, Theunis Roux and Dr Paul Kildea, for their insightful comments and contributions to these events. You can find the details for the next seminars in this series and register to attend [here](#).

Finally, we are pleased to announce that the NSW Governor, Her Excellency the Honourable Margaret Beazley AC QC, has agreed to participate in the 'Mason Conversation' on 16 August 2021, from 5.30 - 7pm at the Banco Court. The Mason Conversation is a joint initiative of the Centre and Faculty of Law and Justice at UNSW, and invites prominent public law figures and public intellectuals to engage in conversation reflecting on their professional life and journey. We hope that, COVID-19 restrictions permitting, we will be able to see many of you there, including for drinks afterwards, and thank Chief Justice Bathurst for kindly agreeing to allow us access to the Court as a venue.

We thank you for your ongoing support of the Centre, and hope you enjoy reading about our recent activities in the pages that follow.

Sincerely

Rosalind Dixon + Lisa Burton Crawford

For details of Centre events, publications, submissions and so on please either go to our website: gcentre.unsw.edu.au, or join our mailing list by [clicking here](#).

CENTRE ACTIVITIES

EVENTS

PUBLIC LAW IN THE CLASSROOM WORKSHOP

11 February 2021

The seventh annual Public Law in the Classroom workshop was hosted online on Thursday, 11 February 2021. The workshop was jointly facilitated by the G+T Centre, the Public Law and Policy Research Unit at the University of Adelaide and the Castan Centre for Human Rights Law at Monash University. The online workshop was a great success, attracting around 70 public law teachers from across the country and internationally. The workshop was divided into two sessions. The first session was on the theme of 'Public Law and Remote Learning: Past. Present. Future'. The panellists included:

- Mr Peter Black (School of Law, Queensland University of Technology)
- Evelyn Douek (Harvard Law School)
- Professor David Thomson (University of Denver Sturm College of Law)
- Chair: Dr Svetlana Tyulkina (Faculty of Law and Justice, UNSW)

The second session was centred around the theme of 'Teaching Public Law in Times of Public Emergency'. The panellists included:

- Dr Bruce Chen (Faculty of Business and Law, Deakin Law School)
- Professor Sarah Joseph (Griffith Law School)
- Dr Maria O'Sullivan (Faculty of Law, Monash University)
- Chair: Shreeya Smith (Faculty of Law and Justice, UNSW)

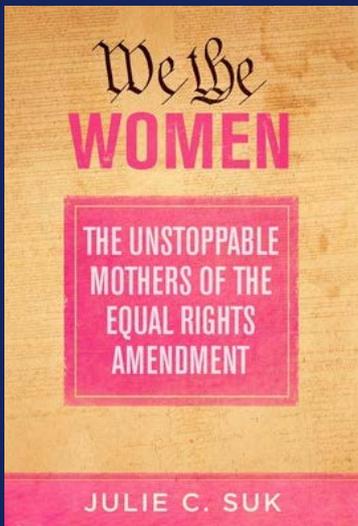
The workshop concluded with the launch of 'The Originalist', a novel co-written by members of the Centre and others. It was the result of a creative project conceived of during the initial lockdowns implemented in response to COVID-19 in March 2020. All proceeds from the sale of 'The Originalist' will go to the UNSW Student Emergency Fund.

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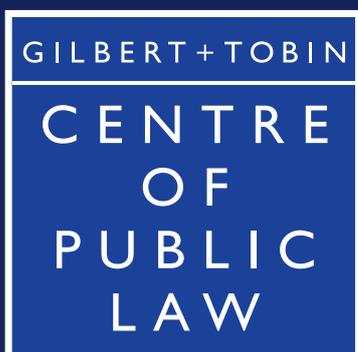


The Hon. Justice Nye Perram
Constitutional Law Online
Conference 2021



We the Women: The Unstoppable
Mothers of the Equal Rights
Amendment

Professor Julie Suk



G+T CENTRE CONSTITUTIONAL LAW ONLINE CONFERENCE

12 February 2021

[Click here](#) to view the full program

The virtual conference featured discussions of recent important developments in the High Court, Federal Court and State Courts and provided an overview of the key public law debates in 2020. The conference also considered current debates on constitutional reform sparked by the High Court's decisions in *Love v Commonwealth* and the *Palace Papers Case*, and the public law challenges of the COVID-19 pandemic.

The conference was addressed by leading practitioners, academics and judges, and featured opportunities for informal virtual exchange via Zoom lunch and morning tea 'break-out' rooms. It marked the 20th anniversary of the conference, and the Centre's institutional life, and that anniversary was recognised with a **short video presentation** at the opening of the conference.

GLOBAL PUBLIC LAW VIRTUAL BOOK SEMINAR SERIES

19 March – 22 October, 2021

The aim of this series is to invite leading scholars in public law around the globe to share ideas from a recent book with an Australian audience. The Series is hosted by the G+T Centre and features Australian-based commentators from both within and outside the Centre to discuss the book with the authors. It also involves the publication of a special blog series in collaboration with AUPUBLAW featuring commentary on the book for an Australian audience. The first three seminars in the series were held on 19 March, 23 April and 28 May 2021.

SEMINAR 1: PROFESSOR JULIE SUK, YALE LAW SCHOOL

[We the Women: The Unstoppable Mothers of the Equal Rights Amendment](#) (Simon & Schuster, 2020) 19 March 2021

Commentators:

- Professor Helen Irving, University of Sydney
- Professor Kim Rubenstein, ANU

Chair: Professor Rosalind Dixon, UNSW

About the book

The year 2020 marks the centennial of the Nineteenth Amendment, guaranteeing women's constitutional right to vote. But have we come far enough?

After passage of the Nineteenth Amendment, revolutionary women demanded full equality beyond suffrage, by proposing the Equal Rights Amendment (ERA Congress took almost fifty years to adopt it in 1972, and the states took almost as long to ratify it. In January 2020, Virginia became the final state needed to ratify the amendment.

Why did the ERA take so long? Is it too late to add it to the Constitution? And what could it do for women?

A leading legal scholar tells the story of the ERA through the voices of the bold women lawmakers who created it. They faced opposition and subterfuge at every turn, but they kept the ERA alive. And, despite significant victories by women lawyers like Ruth Bader Ginsburg, the achievements of gender equality have fallen short, especially for working mothers and women of color. Julie Suk excavates the ERA's past to guide its future, explaining how the ERA can address hot-button issues such as pregnancy discrimination, sexual harassment, and unequal pay.

The rise of movements like the Women's March and #MeToo have ignited women across the country. Unstoppable women are winning elections, challenging male abuses of power, and changing the law to support working families. Can they add the ERA to the Constitution and improve American democracy?

We the Women shows how the founding mothers of the ERA and the forgotten mothers of all our children have transformed our living Constitution for the better.

SEMINAR 2: PROFESSOR RAN HIRSCHL, UNIVERSITY OF TORONTO

[City, State: Constitutionalism and the Megacity](#) (OUP, 2020) 23 April 2021

Commentators:

- Professor Adrienne Stone, The University of Melbourne
- Dr Erika Arban, The University of Melbourne

Chair: Professor Rosalind Dixon, UNSW

About the book

More than half of the world's population lives in cities; by 2050, it will be more than three quarters. Projections suggest that megacities of 50 million or even 100 million inhabitants will emerge by the end of the century, mostly in the Global South. This shift marks a major and unprecedented transformation of the organization of society, both spatially and geopolitically. Our constitutional institutions and imagination, however, have failed to keep pace with this new reality. Cities have remained virtually absent from constitutional law and constitutional thought, not to mention from comparative constitutional studies more generally. As the world is urbanizing at an extraordinary rate, this book argues, new thinking about constitutionalism and urbanization is desperately needed. In six chapters, the book considers the reasons for the "constitutional blind spot" concerning the metropolis, probes the constitutional relationship between states and (mega)cities worldwide, examines patterns of constitutional change and stalemate in city status. It aims to carve a new place for the city in constitutional thought, constitutional law and constitutional practice.

SEMINAR 3: PROFESSOR RICHARD ALBERT, THE UNIVERSITY OF TEXAS

[Constitutional Amendments: Making, Breaking and Changing Constitutions \(OUP, 2019\)](#)
28 May 2021

Commentators:

- Dr Paul Kildea
- Professor Gabrielle Appleby

Chair: Professor Rosalind Dixon, UNSW

About the book

Constitutional Amendments: Making, Breaking, and Changing Constitutions is both a roadmap for navigating the intellectual universe of constitutional amendments and a blueprint for building and improving the rules of constitutional change. Drawing from dozens of constitutions in every region of the world, this book blends theory with practice to answer two all-important questions: what is an amendment and how should constitutional designers structure the procedures of constitutional change? The first matters now more than ever. Reformers are exploiting the rules of constitutional amendment, testing the limits of legal constraint, undermining the norms of democratic government, and flouting the constitution as written to create entirely new constitutions that masquerade as ordinary amendments. The second question is central to the performance and endurance of constitutions. Constitutional designers today have virtually no resources to guide them in constructing the rules of amendment, and scholars do not have a clear portrait of the significance of amendment rules in the project of constitutionalism. This book shows that no part of a constitution is more important than the procedures we use to change it. Amendment rules open a window into the soul of a constitution, exposing its deepest vulnerabilities and revealing its greatest strengths. The codification of amendment rules often at the end of the text proves that last is not always least.

SEMINAR 4: PROF. DR. PHILLIPP DANN, HUMBOLDT-UNIVERSITÄT ZU BERLIN 18 June 2021

Featured books:

- Philipp Dann, Michael Riegner and Maxim Bönnemann (eds), *The Global South and Comparative Constitutional Law* (Oxford UP, 2020)
- Philipp Dann and Arun K. Thiruvengadam (eds), *Democratic Constitutionalism in India and the European Union: Comparing the Law of Democracy in Continental Polities* (Edward Elgar, 2021)

Commentators:

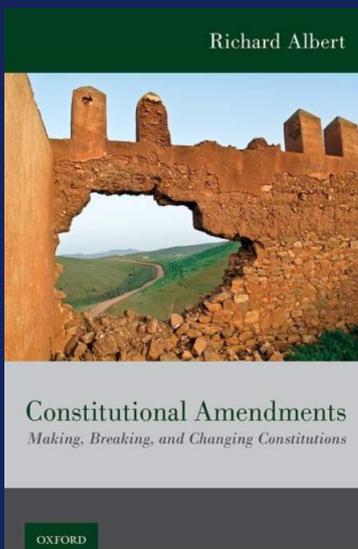
- Professor Melissa Crouch, UNSW
- Professor Theunis Roux, UNSW

Chair: Siddharth Narrain, UNSW

About the books

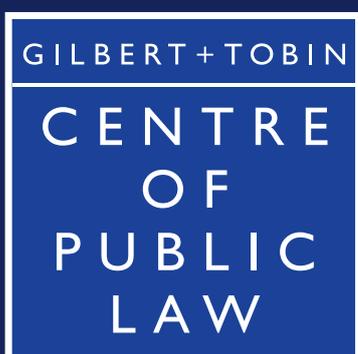
[*The Global South and Comparative Constitutional Law* \(Oxford UP, 2020\)](#)

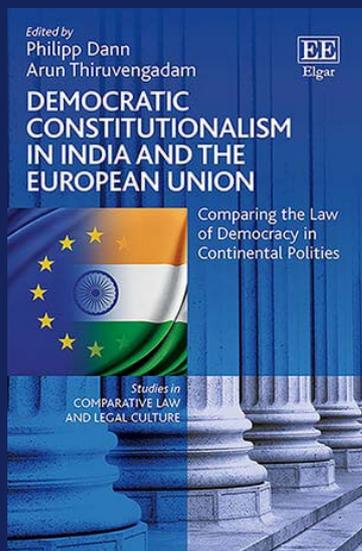
This volume makes a timely intervention into a field which is marked by a shift from unipolar to multipolar order and a pluralization of constitutional law. It addresses the theoretical and epistemic foundations of Southern constitutionalism and discusses its distinctive themes, such as transformative constitutionalism, inequality, access to justice, and authoritarian legality. This title has three goals. First, to pluralize the conversation around constitutional law. While



Constitutional Amendments:
Making, Breaking and Changing
Constitutions

Professor Richard Albert





Democratic Constitutionalism in India and the European Union: Comparing the Law of Democracy in Continental Politics

Edited by Philipp Dann and Arun K. Thiruvengadam

most scholarship focuses on liberal forms of Western constitutions, this book attempts to take comparative law's promise to cover all major legal systems of the world seriously; second, to reflect critically on the epistemic framework and the distribution of epistemic powers in the scholarly community of comparative constitutional law; third, to reflect on - and where necessary, test - the notion of the Global South in comparative constitutional law. This book breaks down the theories, themes, and global picture of comparative constitutionalism in the Global South. What emerges is a rich tapestry of constitutional experiences that pluralizes comparative constitutional law as both a discipline and a field of knowledge.

Democratic Constitutionalism in India and the European Union: Comparing the Law of Democracy in Continental Politics (Edward Elgar, 2021)

Comparing the structures and challenges of democratic constitutionalism in India and the European Union, this book explores how democracy is possible within vastly diverse societies of continental scale, and why a constitutional framework is best able to secure the ideals of collective autonomy and individual dignity. It contributes to an emerging comparative discussion on structures of power, separation of powers and a comparative law of democracy, which has long been neglected in comparative constitutional studies.

This timely and invigorating book showcases a novel comparative approach termed 'slow comparison', counters the conceptual focus on nation-states in comparative studies and develops a broader understanding of democratic constitutionalism. In the context of the contemporary crisis of constitutional democracy, triggered by populism, majoritarianism and authoritarianism, chapters continue older ongoing debates about multiculturalism, identity politics and democratic equality that hold important insights for both India and the EU to deal with contemporary challenges.

Upcoming Global Public Law Virtual Book Seminars

Details for these webinars will be emailed to our mailing list closer to the webinar date.

Professor Kent Roach, University of Toronto

Book: Remedies for Human Rights Violations: A Two-Track Approach to Supra-national and National Law (CUP, 2021)

1pm - Friday 20 August 2021 (AEST)

Associate Professor Joanna Bell, Oxford

Book: The Anatomy of Administrative Law (Hart, 2020)

5pm - Friday 17 September 2021 (AEST)

Professor Aileen Kavanagh, Trinity College Dublin

Book: The Collaborative Constitution (CUP, forthcoming)

5pm - Friday 22 October 2021 (AEDT)

PATHWAYS TO POLITICS PROGRAM FOR WOMEN

This year, the Centre is excited to be hosting the first NSW iteration of the Pathways to Politics Program for Women at UNSW, in partnership with the Women's Leadership Institute Australia and the Trawalla Foundation. The Program is a non-partisan initiative, which seeks to increase female participation in politics by equipping women with the skills and knowledge to succeed in running for elected office, and to thrive as political leaders, thereby transforming both our politics and our broader policy landscape. We are joining a national network of independent programs based at Australian universities modelled on a Program of the same name, which was launched by the University of Melbourne in 2016 also in partnership with the Women's Leadership Institute Australia and the Trawalla Foundation. The foundation University of Melbourne program was developed in consultation with the Women and Public Policy Program at the Harvard Kennedy School with reference to their long-running "From Harvard Square to the Oval Office" practicum, to redress the underrepresentation of women in Australian politics. A similar independent program, also modelled on the University of Melbourne program, was launched by QUT in 2019 for women in Queensland.

At UNSW, the Program is led in 2021 by Program Director Professor Rosalind Dixon, and Program Co-Director Elisabeth Perham. It is supported by the Office of the Deputy Vice-Chancellor Equity, Diversity and Inclusion at UNSW, the Australian Graduate School of Management at the UNSW Business School, the Australian Human Rights Institute, the UNSW Centre for Ideas, and the Social Policy Research Centre at UNSW Arts, Design and Architecture. In 2021 it will be run online, with weekly sessions beginning on 3 June and concluding on 9 September. It is offered free of charge to around 25 participants, who have been selected on a competitive basis and with regard to diversity of party affiliation, background, life and professional experiences. Topics covered will include: understanding the Australian political system; deciding to run, fundraising and pre-selection; building your base and campaigning; finding your voice and priorities; political leadership; running an office and understanding policy-making; speech writing; and media training. We will draw on

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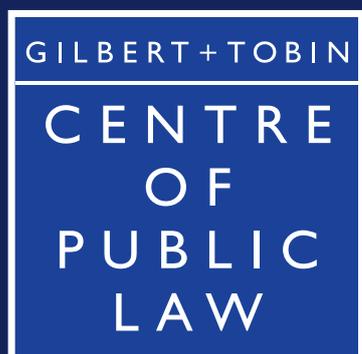
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Alumnae of the Pathways to Politics Program for Women at the University of Melbourne



auspublaw.org



the expertise of members of the Centre to offer training on topics such as the Australian federal government system, political leadership and the Uluru Statement from the Heart, and government integrity. More information can be found at: <https://www.law.unsw.edu.au/pathways-politics-program-women-nsw>

THE AUSPUBLAW BLOG

After a busy year in 2020, responding to the public law implications of the COVID-19 pandemic, AUSPUBLAW has also had a busy start to 2021. The blog continues to be edited by Dr Zsofia Korosy and Elisabeth Perham, two early career researchers and members of the Centre, and co-ordinated by Dr Lisa Burton Crawford, Deputy Director of the Centre. As always, our goal is to publish scholarly analysis of recent cases and other public law developments, as well as insights into the academic research being undertaken by Australia's best public law scholars.

Since the last Centre newsletter, the blog's readership has continued to grow. We now have almost 1700 email subscribers and over 3000 Twitter followers (an increase of roughly 400 subscribers and 300 followers respectively since the previous newsletter).

We have published 18 posts so far this year. Five of those were part of a special series co-hosted in March with the newly launched Indigenous Constitutional Law blog, which is run by the Indigenous Law Centre at UNSW. Those posts by Professor Megan Davis, Professor Geoffrey Lindell, Associate Professor Sana Nakata, Professor Gabrielle Appleby and Eddie Synot, and Dr Harry Hobbs, focussed on the First Nations Voice to Parliament called for in the Uluru Statement from the Heart and discussed, among other things, the reasons why constitutional enshrinement of that Voice is so important. We are excited to welcome the Indigenous Constitutional Law blog to the Australian public law blogging landscape, and encourage you to check it out: www.indigconlaw.org.

We started the year with a very well-received book forum on Susan Bartie's book *Free Hands and Minds: Pioneering Australian Legal Scholars*. These forums were instituted in 2018 and provide an opportunity for scholars and practitioners to critically engage with new book-length scholarship focussed on Australian public law. Professor Katherine Biber, Dr Brendan Lim and Associate Professor Heather Roberts provided generous commentary on the book, and Dr Susan Bartie responded, ending with the reminder: "It is important to remember that we are part of a much larger local, global and changing tradition of legal education and research which has a vast potential to serve society and that, to achieve this, we need more pioneers." In the next few months, we intend to publish a book forum on Shipra Chordia's monograph *Proportionality in Australian Constitutional Law*.

We have published a number of other posts on a range of topics, including on the Full Federal Court's power to issue writs of habeas corpus and how that Court dealt with some of the practical issues coming out of the High Court's decision in *Love v Commonwealth*; how to grapple with racialised jurisprudence produced during the White Australia era; the rule of law implications of non-judicial inquiries into criminal allegations against a Government Minister; the High Court decision in *New Acland* and what it tells us about apprehended bias; and an examination of the High Court's decision in *Benbrika*.

We also have two special series running throughout 2021. The first, organised by Dr Janina Boughey, is part of a number of events to mark the 50th anniversary of the Kerr Report and will feature monthly posts from leading commentators examining whether Australian administrative law is still fit for purpose. We have already had two great posts in that series from Janina and Dr Lynsey Blayden. The second accompanies the Centre's Global Public Law Book Virtual Series, and will feature posts from Australia-based commentators reflecting on the relevance to Australia of ideas from recent books by scholars from around the globe. The first post in that series, by Dr Erika Arban, reflects on the implications for Australian cities of the arguments in Ran Hirschl's recent book on cities in comparative constitutional law.

As always, AUSPUBLAW also provides a monthly roundup of public law events across the country. We have been pleased to share details of webinars and other online events that continue to be held even in the face of the disruption wrought by the pandemic.

We will continue to commission and welcome analysis on public law developments in Australia, and posts which highlight research on Australian public law. We welcome contact from any friends of the Centre who are interested in writing for AUSPUBLAW. To subscribe to the blog, sign up at www.auspublaw.org or follow it on **Twitter @auspublawblog**. To submit a post for consideration by the blog editors, or to advise of an upcoming public law event, contact the editors at auspublaw@unsw.edu.au.

Elisabeth Perham and Zsofia Korosy



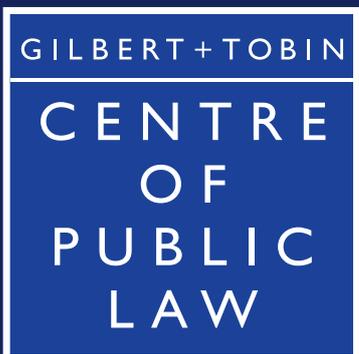
Jo Lennan
G+T Centre Fellow



Kate Jackson
G+T Centre Public Law and Public Policy Fellow



Vishal Karnamadakala
G+T Centre Public Law and Public Policy Fellow



PEOPLE

NEW CENTRE FELLOW

Jo Lennan

Jo Lennan holds the role of Principal Legal Officer at the NSW Department of Premier and Cabinet, where she advises on Cabinet matters, constitutional and statutory questions, legislative reforms, commercial dealings and litigation.

She previously worked as a lawyer at Blake Dawson (now Ashurst) and the Crown Solicitor's Office, and as Associate to the Hon Justice Michael Kirby AC CMG, Justice of the High Court.

Jo holds a master's degree from the University of Oxford, where she was a Commonwealth Scholar. She studied Arts and Law at UTS, receiving the University Medal.

Jo has had a long association with the Gilbert + Tobin Centre of Public Law and has contributed to public law research and teaching at UNSW. She has written for leading publications, including *The Economist*, *The Australian Financial Review*, *The Monthly* and others.

PUBLIC LAW AND PUBLIC POLICY FELLOWS

For the first time, this year, the Centre has hosted three public law and public policy fellows, generously supported by the Manos Foundation. The fellows have been invited to join Centre meetings and events, and work on a major policy-related research project throughout 2021. Centre fellows Matt McLeod and Kate Jackson have been working with Rosalind Dixon and Elisabeth Perham on policy changes designed to include a safer, more inclusive parliament. This aims to complement the work the Centre is doing in supporting the new Pathways to Politics for Women program in NSW. It will also form the basis for a Centre submission later this year to the Jenkins inquiry into Parliamentary workplace culture.

Centre fellow Vishal Karnamadakala is working on a project with Centre Director Rosalind Dixon, and the New Economic Policy Initiative, to develop a new program for NSW public schools on "social change" or "implementation" thinking, drawing on public law and policies to inform the implementation of new design and technological solutions to global challenges. The program has focused this year on water and environmental policy, and has hence involved a close collaboration with UNSW's Global Water Institute. It also involves a collaboration with the NSW Department of Education, to introduce a new social change-maker stream to the Game Changers program run by the Department: <https://education.nsw.gov.au/public-schools/game-changer-challenge>

Introducing our Public Law and Public Policy Fellows

Kate Jackson

My name is Kate and I'm one of the Gilbert + Tobin Centre of Public Law Fellows for 2021. I am currently in my 5th year of an Arts/Law degree at UNSW. My passion and interest in public law has developed significantly over my studies. I am particularly fascinated by administrative law and effective oversight of government decision-making (especially in the immigration field), voting within Australia and constitutional law. I value the opportunity to undertake the Fellowship Program as it has allowed me to further my passion for public law, and contribute to important public policy debates, like making Australian parliaments more family-friendly and gender-accessible. Outside of the law, I am passionate about maintaining a family of plants in my room, baking and playing netball.

Vishal Karnamadakala

I'm a 4th year International Studies / Law student with a somewhat vague range of academic interests, including environmental policy, climate change, legal philosophy, inequality, international relations and political economy. Although I'm not yet entirely sure how these interests may or may not subsume into a career, I hope to work in an interdisciplinary field that treats the law within a broader social context.

That's partly why I joined the Gilbert + Tobin Centre as a student fellow. I wanted to learn more about public policy at a granular level, and to engage with some of its really interesting ongoing projects, especially at the boundaries between law and social change. Of course, the opportunity to work alongside and learn from some of the brightest legal minds in Australia was significant too.

On a more personal level, I love healthy things like music, reading, exercise and time with friends. I also love unhealthy things like caffeine, chocolate, late nights and strange podcasts. Crucially, I have a lifelong connection to *The Simpsons*, which is more or less a spiritual text for people my age.



Matt McLeod

G+T Centre Public Law and Public Policy Fellow

Matt McLeod

My name's Matt and I'm one of the Centre's Public Policy Fellows for 2021. I'm currently in my 5th year of an Arts/Law degree at UNSW. Throughout my law degree, I've particularly enjoyed studying administrative, constitutional, and criminal law, given their intersection with significant political issues. I decided to join the fellowship program because I thought it would be a great opportunity to develop my understanding of public policy and to contribute to current debates in a meaningful way. So far, I've been involved in helping co-author a report recommending changes to make federal Parliament more family-friendly, and drafting materials for the new NSW chapter of the Pathways to Politics program. Though I'm still not 100% certain what sort of career(s) I'd like to pursue after graduation, seeing the great work done at the Centre has definitely encouraged me to pursue opportunities available in the public policy sphere. Outside of uni and work, I love playing tennis, bushwalking, taking trips to IKEA, and doomscrolling through various news sites.

PROJECT REPORTS

ADMINISTRATIVE LAW AND JUSTICE PROJECT

Project Director: Janina Boughey

The Administrative Law and Justice Project brings together UNSW Law scholars, and the wider government law community, concerned with ensuring those who exercise administrative powers act in accordance with public law principles and values. The Project is particularly interested in accountability implications of changes in the nature, scope and exercise of government powers since Australia's administrative law 'system' was designed; such as the use of technology in administrative decision-making; mixed public-private administrative arrangements; and the modern use and interpretation of statutes which confer powers on the executive branch.

2021 is the 50th Anniversary of the Report of the Commonwealth Administrative Review Committee, chaired by Sir John Kerr. That Report led to the establishment of central elements of the Australian system of administrative law including the Commonwealth Ombudsman, the Administrative Appeals Tribunal, the Administrative Review Council and the *Administrative Decisions (Judicial Review) Act 1977* (Cth). To celebrate this important anniversary, Janina Boughey and Lynsey Blayden are co-ordinating a series of events and publications, reflecting on the values and objectives which underpinned the Kerr Report, and asking whether these are still being met given changes to law, administrative law institutions, and the nature of modern government. The events and publications the Project is coordinating for the anniversary include:

- a special monthly blog series hosted by the blogs auspublaw.org and administrativelawmatters.com;
- a symposium, hosted together with the NSW chapter of the Australian Institute of Administrative Law, on Thursday 21 and Friday 22 October; and
- a special issue of the Australian Journal of Administrative Law.

The October symposium will include both in person and online events. Keep an eye on the [auspublaw](http://auspublaw.org) blog and mailing lists for further details in due course.

Lisa Burton Crawford was pleased to present the Keynote Address to the Centre's annual conference in February. Lisa took the 70th anniversary of the High Court's decision in *Australian Communist Party v Commonwealth* as an opportunity to examine the complex ways in which ordinary legislation, common law, and unwritten principles like the rule of law might inform constitutional meaning. This included key questions of administrative justice — such as whether the judicial review remedies provided for in s 75(v) of the *Australian Constitution* can expand to meet contemporary challenges to the rule of law. This issue was highlighted in the 2020 decision of the High Court in *Smethurst v Commissioner of Police* (2020) 94 ALJR 502, in which the plaintiff journalist was left without a remedy despite the High Court unanimously concluding that the Australian Federal Police had unlawfully raided her home. Lisa explored this case in depth (alongside UNSW colleague Dr Michael Crawford) in 'Private Rights, Public Wrongs and the Limits of Property' (2021) 137(Jan) *Law Quarterly Review* 39.

Also in February, Gabrielle Appleby and Janina Boughey wrote a submission to the Attorney-General's consultation on its *Commonwealth Integrity Commission Bill 2020*. In that submission, we warned the government about the limited jurisdiction and powers of the proposed Commission over the public sector in comparison to its law enforcement division. In particular, we argued that the inability of the Commission to receive referrals from the

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CENTRE
OF
PUBLIC
LAW

public or commence own motion investigations, and the forced-secrecy of its processes gives the strong impression that the scheme is designed to shield certain public officials—in particular the parliamentarians enacting it—from full transparency and accountability for corruption. We argued that there was no rationale for the division that had been drawn in the Bill between law enforcement corruption and public sector corruption issues. In March, Janina attended a stakeholder roundtable organised by the Attorney-General on the Bill to speak to this submission. In April, Gabrielle gave a seminar to the House of Representatives as part of her role as constitutional consultant to the Clerk, in which she provided a briefing to them on the consultation draft, focussing particularly on the proposed jurisdiction of the Bill over parliamentarians and the proposed interaction between the investigative powers of the Commission with parliamentary privilege.

Lisa Burton Crawford and Janina Boughey have continued their research with colleagues from the Allens Hub for Technology, Law & Innovation on the public law implications of government automation. Some of that research (with Lyria Bennett Moses, the Hub's Director) will be published shortly by the Federation Press in an edited collection: *The Automated State: Implications, Opportunities and Challenges for Public Law* (edited by Janina and Katie Miller).

COMPARATIVE CONSTITUTIONAL LAW PROJECT

Project Director: Rosalind Dixon

Project Deputy Director: Melissa Crouch

The Comparative Constitutional Law project has been actively involved in curating the Centre's Global book series. Recent panels on the history of the Equal Rights Amendment in the US engaged panellists on comparisons between the experience of constitutional (non) amendment in the US and Australia, and the struggle for racial and gender equality in both countries. Similarly, the recent panel on the role of cities in constitutional law considered the challenges of both urbanisation as well as regional-remote isolation in constitutional governance in Australia, and comparatively.

The Project has also continued to host events focused on the Global South. On the 22nd of February, the Centre hosted a webinar presented by guest speakers Rawin Leelapatana and Abdurrachman Satrio on their co-authored paper 'The Relationship between a Kelsenian Constitutional Court and an Entrenched National Ideology: Lessons from Thailand and Indonesia'. Upcoming events in 2021 on the Global South include: the next webinar in the Centre's Global Public Law Virtual Book Seminar Series (18 June 2021), a meeting of the Working Group on Constitutionalism in the Global South at the ICON-S conference in July, and a paper to be given by guest speaker Gaurav Mukherjee on the 25th of June.

On 1 February, there was a military coup in Myanmar that has tragically set back efforts at constitutional democracy. Melissa Crouch has been providing support to local groups and informing international public debate on the legality of the coup. As a result of global interest in understanding the legality of the coup, Melissa's book on *The Constitution of Myanmar* was profiled by Chatham House (the Royal Institute of *International Affairs* based in London), and listed as a top book by *International Affairs* (a leading international relations journal).

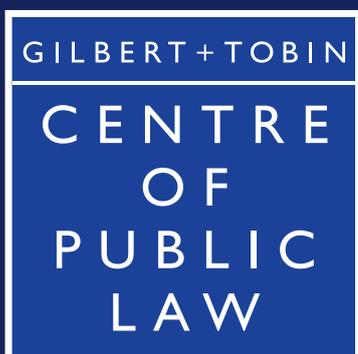
Melissa been invited to speak at numerous webinars about Myanmar and the coup hosted by universities such as ANU, Deakin, Oxford University and the University of Victoria, Canada. Melissa was an invited speaker at an event on constitutional crises co-hosted by LAWASIA, the Commonwealth Lawyers Association, the Law Council of Australia and the South Pacific Lawyers Association. In April, she was an invited Speaker on Myanmar at the International Law and Practice Course of the International Law Section of the Law Council of Australia. Melissa was invited to speak on podcasts and radio in both Australia and overseas, including South Africa, Central Europe, India and Indonesia. She has provided advice to several embassies and international agencies working in Myanmar, including the UK Foreign Office. Her views appeared in *The Financial Times* (UK), CNN, BBC, *The Los Angeles Times*, as well as Australian media outlets. Melissa's advocacy and opinion pieces explain the legal reasons why the military takeover is a coup and not a state of emergency; demonstrating that the military has failed to abide by the Constitution it created. Melissa's opinion pieces have been translated into Burmese by a local newspaper.

The Australia Myanmar Constitutional Democracy Project (AMCDP), which includes UNSW's Theunis Roux, Martin Krygier and Adam Czarnota, issued a **Statement in support of constitutional democracy in Myanmar**.

The Centre has likewise participated in debates about the upcoming redrafting of the Chilean constitution. Most recently, on May 5th, Centre Director Rosalind Dixon addressed Harvard's Rockefeller Center for Latin American Studies, and a Chilean audience, on the importance of procedural rules in constitution-making processes.



Professor Melissa Crouch
on the ISAFIS Roundtable panel





Professor Rosalind Dixon

Sydney Writer's Festival - "Biden's America"

Finally, on the 30th of April, Project Director Rosalind Dixon appeared at the Sydney Writer's Festival on the topic of "Biden's America". Dixon joined Barrie Cassidy, the Hon Bob Carr and Biden's biographer, Evan Osnos, on the main stage at Carriageworks to reflect on the current state of democracy in the US, and future constitutional and policy challenges.

In other news, this year Melissa is part of a group of academics involved in New York University Law School's "*Prevention Project: Constitutional and Legal Tools*". This initiative is led by Tarun Khaitan (Oxford) and Pablo de Greiff (UN Special Rapporteur), and includes comparative constitutional law scholars from around the world. Through a year-long series of monthly dialogues, the project will investigate how integrity institutions can prevent human rights violations, with the overall findings to be presented to the UN General Assembly.

INDIGENOUS LEGAL ISSUES PROJECT

Project Director: Sean Brennan

Efforts around Australia to realise the calls for reform in the Uluru Statement from the Heart have intensified in 2021. Centre members have been heavily engaged in community education, contributing to public policy processes, and marshalling the thoughts and efforts of public lawyers and other experts.

To recap recent political developments, the Uluru Statement from the Heart in May 2017 called for a representative First Nations Voice to the Parliament and government to be enshrined in the Constitution, together with a subsequent process of agreement-making and truth-telling about Australian history overseen by a Makarrata Commission. Because this followed a careful and thorough process of deliberation at Regional Dialogues around the country and a First Nations Constitutional Convention at Uluru, the Referendum Council (appointed by the then Prime Minister and Leader of the Opposition) endorsed the Voice. The Council's report said that the Voice was the only option for a constitutional recognition referendum 'that accords with the wishes of Aboriginal and Torres Strait Islander peoples'.

A parliamentary Joint Select Committee on Constitutional Recognition (JSC) acknowledged in 2018 that the Uluru Statement was a major turning point in the debate, but recommended that a decision on constitutionalising the Voice be postponed, pending a process of co-design involving government officials and a group comprising a majority of Aboriginal and Torres Strait Islander people. After the 2019 election, the Morrison government selected the members of two co-design groups (one nationally-focused, one regionally focused) and a Senior Advisory Group. They were instructed not to make any recommendations on constitutional recognition and the JSC report had made clear that the Coalition government has concerns over the role and function of a Voice to the Federal Parliament and prefers the establishment of local bodies in the first instance. The work of these groups was done behind closed doors during the COVID-affected months of 2020 and an Interim Report to the government on Voice co-design was released for public submissions in January 2021.

In December, in anticipation of the report, Gabrielle Appleby co-ordinated a meeting with public lawyers at more than a dozen universities on the Commonwealth government's Co-Design Process, with presentations from Gabrielle, Sean Brennan, Dylan Lino (University of Queensland) and Megan Davis (Pro Vice-Chancellor Indigenous, UNSW), a leader of the Uluru process. This discussion later bore fruit in one of the first submissions lodged in response to the Co-Design Process, by 45 public lawyers (including many Centre and UNSW colleagues). That submission expressed a strong and unanimous view that to design a Voice which has legitimacy and can achieve its objectives and perform its functions, it must be enshrined in the Constitution.

Since the Interim Report landed in January, Centre members have been busy on many fronts. To inform and share perspectives with interested members of the community, politicians, parliamentary staff and civil society organisations, Gabrielle Appleby and Sean Brennan have been involved in numerous online briefings about the contents and context of the Interim Report. This work has been done in continued close collaboration with Megan Davis and the team at the Indigenous Law Centre (ILC), including Dani Larkin and Eddie Synot.

Gabrielle and Sean were co-authors with Megan and Dr Dylan Lino of a detailed submission to the government's co-design process in April. It again emphasised the centrality of constitutional enshrinement to the design of an effective, successful and legitimate First Nations Voice, and the importance of opening out the design process to more hands-on participation by First Nations peoples. The Gilbert + Tobin Centre of Public Law also lodged a submission detailing the arguments in favour of constitutional enshrinement, which was authored by Rosalind Dixon, Kate Jackson, Andrew Lynch, Lisa Burton Crawford, Elisabeth Perham and Zsofia Korosy.

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CENTRE
OF
PUBLIC
LAW

Gabrielle co-ordinated two further workshops in February and April to support the continued development of thinking about the Voice and its constitutionalisation. The first, with experts in parliamentary procedures, focused on strengthening the proposed interaction of the Voice with the federal Parliament. The second, with constitutional experts from around the country, included presentations from Megan, Ros, Gabrielle and Sean. Gabrielle also gave a seminar on behalf of the Clerk of the House of Representatives to parliamentary staff focused on proposals in the Interim Report for interaction between the Voice and the Parliament.

Ros has been a strong supporter and contributor in many of these efforts, in her role as Centre Director, ensuring that the G+T Centre continues to treat First Nations issues as a core part of its work on public law issues in Australia. In April, Sean contributed video modules on Indigenous rights, recognition and reform, for material being developed by Ros and the Centre to support schools education and pathways into politics for women.

Finally, Gabrielle again (and yes, she has done all this while returning part-time from maternity leave this year!) played a key role in the launch by the Indigenous Law Centre at UNSW of the new Indigenous Constitutional Law blog (www.indigconlaw.org). Please visit the site to read a host of great posts from exciting and emerging First Nations writers like Bridget Cama, Dani Larkin and Sana Nakata, as well as some veterans in the field, and to keep tabs on what has happened and what is ahead with curated lists of recent developments and upcoming events.

THE JUDICIARY PROJECT

Project Director: Gabrielle Appleby

January saw my return to the Centre, and The Judiciary Project after 12 months of maternity leave. As my first project report since my return, I will take some time to reflect on some of the important developments that The Judiciary Project has been involved in across the last year with respect to the judiciary and its regulation.

Perhaps the most significant development was the findings of sexual harassment of a female associate by former High Court Judge Dyson Heydon AC QC made by an administrative investigation ordered by the Chief Justice of the High Court, Susan Kiefel. Following the findings, the Chief Justice announced the introduction of new measures for the protection of court staff while at work. In July last year, I was involved in the organisation of more than 500 women working in the law writing to the Attorney-General and the Chief Justice, calling for further structural reforms including an appropriately designed, independent complaints-handling body and reforms to the appointments process. This year in February, the Attorney-General announced that the government was committed to introducing an independent complaints mechanism for federal judicial officers in the future. I have also been engaged by the Review of Sexual Harassment in Victorian Courts, *Preventing and Addressing Sexual Harassment in Victorian Courts and VCAT*, led by Dr Helen Szoke AO. I assisted the review in the constitutional framing of their investigations and recommendations.

Last year I was asked to join the Advisory Committee for the Australian Law Reform Commission's (ALRC) current inquiry into the laws of impartiality and bias as they apply to the federal judiciary. Drawing on my research with Stephen McDonald SC on psychological understandings of bias and assessing bias, I presented at a co-hosted ALRC and Australian Academy of Law event critiquing the self-recusal process by reference to behavioural psychological studies, which put into doubt whether judicial officers are capable of assessing their own situation from the perspective of the fair-minded lay observer. The ALRC's Consultation Paper was released on 30 April, and it is due to report on 30 September 2021.

I have been commencing some work with Brian Opeskin on a critique of the use of empiricism in judicial studies (jurimetrics). Our article, 'Responsible Jurimetrics: A Reply To Silbert's Critique Of The Victorian Court Of Appeal' considered the helpfulness, or otherwise, of empirical measurement of judicial performance by reference to success on appeals. It warns that numbers often only give a partial account, and their value depends on sophisticated data collection and analytical methods accompanied by transparent explanation. Casual, opaque and even sloppy empiricism risks bringing the judiciary unfairly into disrepute. On 28 April 2021, I presented our critique of jurimetrics to an event hosted by the Australian Academy of Law to mark the commencement of the South Australian Court of Appeal.

These past few months, Professor Andrew Lynch and I have been working to finalise our report to the Australasian Institute of Judicial Administration (AIJA) with our colleagues Professor Brian Opeskin, Professor Suzanne Le Mire (University of Adelaide) and Jessica Kerr (UWA) that looks at the landscape of judicial education that is currently provided in Australia. It examines the priorities revealed by the offerings of judicial education providers, who is devising and delivering the programs, how diverse are the delivery modes, whether there are programs targeted to the needs of judicial officers at different career stages and, importantly, whether

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CENTRE
OF
PUBLIC
LAW

there are gaps or jurisdictional inequalities in the provision of education that might be a cause for concern and invite a remedial response.

Finally, Andrew and I are excited by the publication of our now long-awaited edited collection with Cambridge University Press, *The Judge, the Judiciary and the Court: Individual, Collegial and Institutional Judicial Dynamics* in Australia. This collection is the result of a workshop held back in 2018 with academics and judicial officers. It examines the impact of the individual judges, their collegiate dynamics and the institutional values on understanding the Australian Court. It includes contributions on judicial leadership, diversity, collegiality, dissent, style, technology, the media and popular culture.

PUBLIC LAW AND PUBLIC HEALTH PROJECT

Project Co-Directors: Rosalind Dixon and Janina Boughey

Project Deputy Directors: Elisabeth Perham and Shreeya Smith

The Public Law and Public Health project is focussed on teasing out the public law implications and challenges thrown up by COVID-19. An ongoing feature of Australian responses to COVID-19 has been the reliance on delegated legislation to implement public health initiatives. As detailed further in the Statutes project report below, Gabrielle Appleby, Janina Boughey, Sangeetha Pillai and George Williams made submissions and gave evidence to the Senate Standing Committee for the Scrutiny of Delegated Legislation on the reliance on 'non-disallowable' instruments in particular, throughout 2020. They raised constitutional and democratic principles underpinning the power of disallowance and advised the Committee on when and how disallowance should be dispensed with.

2021 also saw the public law implications of COVID-19 feature in both the Centre's conference agenda and the Public Law in the Classroom Workshop. Centre members Janina Boughey and Shipra Chordia spoke at the Centre's annual conference. Janina presented a paper on the accountability issues raised by the use delegated legislation and other instruments during COVID-19, and Shipra discussed what role, if any, proportionality plays in considering the constitutional implications of internal border closures under s 92.

The second session at the Public Law in the Classroom Workshop focussed on public law and public emergencies. It canvassed the availability and use of accountability mechanisms such as public inquiries to scrutinise public health responses, as well as the important role played by public lawyers in scrutinising government responses, including through the lens of whether, as a matter of public policy, government responses have been proportionate.

Looking beyond Australian shores, Ayesha Wijyalath has written about the dangers of concentrating power in the hands of the executive in times of public emergency in the Sri Lankan context.

STATUTES PROJECT

Project Director: Lisa Burton Crawford

The Statutes Project aims to examine contemporary developments in legislative practice and statutory interpretation, in comparative perspective. Straddling the divisions of constitutional law, administrative law and legal theory, it aims to shed new light on important public law debates by viewing them in light of the way in which statutes are used as a tool of governance in the modern administrative state.

One of the key contributions of this project has been to highlight the complexity of Australian legislation, and its implications for public law norms, values and institutions (see Lisa Burton Crawford, 'The Rule of Law in the Age of Statutes' (2020) 48(2) *Federal Law Review* 159). Janina Boughey and Lisa Burton Crawford have recently turned to examine the ways in which technology might assist to ameliorate the challenges posed by complex legislation. As explained in previous newsletters, Janina and Lisa have established a research partnership with members of the Allens Hub for Law, Technology and Innovation, bringing together their public law expertise with the technological insights of their Hub colleagues to examine the potential benefits and challenges posed by government automation. In 2021, this team has focused upon the idea of 'rules as code', which entails the co-creation of machine readable or consumable versions of legislation which can be automatically fed into automated systems, alongside the natural language version of the law. In their contribution to Janina's forthcoming co-edited collection, *The Automated State*, Janina, Lisa and Hub Director Professor Lyria Bennett Moses outline the state of 'rules as code' technology, and whether it can be reconciled with the way in which legislation is understood and interpreted in Australian law. This chapter is intended to provide the foundation for further research on the topic by this team.

GILBERT + TOBIN

CENTRE
OF
PUBLIC
LAW

Lisa and Janina have also recently published the second edition of *Public Law and Statutory Interpretation: Principles and Practice* with The Federation Press – alongside Associate Professor Melissa Castan and Dr Maria O’Sullivan from Monash University. This book is the first text to draw together the foundations of Australian public law with the principles of statutory interpretation, to clearly explain how the principles of statutory interpretation reflect the constitutional relationship between the legislative, executive and judicial branches of government. In reviewing the first edition, Justice John Basten of the New South Wales Court of Appeal wrote that:

I know of no better text to introduce Australian law students to this critical topic [of statutory interpretation]... This book should be an essential text in all first year law courses. Further, its sound structure and clear expression repay reading by those of us who received no formal grounding in this vital aspect of public law, but struggle with statutes on a daily basis.

Lisa has also continued her own research into the core principles and parameters of statutory interpretation, including in a new examination of the principle of legality which will appear in the *Melbourne University Law Review* later this year.

Gabrielle Appleby and Janina have continued their work on parliamentary scrutiny of delegated legislation. This issue became particularly pressing during 2020, with many of the orders and regulations made in response to COVID-19 being ‘non-disallowable’. Gabrielle, Janina, Sangeetha Pillai and George Williams made submissions and gave evidence to the Senate Standing Committee for the Scrutiny of Delegated Legislation on this issue throughout 2020. They submitted that there are strong constitutional and democratic principles underpinning parliament’s duty to scrutinise, and power to disallow, delegated legislation and that instruments should only be non-disallowable in exceptional and compelling circumstances. They provided advice to the Committee on what categories of exceptions may be warranted and the processes through which decisions about non-disallowance ought to be made. Our submissions and evidence were influential in the Committee’s Report, tabled in March 2021. Janina spoke on the accountability issues raised by the use delegated legislation and other instruments during COVID-19 at the Centre’s annual conference in February.

PUBLICATIONS AND PRESENTATIONS

PUBLICATIONS

Co-authored publications

Gabrielle Appleby and Andrew Lynch (eds), *The Judge, the Judiciary and the Court: Individual, Collegial and Institutional Judicial Dynamics in Australia* (Cambridge University Press, 2021)

Gabrielle Appleby, ‘Responsible Jurimetrics: A Reply To Silbert’s Critique Of The Victorian Court Of Appeal’ (2020) 94 *Australian Law Journal* 923 (with Brian Opeskin)

Gabrielle Appleby, ‘The role of Tasmania’s subordinate legislation committee during the COVID-19 emergency’ (2020) 45 *Alternative Law Journal* 188 (with Brendan Gogarty)

Gabrielle Appleby, ‘The Pervasive Constitution: The Constitution outside the Courts’ (2020) 48(4) *Federal Law Review* 437 (with Vanessa MacDonnell and Eddie Synot)

Gabrielle Appleby, ‘A First Nations Voice: Institutionalising Political Listening’ (2020) 48(4) *Federal Law Review* 529 (with Eddie Synot)

Gabrielle Appleby, ‘Executive Policy Development and Constitutional Norms: Practice and Perceptions’ (2020) 18(4) *International Journal of Constitutional Law* 1136 (with Stephen McDonald)

Gabrielle Appleby, ‘Punishment and Chapter III of the Constitution’ in John Griffiths and James Stellios (eds), *Current issues in Australian Constitutional Law: Tributes to Professor Leslie Zines* (Federation Press, 2020) (with Stephen McDonald)

Gabrielle Appleby and Andrew Lynch ‘Sir Anthony Mason: Towering over the High Court of Australia’ in Iddo Porat and Rehan Abeyratne (eds) *Towering Judges: A Comparative Study of Constitutional Judges Australia* (Cambridge University Press, 2020)

Gabrielle Appleby and Andrew Lynch, ‘The Judge, the Judiciary and the Court: The Individual, the Collective and the Institution’, in Gabrielle Appleby and Andrew Lynch (eds) *The Judge, the Judiciary and the Court: Individual, Collegial and Institutional Judicial Dynamics in Australia* (Cambridge University Press, 2021)

Gabrielle Appleby, ‘The Chief Justice: Under relational and institutional pressure’ in Gabrielle Appleby and Andrew Lynch (eds) *The Judge, the Judiciary and the Court: Individual, Collegial and Institutional Judicial Dynamics in Australia* (Cambridge University Press, 2021) (with Heather Roberts)

Chantal Bostock, ‘Short Shrift to International Non-Refoulement Obligations? Australia’s Approach to Criminal Deportation’, *International Journal of Refugee Law*, (2021) (with Jason Cabarrús)

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CENTRE
OF
PUBLIC
LAW

Lisa Burton Crawford, 'Private Rights, Public Wrongs and the Limits of Property' (2021) 137(Jan) *Law Quarterly Review* 39 (with Michael Crawford)

Lisa Burton Crawford and Janina Boughey, *Public Law and Statutory Interpretation: Principles and Practice* (Federation Press, 2021) (with Melissa Castan and Maria O'Sullivan)

Rosalind Dixon, 'Ely in the world: The global legacy of Democracy and Distrust forty years on', *International Journal of Constitutional Law*, (2021) (with Michaela Hailbronner)

Rosalind Dixon, 'Comparative constitutional adaptation: Democracy and distrust in the High Court of Australia', *International Journal of Constitutional Law*, (2021) (with Amelia Loughland)

Rosalind Dixon, 'Comparative Constitutional Matching: From Most Similar Cases to Synthetic Control?' A part of the series, Measuring Impact in Constitutional Law. *The University of Chicago Law Review Online* (2021) (with Richard Holden)

Rosalind Dixon, 'Response: Querying The Gender Dynamics of Interruptions at Australian Oral Argument', *UNSW Law Journal* (2021), No 2, (with Amelia Loughland)

George Williams, *Everything You Need to Know About the Uluru Statement from the Heart* (NewSouth Publishing, 2021) (with Megan Davis).

George Williams, 'Automating Government Decision-Making: Implications for the Rule of Law' in de Souza, SP, and Spohr, M (eds), *Technology, Innovation and Access to Justice: Dialogues on the Future of Law* (Edinburgh University Press, 2021) 91-111 (with Monika Zalnieriute and Lyria Bennett Moses).

George Williams, '100 Years of Speaking: Gender Equality Among Barristers Before the High Court' (2020) 94 *Australian Law Journal* 960-970 (with Winsome Hall).

Gabrielle Appleby

'The 2018 Australian High Court Constitutional Term: Placing the Court in its Inter-institutional Context' (2021) 44 *University of New South Wales Law Journal* 267

'Australia urgently needs an independent body to hold powerful judges to account' in *The Conversation Yearbook 2020: The Year that Changed Us* (Thames and Hudson, 2020)

Janina Boughey

'Challenging Administrative Action in the Modern Mixed Administrative State', *adminlawblog*, 24 March 2021, <https://adminlawblog.org/2021/03/24/janina-boughey-challenging-administrative-action-in-the-modern-mixed-administrative-state/>

'50 years after the Kerr Report: is Australian administrative law still fit for purpose?' *AUSPUBLAW*, 19 March 2021 <https://auspublaw.org/2021/03/50-years-after-the-kerr-report-is-australian-administrative-law-still-fit-for-purpose/>; and *administrativelawmatters*, <https://www.administrativelawmatters.com/blog/2021/03/19/50-years-after-the-kerr-report-is-australian-administrative-law-still-fit-for-purpose-dr-janina-boughey/>

Lisa Burton Crawford

'Would a Non-judicial Inquiry into the Attorney-General Undermine the Rule of Law?', Blog post published on *AUSPUBLAW*, 10 March 2021

Keynote Address on the 2020 Constitutional Term, Gilbert + Tobin Centre of Public Law Constitutional Law Conference, 12 February 2021

'Statutory Precedents', Paper presented at The Global Summit, Hosted by The International Forum on the Future of Constitutionalism, as part of a panel on 'Stare Decisis, Justice and the Rule of Law', January 15 2021

Melissa Crouch

'**What are military tribunals?**' *Mizzima* (Burmese and English), 2021

'**The Diplomat Q&A on Myanmar's Coup,**' 24 March 2021

'What is martial law in Myanmar?' *Mizzima*, 16 March 2021 (Burmese)

'**Did Myanmar's coup install an illegitimate president?**' *The Diplomat*, 12 March 2021

'**After Myanmar's Coup: Can the military hold an election?**' *Election Watch* 26 February 2021 (the University of Melbourne)

'**The Constitutional Fiction of Myanmar's Coup,**' *The Jurist* [the largest non-profit online legal news service run by law students from 29 law schools in the US, the UK, the Netherlands, Kenya, Mauritius, India, Australia and New Zealand], 2021

'**Myanmar Coup on the pretext of constitutional fig leaf**' 3 February 2021, published in both the *The East Asia Forum* and *Australian Financial Review* (the latter under the heading 'Nothing constitutional about removal of Suu Kyi government')

'**Myanmar's empty promise of constitutional reform**' 2 February 2021, *The Interpreter*

'**The power and ambition behind Myanmar's coup**' 2 February 2021, *The Age*.

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OF
PUBLIC
LAW

Rosalind Dixon

'Towering versus Collegial Judges: A Comparative Reflection.' In R. Abeyratne & I. Porat (Eds.), *Towering Judges: A Comparative Study of Constitutional Judges* (Comparative Constitutional Law and Policy, pp. 308-329). Cambridge: Cambridge University Press. (2021).

Andrew Lynch

'Individual Judicial Style and Institutional Norms' in G Appleby and A Lynch, *The Judge, The Judiciary and the Court – Individual, Collegial and Institutional Judicial Dynamics in Australia* (Cambridge University Press, 2021) 208-232.

Siddharth Narrain

Book Review of Gautam Bhatia, *Transformative Constitutionalism: A Radical Biography in Nine Acts* (Harper Collins India, 2019) in (2021) *Indian Law Review* (5) (1) 139-47.

Siddharth Narrain "Broadcasting Hate: Media, Law and Hate Speech in India", *Rajiv Gandhi National University of Law Student Research Review*, 8 April 2021, <http://rsrr.in/2021/04/08/broadcasting-hate-media-law-and-hate-speech/>

Ayesha Wijayalath

'INDIA & SRI LANKA - COVID-19 and Abusive Constitutional Change in Sri Lanka', *IACL Blog*, 23 November 2020 <https://www.iacldemocracy-2020.org/blog/2016/3/23/blog-post-sample-9wntn-6ye75-hwawc-xx9lz-p6k2z-y8y6h-cplw4-4bcr5-t2hdf>

PRESENTATIONS

Janina Boughey

'The use of delegated legislation and other instruments during COVID-19', Gilbert + Tobin Centre of Public Law, Constitutional Law Conference, February 2021.

Sean Brennan

'The Struggle for the Rights and Freedoms of Aboriginal and Torres Strait Islander Peoples', Recording for Pathways to Politics Program for Women (NSW) Module, 30 April 2021.

'Indigenous Rights and Recognition', Recording for NSW Department of Education Student Civics Video Module, 30 April 2021.

'Constitutional Drafting and the Proposed Section 129', First Nations Voice – Constitutional Drafting Workshop, UNSW, Online, 27 April 2021.

'Context and Content of the Voice Co-Design Process', NATSILS and ATSILS Policy Officers, Executives and Board Members, Online, 8 April 2021.

'Constitutional Change for the Classroom: A Webinar for Educators', Reconciliation NSW and the Indigenous Law Centre, Online, 11 March 2021.

'How Can You Support a First Nations Voice to Parliament?', Reconciliation NSW and the Indigenous Law Centre, Online, 10 March 2021.

'A First Nations Voice to Parliament, the Uluru Statement and the Interim Report on Voice Co-Design', St Vincent de Paul Society, Online, 9 March 2021.

'The Interim Report of the Voice Co-Design Process', Induction for Staff of Pro-Vice-Chancellor Indigenous UNSW, Online, 10 February 2021.

Presentation on Interim Report of Indigenous Voice Co-design Process to Senator Malandirri McCarthy and Linda Burney MP, 9 February 2021.

'Briefing on the Interim Report: The Indigenous Voice Co-Design Process', Indigenous Law Centre and Uluru Statement from the Heart Dialogue Week of Action, Online, 27 January 2021.

'The Indigenous Voice Co-Design Process', Public Lawyers Seminar, Online, 14 December 2020.

Melissa Crouch

Invited Speaker on 'Human Rights and Democracy in Myanmar' Indonesian Student Association for International Studies (ISAFIS), University of Indonesia, April 2021.

Invited speaker on Myanmar at the International Law Section of the Law Council of Australia, International Law and Practice Course, April 2021.

Invited speaker on *Oxford Political Review* (UK), with Charles Petrie, March 2021.

Invited speaker at University of Oxford webinar on Myanmar's military coup and the influence of China, March 2021.

Invited speaker on *Constitutional Breakdowns, Coups, Crises and Disruptions: Experiences from the Commonwealth*, LAWASIA, Commonwealth Lawyers Association, Law Council of Australia and South Pacific Lawyers Association, Feb 2021.

GILBERT + TOBIN

CENTRE
OF
PUBLIC
LAW

Invited speaker on the ***Military coup in Myanmar***, ANU, Myanmar Institute (recorded), Feb 2021.

Invited speaker on *The Myanmar coup in context*, Deakin University, Feb 2021.

Rosalind Dixon

'Abusive Constitutional Borrowing: Plenary Address', International Forum on the Future of Constitutionalism, University of Texas, 11 January 2021 (with David Landau) (online)

'Restorative Constitutionalism', University of Maryland Law School, Schmooze, 27-28 February 2021 (with David Landau) (online)

'Strong Constitutional Courts', Constitutional Courts Symposium, Constitutional Court of Jordan & Center for Constitutional Democracy, University of Indiana Bloomington, 28 March 2021 (online)

'The Importance of Constitutional Procedure', Harvard Academic Forum for the New Constitution in Chile, 6 May 2021 (online)

Comment on papers, Conference on Foreign Judges on Domestic Courts, HKU, 7 May 2021 (online)

Andrew Lynch

'Setting Digital Classrooms to Facilitate Teaching and Learning' (Panellist), *Reimagining & Transforming the Future of Law Schools and Legal Education: Confluence of Ideas During & Beyond COVID-19*, Jindal Global Law School, Delhi, 25-27 November 2020

'Legal Education Reform in a Globalised Context', *Tsinghua World Forum on the Rule of Law*, Tsinghua Law School, Beijing, 16 October 2020

MEDIA PUBLICATIONS

Rosalind Dixon

'In fairness to Christian Porter, his denial cannot end the matter' *The Sydney Morning Herald* (3 March 2021)

'Annette Kimmitt made a serious mistake when she sent email to staff' *The Sydney Morning Herald* (11 March 2021)

'New statement on allegation against Christian Porter' *The Drum* (12 March 2021)

George Williams

'Trump's Legacy: A Wounded Democracy' *The Australian* (12 April 2021).

'Four-year Terms Offer Certainty and Fairness' *The Australian* (30 March 2021).

'Citizens' Right to Return Home is Not Guaranteed' *The Australian* (16 March 2021).

'Integrity Must Rule Process of Judging Conduct of Judges' *The Australian* (15 February 2021).

'Voice at Risk unless Enshrined in the Constitution' *The Australian* (1 February 2021).

'The Power to Order Vaccinations Already Exists' *The Australian* (28 December 2020).

'No Good Reason to Hide Powers from Parliament's Eye' *The Australian* (7 December 2020).

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'America: It's a Democracy but not as we Know it' *The Australian* (9 November 2020).

SUBMISSIONS

Joint Submissions

Gabrielle Appleby, Sean Brennan, Megan Davis and Dylan Lino, Submission to the Co-Design Process for an Indigenous Voice, 30 April 2021.

Gabrielle Appleby and Janina Boughey, Submission to Commonwealth Attorney General on Commonwealth Integrity Commission, February 2021.

George Williams (with Keiran Hardy), Submission to Parliamentary Joint Committee on Intelligence and Security 'Inquiry into Intelligence Oversight and Other Legislation Amendment (Integrity Measures) Bill 2020', 11 February 2021.

PODCASTS

Melissa Crouch

Myanmar Musings on the Constitution of Myanmar, podcast of the ANU, April 2021.

CEU Democracy Institute's **Review of Democracy** (RevDem) series on the Global South, March 2021.

The Lowy Institute podcast, **The Coup in Myanmar**, Feb 2021.

Jindal School of International Affairs (India), **Centre for Southeast Asian Studies**, on the coup in Myanmar, Feb 2021.

Interview on Cape Talk (South Africa) on **Myanmar and the international community**, Feb 2021.

The Asia Society (Sydney) podcast, Explainer | **Dr Melissa Crouch on the Myanmar coup**, Feb 2021.

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