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GILBERT + TOBIN CENTRE OF PUBLIC LAW NEWSLETTER DECEMBER 2021



Rosalind Dixon
Centre Director

Dear Friends,

NSW has been through a challenging period since our last newsletter. The state's second lockdown raised a range of important public law issues, but also personal challenges for many members of our community in the form of home-schooling and social isolation. Once again, our community was extremely strong and supportive of one another, and we thank you all for that.

Despite the challenges, there have been many things to celebrate – including the arrival of a new baby for our Deputy Director, Lisa Burton Crawford, and her husband Michael Crawford, and the appointment of two new Centre fellows, Amanda Sapienza and Aaron Irving. We were also delighted to celebrate the very well-deserved promotion of Dr Burton Crawford and Dr Janina Boughey to the rank of Associate Professor. Congratulations Lisa and Nina!

We have also had a busy and productive several months. In August, the Centre hosted the semi-annual Mason Conversation, joint with the Faculty of Law & Justice. We were privileged to host Her Excellency Margaret Beazley AO for a wide ranging discussion of her professional experiences, and current perspective on the constitutional and practical significance of her role as the New South Wales Governor.

We also continued our successful global book series, in which global authors speak about a recent work of public law and engage in a dialogue with Australian-based scholars about the relevance of that work to Australian public law. As part of that series, we have recently hosted Professors Kent Roach and Aziz Huq to talk about their interesting new work on constitutional remedies, and Associate Professor Joanna Bell in conversation with Emeritus Professor Mark Aaronson and Dr Janina Boughey about her work on the nature of administrative law doctrine and adjudication. The final instalment of the series for 2021 saw the launch of Professor Paul Daly's book *Understanding Administrative Law in the Common Law World* launched by the Hon Justice James Edelman. Organised in partnership with the University of Ottawa's Public Law Centre, Dr Janina Boughey, Dr Dean Knight (Victoria University Wellington), and Ms Narelle Bedford (Bond University) commented on Professor Daly's new book.

Another highlight in the administrative justice context in recent months for the Centre has been the Kerr Committee Conference and associated lecture delivered by The Hon Justice John Griffiths. The conference was attended by over 200 people and was a great success for the Centre and cements the efforts by Dr Boughey and our Deputy Director, Lisa Burton-Crawford, to build the strength of the Centre in administrative justice as a complement to its work in constitutional law.

Around the same time, the Centre was also pleased to host an all-star book panel to launch *Judicial Federalism in Australia: History, Theory, Doctrine and Practice*, by Dr Anna Olijnyk and Professors Gabrielle Appleby, John Williams and James Stellios. This work seeks to provide a holistic analysis of the federal influence of Chapter III. It considers the historical underpinnings of the Chapter, tracing its development from the colonial justice system through the convention debates and into the first years of Federation. It then provides an overview of the theoretical and doctrinal development of Australia's Chapter III jurisprudence as it relates to the States and Territories and how it has affected the operation of the federation. It is also notable for providing, for the first time, an empirical account of the effect of Chapter III jurisprudence on the development of State and Territory policies. The book was launched at an online forum, with commentary and reflections on the work from [the Hon William Gummow AC](#), [Dr Brendan Lim](#), [Professor Sarah Murray](#) and [Professor Erin Delaney](#).



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11 FEBRUARY 2022

**Constitutional Law
Conference**

**Online with pod/satellite
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Melbourne and Perth.**

For details of Centre events,
publications, submissions
and so on please either go
to our website:

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or join our mailing list by
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In October, we co-hosted a new virtual postgraduate conference, joint with the University of Oxford. The conference ran across five days and featured a process of peer exchange and commentary among doctoral students at Oxford's Bonavera Institute and the Centre and was widely acclaimed by all participants as a productive and helpful scholarly exchange, as well as opportunity to meet new friends and colleagues despite our current COVID-driven isolation.

Other recent highlights for the Centre include the launch of a new website, criticaljudgments.com, collated by Professor Gabrielle Appleby and myself with the help of two outstanding current and former Centre interns and research assistants – Amelia Loughland (now a lawyer at HSF and Centre fellow) and Ariella Buckley. The website features access to feminist and critical judgments projects worldwide, as well as teaching and other resources related to those projects. It was launched by the Hon Margaret McMurdo AC, and Dr Nicole Watson speaking about the recent publication of the [Indigenous Judgments Project](#).

The event also provided an opportunity to launch a new public law and gender project co-directed by Professor Appleby and myself, which will examine a range of issues of significance to gender and public law – including female leadership in parliament and the judiciary, comparative approaches to gender equality, and the public law dimensions to responding to sexual harassment and violence in Parliament and the courts. This project will also be the new home for the Pathways to Politics Program NSW, which ran for the first time in 2021.

The end of the year always marks a busy period for the Centre with various scholarly round tables and events. We are looking forward to the upcoming annual Comparative Constitutional Roundtable, which is hosted by the Comparative Constitutional Law Project, as well as *ad hoc* events supported by the Project on equality commissions and the notion of effective government. We are especially grateful to Dr. Lyndsey Blayden for her work in supporting both the Kerr Committee and the organization of the effective government workshop joint with the Centre for Comparative Constitutional Studies.

The end of the year also marks the opportunity to thank several other Centre members and acknowledge their contributions, as well as to say certain farewells. We thank Tamas Allenby for the role he has played as the Acting Centre Administrator while Tom Chapman has been on parental leave. He has done a terrific job, and we look forward to staying in touch with Tam and wish him well in 2022.

We are also pleased to announce that two of our PhD students, Shreeya Smith and Elisabeth Perham, have recently been appointed to Level A positions at Western Sydney University. Shreeya departs in January to her new position at WSU, and thus this newsletter provides a fitting opportunity to thank her for her many contributions to the Centre, in particular as a communications associate and affiliate of the Public Law and Public Health project.

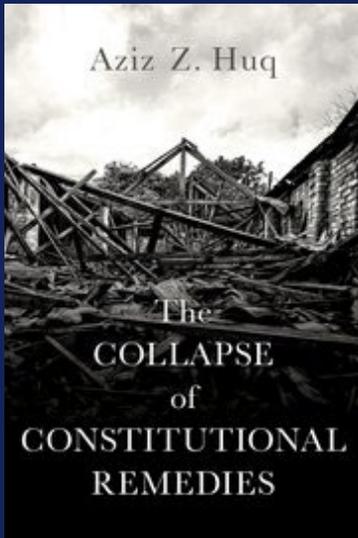
As we look forward to 2022, we hope that there may be more opportunities to gather in person. However, we have found it very beneficial to meet online and have the chance to engage with public lawyers around Australia and therefore plan to continue to conduct many of our seminars and webinars in the same format next year.

We also look forward to our annual [Public Law in the Classroom Conference](#) in February, as well as our [Constitutional Law Conference](#) on Friday, the 11th of February. If you have not already registered, we strongly urge you to do so. It promises to be a stimulating day and program, and we are organizing a series of individualized cocktail parties or catch ups at the end of the day in almost all Australian capital cities, so that we can also meet in person with at least some colleagues. We will also continue to seek your views about this kind of hybrid format, and use that to inform our plans for 2023.

For those of you looking forward to next year, Professor Gabrielle Appleby and I will be joining a series of interesting panels at the Sydney Festival in January entitled "The Reckoning", which we would warmly invite you to and look forward to seeing you there, if you are available to join us. Gabrielle's panel in particular picks up on the important work she did in response to allegations of sexual harassment against former Justice Dyson Heydon, and connects to the work she and I will be doing as part of the Centre's new Public Law and Gender project. You can find out more about the panels [here](#) and [here](#).

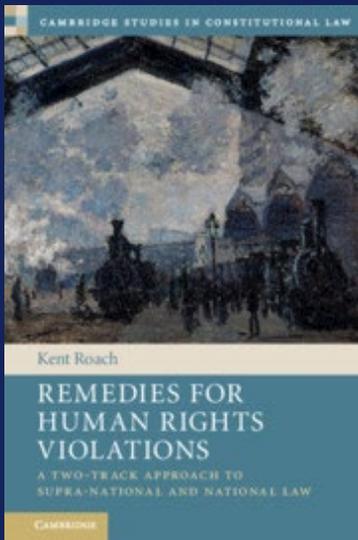
In the meantime, we wish you a very healthy and happy festive season and holidays and hope that you are all able to get away for a much-deserved break after what has again been a very challenging year.

Sincerely
Rosalind Dixon



The Collapse of Constitutional Remedies

Aziz Z Huq



Remedies for Human Rights Violations: A Two-Track Approach to Supra-national and National Law

Kent Roach

CENTRE ACTIVITIES

EVENTS

GLOBAL PUBLIC LAW VIRTUAL BOOK SEMINAR SERIES

19 March – 25 November, 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 AUSPUBLAW featuring commentary on the book for an Australian audience. Four seminars were held in the first half of the year, and information about those is available in the July 2021 Newsletter. A further three seminars were held in the second half of the year.

SEMINAR 5: PROFESSOR AZIZ HUQ, UNIVERSITY OF CHICAGO AND PROFESSOR KENT ROACH, UNIVERSITY OF TORONTO

20 August 2021

Featured books:

- Aziz Z Huq, [*The Collapse of Constitutional Remedies*](#) (Oxford University Press, 2022)
- Kent Roach, [*Remedies for Human Rights Violations: A Two-Track Approach to Supra-national and National Law*](#) (Cambridge University Press, 2021)

Commentator: Professor Rosalind Dixon

About the books

***The Collapse of Constitutional Remedies* (Oxford University Press, 2022)**

An exploration of how and why the Constitution's plan for independent courts has failed to protect individuals' constitutional rights, while advancing regressive and reactionary barriers to progressive regulation.

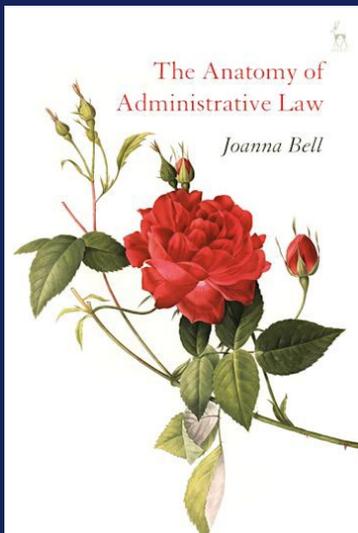
Just recently, the Supreme Court rejected an argument by plaintiffs that police officers should no longer be protected by the doctrine of "qualified immunity" when they shoot or brutalize an innocent civilian. "Qualified immunity" is but one of several judicial inventions that shields state violence and thwarts the vindication of our rights. But aren't courts supposed to be protectors of individual rights? As Aziz Huq shows in *The Collapse of Constitutional Remedies*, history reveals a much more tangled relationship between the Constitution's system of independent courts and the protection of constitutional rights.

While doctrines such as "qualified immunity" may seem abstract, their real-world harms are anything but. A highway patrol officer stops a person's car in violation of the Fourth Amendment, violently yanked the person out and threw him to the ground, causing brain damage. A municipal agency fires a person for testifying in a legal proceeding involving her boss's family-and then laughed in her face when she demanded her job back. In all these cases, state defendants walked away with the most minor of penalties (if any at all). Ultimately, we may have rights when challenging the state, but no remedies. In fact, federal courts have long been fickle and unreliable guardians of individual rights. To be sure, through the mid-twentieth century, the courts positioned themselves as the ultimate protector of citizens suffering the state's infringement of their rights. But they have more recently abandoned, and even aggressively repudiated, a role as the protector of individual rights in the face of abuses by the state. Ironically, this collapse flows not decisions that the Framers took when setting up federal courts in the first place.

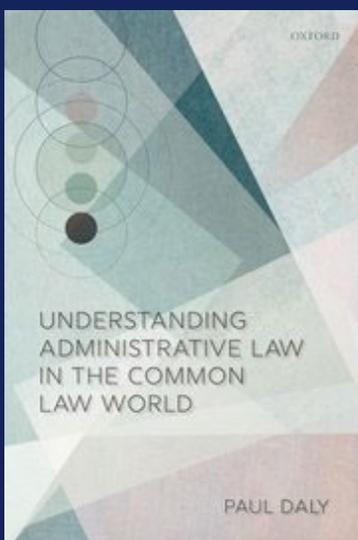
A powerful historical account of how the expansion of the immunity principle generated a yawning gap between rights and remedies in contemporary America, *The Collapse of Constitutional Remedies* will reshape our understanding of why it has become so difficult to effectively challenge crimes committed by the state.

***Remedies for Human Rights Violations: A Two-Track Approach to Supra-national and National Law* (Cambridge University Press, 2021)**

An innovative book that provides fresh insights into the neglected field of remedies in both international and domestic human rights law. Providing an overarching two-track theory, it combines remedies to compensate and prevent irreparable harm to litigants with a more dialogic approach to systemic remedies. It breaks new ground by demonstrating how proportionality principles can improve remedial decision-making and avoid reliance on either strong discretion or inflexible rules. It draws on the latest jurisprudence from the European and Inter-American Courts of Human Rights and domestic courts in Australia, Canada, India, New Zealand, Hong Kong, South Africa, the United Kingdom and the United States. Separate chapters are devoted to interim remedies, remedies for laws that violate human rights, damages, remedies in the criminal process, declarations and injunctions in institutional cases, remedies for violations of social and economic rights and remedies for violations of Indigenous rights.



The Anatomy of Administrative Law
Associate Professor Joanna Bell



Understanding Administrative Law
in the Common Law World
Professor Paul Daly

SEMINAR 6: ASSOCIATE PROFESSOR JOANNA BELL, OXFORD

The Anatomy of Administrative Law (Hart, 2020)

17 September 2021

Commentators:

- Dr Janina Boughey
- Professor Mark Aronson

Chair: Dr Janina Boughey

About the book

This book seeks to further our understanding of the nature of administrative law doctrine and adjudication. It has three main aims. The first is to improve understanding of administrative law's 'anatomy' by pulling the subject apart and exploring the nature of the legal structures at play in adjudication. In doing so, the book emphasises three main ways in which administrative law's anatomy is both complex and diverse, namely:

- administrative law doctrine interacts with a broad array of legislative frameworks;
- administrative law adjudication seeks to accommodate a variety of legal values; and,
- administrative law is concerned with legal relationships of different kinds.

The second aim is to illustrate the importance of recognising the complexity and variety of administrative law's anatomy in three particular doctrinal contexts: procedural review, legitimate expectations and standing.

The third and final aim is to raise an important but under-explored question: is it plausible and useful to attempt to make sense of administrative law doctrine by reference to a singular organising concept or principle?

The overarching message of the book is one of cynicism. The complexity and variety of administrative law's legal structures probably means that attempts to explain the field 'monistically', while they may capture important themes, will be unhelpfully reductionist. Ambitious and thought-provoking, this is an important new statement on administrative law.

SEMINAR 7 (CO-HOSTED WITH UNIVERSITY OF OTTAWA): PROFESSOR PAUL DALY, UNIVERSITY OF OTTAWA

Understanding Administrative Law in the Common Law World (Oxford University Press, 2021)

25 November 2021

Commentators:

- Ms Narelle Bedford, Bond University
- Dr Janina Boughey, UNSW Law & Justice
- Dr Dean Knight, Victoria University of Wellington Faculty of Law

Chair: The Hon Justice James Edelman, High Court of Australia

About the book

Around the common law world, the law of judicial review of administrative action has changed dramatically in recent decades, accelerating a centuries-long process of incremental evolution. This book offers a fresh framework for understanding the core features of contemporary administrative law. Through comparative analysis of case law from Australia, Canada, England, Ireland, and New Zealand, the author develops an interpretive approach by reference to four values: individual self-realisation, good administration, electoral legitimacy, and decisional autonomy. The interaction of this plurality of values explains the structure of the vast field of judicial review of administrative action: institutional structures, procedural fairness, substantive review, remedies, restrictions on remedies, and the scope of judicial review.

Addressing this wide array of subjects in detail, the book demonstrates how a pluralist approach, with the values being employed in a complementary and balanced fashion, can enhance our understanding of administrative law. Furthermore, such an approach can guide the future development of the law of judicial review of administrative action, a point illustrated by a careful analysis of the unsettled doctrinal area of legitimate expectation. The book closes by arguing that the author's values-based, pluralist framework supports the legitimacy of contemporary administrative law which, although sometimes called into question, facilitates the flourishing of individuals, of public administration, and of the liberal democratic system.

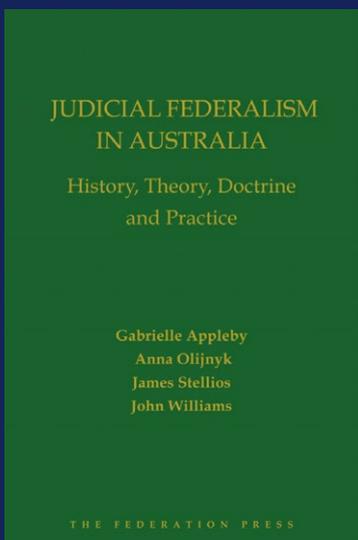
CRITICAL JUDGEMENTS WEBSITE LAUNCH

9 September 2021

On 9 September, the Gilbert + Tobin Centre of Public Law was delighted that the Hon. Margaret McMurdo AC [launched](#) the Feminist Judgments and Critical Judgments Projects website (www.criticaljudgments.com). As a long-serving, and pioneering, female jurist, Margaret has been a long supporter of the Feminist Judgments, and more recently, Critical Judgments Projects. The website, jointly hosted by The Centre's Judiciary Project and the newly launched Gender



Homepage of Critical Judgments website



Judicial Federalism in Australia: History, Theory, Doctrine and Practice (Federation Press, 2021)

Professor Gabrielle Appleby, Dr Anna Olijnyk, Professor James Stellios and Professor John Williams

and Public Law Project, brings Feminist Judgments and Critical Judgments Projects from across the world (and their associated resources, including teaching resources) together in one online repository for the first time. In these projects, leading feminist and critical academics, lawyers and activists imagine alternative, feminist and critical judgments to existing legal cases. They are now a significant global critical endeavour to reposition feminist and other critique from an external to an internal critique. As Professor Rosalind Dixon explained at the launch:

“The Feminist Judgments Project was always about critique. It was about challenging the way judgments were framed, the way they were written and whose interests and needs they reflected. It was about revealing the degree to which the law was written by men for men, and showing the degree to which the assumptions embedded in existing judgments were gendered, both in their perspectives and in their impact. And by reimagining and rewriting judgments in a feminist voice those who contributed to these projects were able to show in a form that was accessible, lively, interesting and immediately relatable, critique of the kind that feminist legal scholarship had long aimed to imbue the law with. There was also a reform agenda in many of the feminist judgments projects. Reimagining the law through a feminist lens in a way that combined critique with the possibility of a more positive, optimistic account of how law could be transformed to make it more gender inclusive and more gender equal.”

Learn more about the website and the launch on AUSPUBLAW [here](#).

JUDICIAL FEDERALISM IN AUSTRALIA: BOOK LAUNCH & FORUM 8 October 2021

On 8 October 2021, The Centre’s Judiciary Project hosted a Book Launch and Forum for [Judicial Federalism in Australia: History, Theory, Doctrine and Practice](#) (Federation Press, 2021).

Co-authored by Professor Gabrielle Appleby (Director of the Judiciary Project, Gilbert + Tobin Centre of Public Law, UNSW), Dr Anna Olijnyk (Adelaide), Professor James Stellios (ANU) and Professor John Williams (ANU), the book is the culmination of more than five years of work under an ARC Discovery Project on the policy impact of the High Court’s state Chapter III jurisprudence on judicial federalism.

Chapter III is one of the sites of significant constitutional innovation – and disagreement. Since the 1996 decision of *Kable*, there has been heightened tensions between State governments and the courts over the proper scope of the limitations derived from Chapter III. *Judicial Federalism in Australia: History, Theory, Doctrine and Practice* enters these debates to provide a holistic analysis of the federal influence of Chapter III. It considers the historical underpinnings of the Chapter, tracing its development from the colonial justice system through the convention debates and into the first years of Federation. It then provides an overview of the theoretical and doctrinal development of Australia’s Chapter III jurisprudence as it relates to the States and Territories and how it has affected the operation of the federation. Finally, the book provides, for the first time, an empirical study of the effect of the Court’s Chapter III jurisprudence on the development of State and Territory policies, focusing on anti-organised crime initiatives, the introduction of administrative super tribunals and specialist courts such as drug courts and Indigenous sentencing courts.

The book was launched at an online forum, with commentary and reflections on the work from the [Hon William Gummow AC](#), [Dr Brendan Lim](#), [Professor Sarah Murray](#) and [Professor Erin Delaney](#).

The book forum, with posts from commentators and authors, was published on AUSPUBLAW, and can be accessed [here](#).

UPCOMING EVENTS

RULE OF LAW IN CONTEXT: NEW SERIES WITH HART PUBLISHING

The Gilbert + Tobin Centre is delighted to announce the soft launch of a new book series, *The Rule of Law in Context*, published with Hart Publishing (Bloomsbury). Professor Gabrielle Appleby is a co-editor in the series with Associate Professor Lorne Neudorf (Adelaide). They work with an advisory panel of Associate Editors including Professor Rosalind Dixon (UNSW), Professor David Landau (Florida State), Professor Arun Thiruvengadam (NLS) and Dr Lawrence McNamara (Bingham Centre for the Rule of Law; York University).

The Rule of Law in Context is a book series that considers the rule of law on its own terms and explores its different meanings, uses and instantiations across the world’s legal systems. The first three titles of the series have been announced. Paul Gowder writes *The Rule of Law in the United States: An Unfinished Project of Black Liberation* (2021); Julian Zaiden Benvindo writes *The Rule of Law in Brazil: The Legal Construction of Inequality* (2022); and Alexei Trochev and Olga Schwartz write *The Rule of Law in Russia: Power of Rulers, Power of Rule: Russia’s Legal Dualism in Action* (2022). Upcoming titles include China, Singapore, South Africa, Thailand,

Papua New Guinea and France. Professors Gabrielle Appleby and Megan Davis are currently working on the Australian title.

The series is aimed at developing a deeper understanding of the idea of the rule of law as it is used and operates in different contexts, and how it is achieved, or not, in practice. By exploring the conceptualisation, deployment and instantiation of rule of law in different jurisdictions around the world, *The Rule of Law in Context* seeks to make an original and insightful contribution to the rule of law scholarship by moving past intractable normative debates over what the rule of law should mean to find out what it actually means, its deployment by governments and legal actors, and how it is being instantiated and operates 'on the ground'. The series has an implicitly comparative objective as it explores these issues in the context of different legal systems.

You can find out more about the book series, including the upcoming titles, [here](#).

PATHWAYS TO POLITICS PROGRAM FOR WOMEN

This year, the Centre hosted the inaugural NSW version of the Pathways to Politics Program for Women, led by Program Director Professor Rosalind Dixon, and Program Co-Director Elisabeth Perham. The Program is a non-partisan initiative, which seeks to increase participation by female-identifying and non-binary people in politics by equipping them 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. It was run by UNSW in partnership with the Trawalla Foundation and the Women's Leadership Institute of Australia, with the support also of the English Family Foundation. The Program also received in-kind support from across UNSW, including from 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.

The Program ran online for 2021, with weekly sessions held on Thursday evenings from 3 June until 2 September (with a break for NSW school holidays). Places on the Program were offered competitively by application, and those selected took part in the Program free of charge. This year we received 56 applications, and offered 33 places on the Program. Those who took part were drawn from across the state (roughly 2/3 from Greater Sydney, and 1/3 from regional and rural NSW) and across the political spectrum (including participants affiliated with the Liberal Party, the Australian Labor Party, the Greens, the Animal Justice Party, Team Clover, and those identifying as independent). Participants were also diverse in terms of professional and life experiences, and we worked with an organisation called Politics in Colour to ensure that information about the Program reached First Nations people and people of colour.

Topics covered in the Program included: 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 drew on the expertise of members of the Centre to offer training on topics such as the Australian federal government system (Rosalind Dixon and Elisabeth Perham), political leadership (Rosalind Dixon and Megan Davis), the Uluru Statement from the Heart (Megan Davis and Gabrielle Appleby), and government integrity (Gabrielle Appleby). We are grateful to them, and to the wide range of other presenters who also assisted with training, including politicians, media experts from UNSW and from Essential Media, representatives of think tanks and others.

We received excellent feedback from our participants – for example, most respondents in our final survey told us they found the Program 'extremely useful'. At least eight of our participants are running in NSW Local Government Elections in December 2021, and at least two have announced they will nominate for the 2022 federal government elections.

We have secured funding from Trawalla Foundation to continue running the Program for at least three more years. In 2022, we plan to run the Program in a hybrid online/face-to-face format. We will continue to work with Politics in Colour to ensure we are recruiting a diverse group of participants, and will also work on policy issues impacting on representativeness in politics in parallel with training through the Pathways Program.

Pathways to Politics Program for Women NSW is part of a national network of independent programs based at Australian universities modelled on the Pathways to Politics Program for Women, which was launched by the University of Melbourne in 2016 in partnership with the Women's Leadership Institute Australia, and 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. The Program is also run in Queensland by the Queensland University of Technology. More information can be found [here](#).

THE AUSPUBLAW BLOG

The AUSPUBLAW Blog, a joint venture between the Gilbert + Tobin Centre of Public Law and the Australian Association of Constitutional Law, continues to produce high quality scholarly analysis and commentary and insights into the academic research undertaken by Australia's public law community for its growing readership. Already we have published 60 posts, and there will be a few more to come before the end of the year. This year we have also established a presence on LinkedIn, so if you use LinkedIn, we encourage you to find us there to receive updates on new blog posts through that channel.

There have been some changes in the blog leadership in the second half of this year. After almost three years as joint editor, Dr Zsofia Korosy stepped down in July. We are very grateful for her commitment to the blog, and her excellent stewardship of it over this time. Elisabeth Perham remains as joint editor, and Professor Gabrielle Appleby, the founding editor of the blog, has returned as joint editor while Dr Lisa Crawford takes leave. Kate Jackson, who has previously served as a Centre intern, has also joined the team as Associate Editor. Joshua Aird served as joint editor between July and October this year, and we are grateful to him also for his support. As always, AUSPUBLAW also provides a monthly roundup of public law events across the country – and Kelly Yoon works with the team to pull those roundups together.

The second half of 2021 has included a wide range of posts dealing with public law developments, including on the High Court's decision in *Ridd v James Cook University* and what it means for the principle of academic freedom in Australia, on the Chetcuti case and constitutional membership, on the Witness J case and secret court hearings, on the operation of the Queensland *Human Rights Act* 18 months after its commencement, on *AJL20 v Commonwealth* and indefinite detention, and on the challenges of assessing the proportionality of government pandemic management measures, among other great posts. To round out the year, we also have two posts coming up on the *Mineralogy v WA* case – including one focusing on what public lawyers can learn from international investment law, and two posts on the Juukan Gorge inquiry.

The blog hosted two book forums in the second half of 2021: the first on Dr Shipra Chordia's book [Proportionality in Australian Constitutional Law](#) (Federation Press, 2020) – with commentary generously provided by Craig Lenehan SC and Dr Murray Wesson – and the second on Dr Amanda Sapienza's book [Judicial Review of Non-Statutory Executive Action](#) (Federation Press, 2020) – with commentary generously provided by Alan Robertson SC, Professor Cheryl Saunders, and Jackson Wherrett. We also hosted a book forum to accompany the launch of Gabrielle Appleby, Anna Olijnyk, James Stellios and John Williams' book [Judicial Federalism in Australia: History, theory, Doctrine and Practice](#) (The Federation Press, 2021), and we were very grateful to the commentators at the launch event – the Hon William Gummow, Dr Brendan Lim, Professor Sarah Murray and Professor Erin Delaney – for agreeing to convert their great remarks into posts. AUSPUBLAW's book forums were instituted in 2018 and provide an opportunity for scholars and practitioners, both early career and more senior, to critically engage with new book-length scholarship focussed on Australian public law.

We are also nearing the end of the special series, organised by Dr Janina Boughey with support from Dr Lynsey Blayden, which marked the 50th anniversary of the Kerr Report. That series featured monthly posts from leading commentators examining whether Australian law is still fit for purpose. Posts in that series have examined a number of issues, including Freedom of Information laws, tribunal review of the institution of the Ombudsman, the operation of the ADJR Act, the demise of the Administrative Review Council, and the rise of automated decision-making. The series has been very well-received (and a number of the posts have been cited in parliamentary submissions, and in the conference organised by Janina and Lynsey on the same topic). It has also reached a broader international administrative law audience through cross-posting on the Administrative Law Matters blog, run by Professor Paul Daly at the University of Ottawa.

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.

Gabrielle Appleby and Elisabeth Perham



Ariella Buckley
G+T Centre Intern



Kerr's Vision Splendid for Administrative Law: Still Fit for Purpose? - feature slide for presentation

PEOPLE

CENTRE INTERN T2

Ariella Buckley

"I am a final year Juris Doctor student. I had the privilege of interning at the Gilbert and Tobin Centre in term 2 of 2021. During the internship, I led a student civics project – and thoroughly enjoyed researching content, designing questions and linking to other legal materials as well as the NSW curriculum. I also completed a research and cross-checking exercise for Professor Appleby's new critical/feminist judgments website, and a range of smaller editorial and research tasks. I loved the internship. My favourite part was being supervised by Ros Dixon. Ros is so generous with her time and she made me feel part of a team."

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.

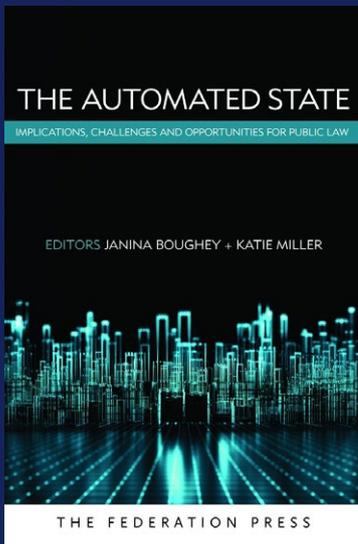
This year is the 50th Anniversary of the Report of the Commonwealth Administrative Review Committee, chaired by Sir John Kerr. That Report led to the establishment of a series of institutions and laws designed to improve the transparency of executive decision-making and its accountability to the public. To mark the anniversary, the Project joined with the NSW Chapter of the Australian Institute of Administrative Law, to run an online symposium, titled *Kerr's Vision Splendid for Administrative Law: Still Fit for Purpose?* The symposium explored the question of whether those then ground-breaking reforms remain fit for purpose to meet the challenges of modern Australian government.

The symposium began on 21 October, with keynote address by the Hon Justice John Griffiths, of the Federal Court of Australia. His Honour's address focussed on "some of the problems which have emerged with the package of Commonwealth reforms," including: the limited ambit of the *Administrative Decisions (Judicial Review) Act 1977* (Cth); case backlogs and bureaucratic processes in the Administrative Appeals Tribunal ("AAT"); the appointments process to the AAT; and the abolition of the Administrative Review Council. The symposium continued over the second day with a series of panels considering how the system of administrative law is currently faring, and what reforms might be needed to make it fit to meet the challenges of the 21st Century. How, for instance, can the state continue to be held accountable as government shifts towards automation and increased outsourcing? How do we address the current lack of political commitment to important democratic values of transparency and accountability? There is also a need for the constitutional change requested in the Uluru Statement to begin to address the fundamental and structural ways the state in Australia has denied administrative justice to Aboriginal and Torres Strait Islander peoples.

Speakers included the Hon Justice Melissa Perry of the Federal Court of Australia, the Hon Justice John Basten of the NSW Court of Appeal, Bernard McCabe, Deputy President of the Administrative Appeals Tribunal, Penny McKay, Acting Commonwealth Ombudsman, as well as Dr Janina Boughey and Dr Chantal Bostock, UNSW Law & Justice, Dr Lynsey Blayden, Fellow, Gilbert + Tobin Centre of Public Law and Mr Eddie Synot, Indigenous Law Centre, UNSW. The symposium ended with the launch, by Emeritus Professor John McMillan, of *The Automated State: Implications, Challenges and Opportunities for Public Law* (The Federation Press, 2021), edited by Janina Boughey and Katie Miller.

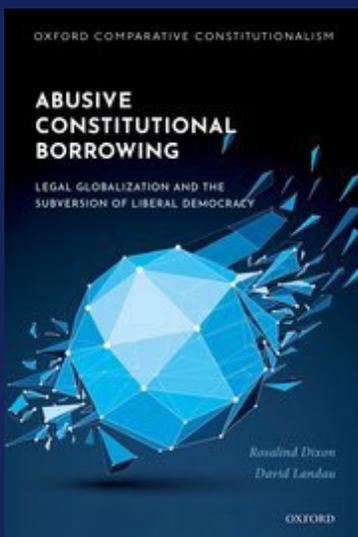
The timing of the symposium proved to be prescient, as just the day beforehand, the Senate referred an [inquiry](#) into the performance and integrity of Australia's administrative review system to the Legal and Constitutional Affairs References Committee. At the time of writing, Project members are finalising a submission to that inquiry.

Throughout 2021, Janina and Lynsey have been co-ordinating a special blog series, on auspublaw.org and administrativelawmatters.com, on the anniversary of the Kerr Report.



The Automated State: Implications, Challenges and Opportunities for Public Law

Edited by Janina Boughey and Katie Miller



Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy

Rosalind Dixon and David Landau

In that series, practitioners and academics explore further questions within the theme of whether Australian administrative law is fit for purpose today and going forward.

Dr Lisa Burton Crawford has continued to examine the way in which courts construe statutes that confer executive power, and the concept of jurisdictional error. Her article 'Materiality and the Interpretation of Executive Power' ((2021) 28(3) Australian Journal of Administrative Law 149) responds to recent contributions to that journal, which have questioned the level of sophistication and clarity one can expect from the way in which courts approach that task. This builds upon a broader body of work that Lisa has published individually and alongside Janina, which was recently cited by Gordon J and Steward J of the High Court in *MZAPC v Minister for Immigration and Border Protection* [2021] HCA 17.

Professor Gabrielle Appleby has been working in her capacity as a member of the Centre for Public Integrity's Executive Power Project Committee, with Associate Professor Maria O'Sullivan (Monash), Associate Professor Will Partlett (Melbourne) and Catherine Williams (CPI), to review the recently introduced Victorian pandemic management legislation, the first pandemic-specific emergency management legislation. They have advocated for significant reforms to the legislation as it was introduced, including the introduction of stronger parliamentary oversight, an independent, expedited and low-cost merits review mechanism, the allowance for safe protest, the removal of exemptions from anti-discrimination laws, and a sunset and review clause. See further [here](#).

On 24 November, Gabrielle presented a webinar for the Centre for Public Integrity with Sir Jonathan Jones, former UK Treasury Solicitor, on The Rise of Executive Power: Brexit, COVID, and Ministerial Grants. Gabrielle discussed the rise of delegated executive power in Australia particularly in relation to the authorisation of government spending and during the COVID-19 pandemic.

Janina has continued her comparative research on standards of review and the boundaries between judicial and administrative power. Her article 'The Culture of Justification in Administrative Law: Rationales and Consequences' ((2021) 54(2) *UBC Law Review* 403) examines the different rationales for requiring administrative decision-makers to justify their actions and their doctrinal consequences. Janina has also been working on a comparative research project looking at review of outsourced government decisions, funded by the Australian Research Council. Her book chapter, 'Outsourcing Automation: Locking the "Black Box" Inside a Safe' in Janina Boughey and Katie Miller (eds), *The Automated State: Implications, Challenges and Opportunities for Public Law* (The Federation Press, 2021) examines the challenges which result from the combination of outsourcing and automation in government decision-making.

COMPARATIVE CONSTITUTIONAL LAW PROJECT

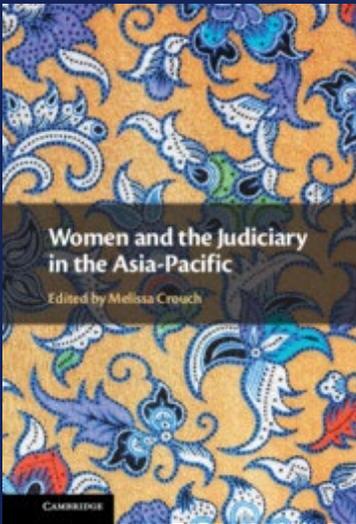
Project Director: Rosalind Dixon

Project Deputy Director: Melissa Crouch

Members of the CCL Project have continued to attend a wide variety of global events and conferences. In July, Project Director Rosalind Dixon published a new book co-authored with David Landau, [Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy](#) (OUP 2021). The book has been subject to several symposia, and Dixon and Landau have engaged in debate with a range of global scholars as part of those symposia. They have also presented the book to audiences in a range of countries, including Brazil. Dixon has given seminars on a forthcoming book *Responsive Judicial Review: Democracy and Dysfunction in Modern Times* (OUP 2022), to the University of Oxford Public Law Reading Group, to a joint UNSW-Hong Kong University audience, a group of scholars in Eastern Europe and Latin America and again in Brazil. In July, Dixon also appeared before the White House Commission on the future of the Supreme Court and presented written and oral testimony to the Commission noted in the subsequent interim report of the Commission.

During this period, Melissa Crouch also continued to undertake advocacy related to the coup in Myanmar and was invited to speak at forums in Singapore, Indonesia, Hong Kong, the UK, Brazil, USA, Denmark and Japan. In June, Melissa was invited by the President of the Law Council of Australia, to speak at the directors' meeting to provide an update on Myanmar. Melissa also provided numerous briefings or contributions to government discussions on Myanmar, including the DFAT Myanmar Taskforce.

Melissa welcomed Research Fellows Mr Salai Samuel Hmung and Dr Christoph Sperfeldt to UNSW Law and to her team for the ARC Discovery Project on *Constitutional Change in Authoritarian Regimes*. In September, Melissa was appointed as a Visiting Fellow at the Faculty of Law, Brawijaya University in Indonesia. She gave several lectures and assisted in a review of curriculum. In November, Melissa was invited to lead a masterclass on sociolegal studies at the 3rd Socio-legal Conference hosted by the Center for Development Studies, Brawijaya University. Melissa was invited to join the Editorial Board of the *Indonesian Journal of Socio-Legal Studies*, the inaugural socio-legal studies journal of the Faculty of Law, the University of Indonesia.



Women and the Judiciary in the Asia-Pacific

Edited by Melissa Crouch

Melissa received the Supervisor of the Year Award 2021 of the UNSW Postgraduate Council and Graduate Research School. Melissa has also been selected as a finalist for the 2021 Australia-Indonesia Award, Education Category, [Australia Indonesia Association](#). The ceremony and outcome of the award will be held in March 2022. In November, Melissa launched the publication of [Women and the Judiciary in the Asia-Pacific](#) with a blog series through IACL [available here](#).

In December, the CCL Project again hosted its annual comparative constitutional roundtable, this time in hybrid format, featuring presentations from Claudia Geiringer, Lulu Weis, Rosalind Dixon, Sam Bookman, Jaclyn Neo, Julius Yam, Scott Stephenson, Maartje de Visser and James Fowkes. This again cements our new partnerships with NUS HKU, VVU and our newest Centre partner the Centre of Public Law at the University of Ottawa.

The Project also co-hosted, with the ARC Laureate Program in Comparative Constitutional Law at Melbourne Law School, a workshop on the idea of “effective government” in comparative constitutional perspective. This conference featured papers from Yasmin Dawood, Vicki Jackson, Mark Tushnet, Gillian Metzger, Rosalind Dixon and Lynsey Blyden, among others.

Finally, the Project hosted a conference on equality commissions in comparative perspective, featuring papers focused on Ireland, Scotland, Kenya, Ghana and South Africa. The papers from this conference will be submitted to a special symposium of the *Federal Law Review*.

CONSTITUTIONALISM IN THE GLOBAL SOUTH PROJECT

Project Co-Directors: Theunis Roux and Melissa Crouch

This new project is co-directed by Theunis Roux and Melissa Crouch, together with affiliates Ros Dixon, Siddharth Narrain, Elisabeth Perham, Mohammad Sayeed, Ayesha Wijayalath, and Andy Symington. This project aims to foster scholarship and debate on constitutionalism in, of and from the Global South. The project aims to develop appreciation of Global South epistemologies and to enhance our understanding of the nature of constitutionalism in the Global South, both in its liberal and illiberal varieties. The project aims to run regular reading groups, seminars and occasional panels at conferences, with a particular focus on mentoring early career scholars from the Global South. This builds on the scholarship of Theunis Roux on South Africa and beyond, and Melissa Crouch on Southeast Asia.

They have established a new elective course that will run in the future, *Constitutionalism in the Global South* (LAWS8375/JURD7975).

Melissa Crouch, together with lead CI Dr Mario Gomez of the [International Centre for Ethnic Studies](#) (ICES) Sri Lanka, have been successful with a grant from the Department of Foreign Affairs and Trade. The grant is part of DFAT’s support to Sri Lanka under its [Knowledge and Linkages for an Inclusive Economy Grant scheme](#). The project will focus on ‘Reimagining Vulnerability in the Light of COVID 19 in Sri Lanka’ and, among other things, lead to the production of a report on the impact of Covid-19 on governance and rights protection in Asia.

Academics affiliated with the Australia-Myanmar Constitutional Democracy Project sent an open letter to the Association of Asian Constitutional Courts and Equivalent Institutions (AACC, [aacc-asia.org](#)) calling on it to suspend the membership of the Constitutional Tribunal of the Union of Myanmar in light of the military coup, given the mission of the AACC to promote democracy and rule of law in the region.

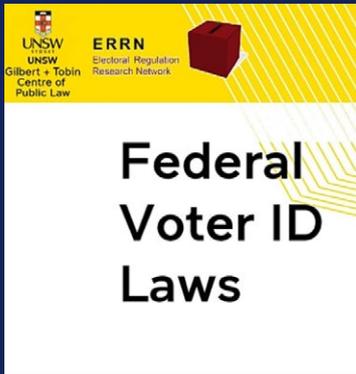
Events run by the project also included:

- Webinar presented by Raween Leelaptana and Abdurahmann Satrio Rawin ‘The Relationship between a Kelsenian Constitutional Court and an Entrenched National Ideology: Lessons from Thailand and Indonesia’ (22 February 2021)
- Book launch webinar presented by Philipp Dann launching the book: Philipp Dann, Michael Riegner, and Maxim Bonnemann, *The Global South and Comparative Constitutional Law* (Oxford: Oxford University Press, 2020) (18 June 2021)
- Webinar presented by Gaurav Mukherjee, ‘The Legitimacy of Transformative Adjudication’ (25 June 2021)
- Meeting of the Interest Group on Constitutionalism in the Global South at the ICON-S conference (7 July 2021)
- Webinar presented by Dinesha Samararatne, ‘Constitutional Resilience through the Guarantor Branch: Sri Lanka’s Story of Four Amendments’ (28 July 2021)

ELECTIONS & REFERENDUMS PROJECT

Project Director: Paul Kildea

In late October the federal government introduced into Parliament a ‘voter ID’ Bill that would require voters to present identification before receiving a ballot paper at polling places. The Bill immediately prompted a great deal of public discussion, and the Centre contributed to that by hosting an [online seminar on Voter ID](#) within a week of the Bill being introduced.



Federal Voter ID Laws event flyer

The panellists were Graeme Orr (University of Queensland), Centre Director Rosalind Dixon, Dani Larkin (Indigenous Law Centre) and Alice Drury (Human Rights Law Centre). In a wide-ranging discussion, the speakers addressed government statements that the Bill is a modest, sensible reform, and queried the adequacy of safeguards such as declaration voting and vouching. There was concern that the measure would weaken rather than promote trust, and that it could affect the electoral participation of certain groups including First Nations peoples, young people and electors who live in remote areas. The seminar, which was hosted jointly with the Electoral Regulation Research Network (ERRN), attracted over 100 participants, highlighting the intense interest in the issue.

Rosalind Dixon also published an [opinion piece on voter ID](#) in the *Sydney Morning Herald*. Among the arguments she made was the uneasy relationship between a voter ID requirement and Australia's system of compulsory voting. Rosalind argued that the Bill "sends a message to Australians that voting is a privilege, rather than a duty. This goes against the spirit of our system of compulsory voting, and the sense of civic duty that helps underpin it."

The Centre has also been active in a parliamentary inquiry into constitutional reform and referendums, run by the House Standing Committee on Social Policy and Legal Affairs. Centre members Gabrielle Appleby and Sean Brennan made a joint submission with Megan Davis (ILC) and Dylan Lino (University of Queensland), while Paul Kildea and George Williams made separate submissions. These three submissions were among the most substantive and detailed received by the Committee. Paul Kildea argued for several amendments to the *Referendum (Machinery Provisions) Act 1984* (Cth), including changes to enable referendum questions to be asked in a more simple and balanced way, and to improve public education by establishing an independent Referendum Panel and rethinking the official pamphlet. The ILC submission also called for several amendments to ensure that the Act 'is in a fit state for a modern referendum'. Gabrielle, Megan, Paul and George also gave evidence at the Committee's hearings, where they reinforced the need for rule changes and put the case for wider use of deliberative forums, such as citizens' assemblies, to advance constitutional reform. The Committee is expected to publish its report in late 2021 or early 2022.

THE JUDICIARY PROJECT

Project Director: Gabrielle Appleby

The last six months has seen the culmination of a number of important pieces of work at the Judiciary Project.

These have included the publication of the report on which I had been working on with Professor Andrew Lynch, Jessica Kerr (UWA), Professor Suzanne Le Mire (Adelaide) and Professor Brian Opeskin (UTS), for the Australasian Institute of Judicial Administration. The Report, *Judicial education in Australia: A contemporary overview*, is available on their [website](#). It makes a number of recommendations, including increasing transparency and reporting on judicial education, developing education offerings across the different stages of judicial careers, ensuring that education needs of judicial officers working in smaller jurisdictions or regional settings are met, and pursuing further research about the content, quality, level of participation and satisfaction with the current judicial education programs.

The Australian Law Reform Commission is due to present its report to Government on Judicial Impartiality in December. I have been working with the Commission on their Advisory Board, and Andrew has been working with them as an expert reviewer as they finalise their report and recommendations. The inquiry was called in response to concerns about a bias case that arose out of undisclosed personal communications between a judge and senior counsel in Western Australia. The High Court handed down its decision in *Charisteas v Charisteas* [2021] HCA 29 on 6 October. I spoke to Damien Carrick at the [Law Report](#) (Radio National) about this decision when it was handed down, including the implications for the social isolation of judicial office. The ALRC have interpreted their terms of reference, looking at judicial impartiality, to require a wide-ranging review of a myriad of issues that affect this issue. Appropriately, they have not limited their inquiry to just the legal test of the fair-minded observer and the processes of that test, and rather than focussing on a test that *respond* to possible claims of bias, they have focussed on wider ranging systems and structures that *prevent and mitigate*, to the extent possible, challenging to impartiality, and *equip and support* judges to manage them when they do. The ALRC will report on 6 December 2021, two months after the *Charisteas* decision.

In September, The Judiciary Project was proud to work with the Gender and Public Law Project to host the launch the Feminist & Critical Judgments [website](#). More information on the website is set out above, and can be found on AUSPUBLAW [here](#).

Finally, in October, the Judiciary Project was very proud to host a book forum for my co-authored monograph with Dr Anna Olijnyk (Adelaide), Professor James Stellios (ANU) and Professor John Williams (Adelaide), [Judicial Federalism in Australia: History, Theory, Doctrine and Practice \(Federation Press, 2021\)](#). The monograph is the culmination of more than five years work on

an ARC Funded Discovery Project looking at how the High Court's State Chapter III jurisprudence implying limitations on the State Parliament's power to undermine the institutional integrity of their courts, have affected the development of various law and order policies in the States. More information on that forum is set out separately above, and can be found on AUSPUBLAW [here](#).

In the new year, on 21 January, I will be speaking at the Sydney Festival, now partnering with UNSW Sydney, as part of their four-part series on The Reckoning. I will be joining Julia Banks, Amy McQuire, Louise Milligan and Yumi Stynes to talk about sexual violence, harassment and misogyny in the judiciary – and the institutional responses that we have seen to it in 2021. Tickets are available [online](#).

STATUTES PROJECT

Project Director: Lisa Burton Crawford

The Statutes Project has taken a brief hiatus as Lisa has gone on maternity leave. She and the other members of the Project have continued to research various issues of contemporary legislative practice and statutory interpretation. In particular, Lisa, Janina Boughey and Professor Lyria Bennett Moses have continued their examination of the use of technology in the making and interpretation in collaboration with the Allens Hub for Law, Technology and Innovation. A co-authored piece laying the groundwork for this broader project was published in Janina's co-edited book (Janina Boughey, Lyria Bennett Moses and Lisa Burton Crawford, 'Laws for Machines and Machine-Made Laws' in Katie Miller and Janina Boughey (eds), *The Automated State* (Federation Press, 2021)). The trio look forward to pursuing these ideas further in 2022, when Lisa will lead a dedicated stream of research within the Allens Hub on "Technologies of Legislation".

PUBLICATIONS AND PRESENTATIONS

PUBLICATIONS

Co-authored publications

Gabrielle Appleby, Anna Olijnyk, James Stellios and John Williams, *Judicial Federalism in Australia: History, Theory, Doctrine and Practice* (Federation Press 2021)

Gabrielle Appleby and Anne Carter, 'Parliaments, Proportionality and Facts' (2021) 43(3) *Sydney Law Review* 259

Gabrielle Appleby, Maria O'Sullivan, Will Partlett and Catherine Williams, 'Victoria's controversial pandemic bill: 6 ways for the government to show it is serious about scrutiny' *The Conversation* (15 November 2021, available at <https://theconversation.com/victorias-controversial-pandemic-bill-6-ways-for-the-government-to-show-it-is-serious-about-scrutiny-171600>)

Lyria Bennett Moses, Janina Boughey and Lisa Crawford, 'Laws for Machines and Machine-made Laws' in Janina Boughey and Katie Miller (eds), *The Automated State: Implications, Challenges and Opportunities for Public Law* (The Federation Press, 2021).

Janina Boughey and Katie Miller (eds), *The Automated State: Implications, Challenges and Opportunities for Public Law* (The Federation Press, 2021).

Melissa Crouch and Natasha Naidu (2021) 'The Feminisation of the Judiciary in the Asia Pacific' in *Women and the Judiciary in the Asia-Pacific*. Cambridge University Press.

Rohan Balani

[Rohan was the Centre's Sir Anthony Mason Research Project Scholar in 2019]

'Expanding the Scope of Judicial Deference in the Mixed Government Era' (2021) 48 *UWA Law Review* 495.

Lynsey Blayden

'Institutional Values in Judicial Review of Administrative Action: Re-Reading *Attorney-General (NSW) v Quin*' (2021) *Federal Law Review* (forthcoming)

'Designing Administrative Law for an Administrative State: The Carefully Calibrated Approach of the Kerr Committee' (2021) *Australian Journal of Administrative Law* (forthcoming)

Review of *Judicial Review of Non-Statutory Executive Power* by Amanda Sapienza (2021) 28 *Australian Journal of Administrative Law* 199

'Seeing the New Administrative Law in a "green light"' on AUSPUBLAW (16 April 2021) <<https://auspublaw.org/2021/04/seeing-the-new-administrative-law-in-a-green-light/>>

Janina Boughey

Janina Boughey, 'Outsourcing Automation: Locking the "Black Box" Inside a Safe' in Janina Boughey and Katie Miller (eds), *The Automated State: Implications, Challenges and Opportunities for Public Law* (The Federation Press, 2021).

Janina Boughey, 'The Culture of Justification in Administrative Law: Rationales and Consequences' (2021) 54(2) *UBC Law Review* 403.

Sean Brennan

'The Wording is Not the Problem' on Indigenous Constitutional Law Blog (6 July 2021) <<https://www.indigconlaw.org/home/naidoc-week-2021-the-wording-is-not-the-problem>>.

Melissa Crouch

Melissa Crouch (2021) *Women and the Judiciary in the Asia-Pacific*. Cambridge University Press.

Melissa Crouch (2021) 'The Promise and Paradox of Women in the Judiciary in Indonesia' in *Women in the Judiciary in the Asia-Pacific*. Cambridge University Press.

Rosalind Dixon

Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy (OUP 2021) (with David Landau)

Ely in the World: The Global Legacy of Democracy and Distrust Forty Years On, 19 *International Journal of Constitutional Law* 427 (2021) (with Michaela Hailbronner)

Comparative Constitutional Adaptation: Democracy and Distrust in the High Court of Australia, 19 *International Journal of Constitutional Law* 455 (2021) (with Amelia Loughland)

Comparative Constitutional Matching: From Most Similar Cases to Synthetic Control, 1 *University of Chicago Law Review Online* 1 (2021) (with Richard Holden)

Paul Kildea

'Australia's Same-sex Marriage Survey: Evaluating a Unique Popular Vote Process' (2020) 46 *Monash University Law Review* 85, 85-118

'Australia' in Luis Roberto Barroso and Richard Albert (eds), *The International Review of Constitutional Reform* (2021) 16, 16-20.

'1967 to 2021: What will a successful referendum look like in 2021/2022?', *Indigenous Constitutional Law Blog*, 7 July 2021.

'How culture shapes Australia's referendum record', *AUSPUBLAW Blog*, 11 June 2021.

Siddharth Narrain

'Revisiting the Free Speech Debates in the First Amendment to the Indian Constitution', The Leaflet, 15 August 2021 (as part of a series of essays published to mark Indian Independence Day), <https://www.theleaflet.in/revisiting-the-first-amendment-to-the-indian-constitution/>

George Williams

'Human Rights in a Pandemic' Bennett, B, and Freckelton, I (eds), *Pandemics, Public Health Emergencies and Government Powers* (Federation Press, 2021) 134-149 (with Sophie Rigney).

PRESENTATIONS

Lynsey Blayden

'The administrative law 'system'', presented at Kerr's Vision Splendid for Administrative Law: Still Fit for Purpose, Gilbert + Tobin Centre of Public Law and AIAL (NSW Chapter), 22 October 2021 (via zoom)

Janina Boughey

Janina Boughey, 'The Evolving Nature and Functions of Government', Kerr's Vision Splendid for Administrative Law: Still Fit for Purpose?, 22 October 2021, Gilbert + Tobin Centre of Public Law and NSW Chapter, AIAL, online.

Sean Brennan

'The Referendum Question', Instagram Live event series for Indigenous Law Centre NAIDOC Week, 6 July 2021.

Melissa Crouch

Webinar on Asian Constitutionalism, hosted by Federal University of Minas Gerais (UFMG, Brazil), with the support of ICONS Chapter Brazil, the Federal University of the Semi-Arid (UFERSA, Brazil), the Federal University of Uberlândia (UFU, Brazil) and the Brazilian Association of Political Philosophy and Constitutional Law (ABFPDC, Brazil), December 2021

Invited Speaker, Constitutional Reform in Myanmar, University of British Columbia, Canada, project funded by International Development Research Centre for students in Myanmar, November 2021

Invited speaker for the seminar series of the Asian Legal Studies Center (CELA – Centro de Estudos Legais Asiáticos) at USP Law School, University of Sao Paulo, Brazil (the oldest law school in Brazil), November 2021

Keynote speaker for Methods workshop on an introduction to sociolegal studies, University of Brawijaya, Indonesia, November 2021

Keynote speaker, 3rd Conference on Socio-legal Studies in Indonesia, 'Resilience in a time of crisis: Justice, Access and Participation', University of Brawijaya, Malang, Indonesia, November 2021

Keynote speaker, Australia-Asia Regulatory Perspectives, Governance and Regulation Research Network, Monash University, November 2021

DFAT Myanmar Taskforce, invited speaker to Roundtable on Myanmar Policy options, July 2021

Webinar Book Launch on Freedom of Religion in Asia, National University of Singapore, July 2021

Invited Speaker, Justice in Myanmar, Danish Institute for International Studies and Oxford University, June 2021

Invite from the President of the Law Council of Australia, Dr Jacoba Brasch QC, to speak to the 17 Directors of the Law Council on the situation for lawyers in Myanmar, June 2021

Roundtable discussion on ASEANs response to Myanmar, ASEAN Parliamentarians for Human Rights (APHR), ALTSEAN-Burma, Forum-Asia, and Progressive Voice, June 2021

Book launch of The Global South and Comparative Constitutional Law, Discussant, G&T Centre for Public Law, UNSW, June 2021

Invited Speaker, Justice in Myanmar, Danish Institute for International Studies and Oxford University, June 2021

Speaker at Roundtable on Chinese Law and Development at the Law & Society Association conference, June 2021

Invited Speaker, Conference on Contemporary Forms of Apartheid, University of Nottingham, UK, May 2021

Workshop on Foreign Judges, University of Hong Kong Faculty of Law, May 2021

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

Rosalind Dixon

Webinar on Australia's Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy, hosted by the University of Hong Kong, Jan 17, 2022 (via zoom).

Lecture Series on Comparing Constitutions: Why Important and How to Do it, hosted by the New School, New York, November 1.

Conference on The Dust of Time: Towards 21st Century Constitutionalism, hosted by the Constitutionalism and Politics Working Group, 7-8 October 2021.

International Congress on "Economic, Social and Cultural Rights: How to best guarantee them?" international perspective, hosted by Superintendence of Family Subsidies, 24 September 2021.

Webinar on Abusive Constitutional Borrowing, with Professor Rosalind Dixon and Professor David Landau, hosted by UNSW Law and Justice, 22 September 2021.

Webinar on Ubuntu Dialogues, hosted by North-West University, South Africa, 17 August.

UFMG Seminar Series on Constitutionalism and Democracy panel, hosted by the Federal University of Minas Gerais, Brazil, 14 July 2021.

George Williams

'The Rule of Law 'By Design'?' *The Rule of Law on the Internet: Driving the High-Quality Development of the Digital Economy*, Tsinghua University School of Law, 27 September 2021.

'Vaccine Passports to Freedom? Balancing Rights and Responsibilities During COVID-19' Public seminar, Australian Human Rights Institute UNSW, 24 August 2021.

'Informing the Public: Disseminating Information' *Workshop on Designing a Referendum on a First Nations Voice*, Indigenous Law Centre, UNSW, 16 July 2021.

MEDIA PUBLICATIONS

Melissa Crouch

Melissa Crouch (2021) 'Feminisation of the Judiciary between thick and thin: Women as Model Minority Judges in Indonesia' International Association of Constitutional Law, November.

Melissa Crouch (2021) '[Women in the Judiciary](#)', International Association of Constitutional Law, October

Melissa Crouch (2021) '[Closure of Indonesian language programs in Australian universities will weaken ties between the two countries](#)' The Conversation, April 2021 [Bahasa Indonesia version – "[Maraknya penutupan program bahasa Indonesia di berbagai kampus Australia akan lemahkan hubungan kedua negara](#)"]

Rosalind Dixon

'The PM's 'can-do' climate capitalism won't work without a price on carbon' *The Sydney Morning Herald* (12 November 2021) (reprinted in the Age, Brisbane Times and WA Today) (with Richard Holden).

'Proposed voter ID laws pose a risk to our democracy' *The Sydney Morning Herald* (1 November 2021) (reprinted in the Age, and Brisbane Times, WA Today).

'Video: The Drum Monday 4 October', *ABC News* (4 October 2021).

'We are in the middle of an emergency – the ICAC should have waited' *The Sydney Morning Herald* (3 October 2021).

'Kindergarten not year 12 should get priority' *The Sydney Morning Herald* (8 August 2021) (Reprinted in the Age and WA Today) (with Richard Holden).

'Hard lockdown in south-west Sydney must come with compensation' *Brisbane times* (26 July 2021) (with Richard Holden).

'Delay the start of term if that's what it takes to get teachers vaccinated' *The Age* (5 July 2021) (Reprinted in the Age, Brisbane Times and WA Today) (with Richard Holden).

George Williams

'Now is Not the Time to Draft New Pandemic Laws' *The Australian* (18 November 2021).

'It's Time to Tackle Pork-Barrelling, Not Factor it in' *The Australian* (10 November 2021).

'Peter Ridd's Lost Battle a Key Win in War for Academic Freedom' *The Australian* (18 October 2021).

'Parliaments More Important than Ever in Pandemic' *The Australian* (12 October 2021).

'Menzies Turned Referendum Loss to Long-Term Advantage' *The Australian* (2 October 2021).

'After Afghanistan, Parliament Must Test All Talk of War' *The Australian* (27 September 2021).

'Federal Parliament has the Power to Rule on Borders' *The Australian* (3 September 2021).

'Certainty Needed on Mandatory Workplace Covid-19 Jobs' *The Australian* (17 August 2021).

'Authoritarian Laws for the Common Wealth and Health' *The Australian* (2 August 2021).

'Referendum Rules Need Reform Before We Vote on a Voice' *The Australian* (19 June 2021).

'Nothing Admirable About Weak Press, Speech Protections' *The Australian* (5 June 2021).

'As Peter Ridd Case Shows, Pursuit of Truth Not Always a Civil Affair' *The Australian* (21 June 2021).

'Free Speech Code for Unis Should Apply Nationwide' *The Australian* (8 June 2021).

'Time to Give All People Choice on Indigenous Voice' *The Australian* (29 May 2021) (with Megan Davis).

'Politicians Must Trust the People on Indigenous Voice to Parliament' *Sydney Morning Herald* (24 May 2021) (with Megan Davis).

'Feds Could do with Shot of Leadership on Border Issue' *The Australian* (24 May 2021).

'India Ban Highlights Risk of Outsourcing Parliament Powers' *The Australian* (10 May 2021).

'Threat to Returning Aussies Another Test of Human Rights' *The Australian* (3 May 2021).

SUBMISSIONS

Joint submissions

Gabrielle Appleby, Lynsey Blayden, Chantal Bostock and Janina Boughey, Submission to Senate References Committee on Legal and Constitutional Affairs Committee, *Inquiry into the performance and integrity of Australia's administrative review system*, November 2021.

Gabrielle Appleby, Sean Brennan, Megan Davis and Dylan Lino, Submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs Inquiry into Constitutional Reform and Referendums, 6 August 2021.

Paul Kildea

Submission to House of Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into constitutional reform and referendums*, 6 August 2021.

George Williams

Submission to Senate Foreign Affairs, Defence and Trade Committee 'Inquiry into Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2020' (10 September 2021).

Submission to Senate Legal and Constitutional Affairs Legislation Committee 'Inquiry into Ensuring Northern Territory Rights Bill 2021' (15 August 2021).

Submission to Senate Legal and Constitutional Affairs Legislation Committee 'Inquiry into Constitution Alteration (Freedom of Expression and Freedom of the Press) 2019' (19 July 2021).

Submission to House of Representatives Standing Committee on Social Policy and Legal Affairs on 'Inquiry into Constitutional Reform and Referendums' (28 June 2021).

PODCASTS

Melissa Crouch

Jul 2021, [Podcast with Ear to Asia](#), the University of Melbourne, 'Learning Asian languages in Australia', also featured on ABC's Big Ideas program

May 2021, Podcast with the International Association of Constitutional Law (IACL) on "[Languages and Comparative Constitutional Method](#)"

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