



NEWSLETTER NO. 2 2016

Never Stand Still

Law

Gilbert + Tobin Centre of Public Law

** KEEP THE DATE**

2017 Constitutional Law Conference
and Dinner

Our next Constitutional Law Conference
and Dinner will be held on 17 February
2017 at the Art Gallery of New South
Wales and NSW Parliament House.

Dear Friend,

Welcome to our newsletter covering developments for the first half of 2016. Inside you can find out about some of the new people who have joined us as academic colleagues and research students. There is an update on the AUSPUBLAW blog and a rundown of several Centre events including our flagship constitutional law conference and dinner, as well as our project reports and the latest publications and presentations from Centre people.

My overview starts once again with the energy and achievements of our PhD students and early career researchers. Our newsletter features successfully completed projects as well as news of research projects currently underway. At the mid-year graduation ceremony, we celebrated the conferral of PhDs on Dr Jennifer Norberry and Dr Sangeetha Pillai. You read about Sangeetha's completed project in the last newsletter. In this edition we are pleased to bring you a report from Jennifer about her thesis on law and national security, supervised by Andrew Lynch and George Williams. Recently, Jackie Hartley successfully completed her PhD and the next edition of the newsletter will include Jackie's report of her project on Indigenous peoples' decision-making about development projects on their land.

Through the Centre, we try to sustain an environment of excellent and engaged scholarship, quality supervision and friendly collegiality. So it is pleasing that we are continuing to attract new postgraduate research students. There are currently twelve affiliated with the Centre, and I take this opportunity to acknowledge our three newest arrivals: Janet Hill, Jemimah Roberts and Shreeya Smith. And our congratulations go to two current PhD students: Shipra Chordia, for her appointment to a Visiting Researcher position at Harvard Law School for the Fall Semester 2016, and Harry Hobbs, for the award of a Lionel Murphy Postgraduate Scholarship.

I am pleased to highlight some other milestones and achievements for people associated with the Centre. Four colleagues have recently published books that bring their scholarship to a wider audience. Greg Weeks converted his PhD research into a book published by Hart titled *Soft Law and Public Authorities*. The appearance of Gabrielle Appleby's *The Role of the Solicitor-General* (again a Hart publication) coincides with the 100th anniversary of the office of Commonwealth Solicitor-General – a centenary the Centre will mark with an event on 24 October co-hosted with the AACL. Gabrielle's book about this important public law officer focuses on the interplay of law, policy and the public interest. Melissa Crouch continues to build her international reputation as an expert on law in the Asian region, including with the publication of her edited collection *Islam and the State in Myanmar* (Oxford University Press). And (cheating on the mid-year cut-off for the newsletter a bit) Gabrielle Appleby and Andrew Lynch, together with Centre alum Rebecca Ananian-Welsh, have co-authored *The Tim Carmody Affair: Australia's Greatest Judicial Crisis*, recently published by NewSouth Books. We also congratulate Lyndon Goddard and Daniel Reynolds, two former research assistants with the Centre, who have just published *Leading Cases in Australian Law* (Federation Press).

GILBERT+TOBIN

CENTRE
OF
PUBLIC
LAW



Centre Director, Sean Brennan

We were delighted to see that three Centre colleagues were promoted to Senior Lecturer by the University in mid-2016: Melissa Crouch, Paul Kildea and Nicola McGarrity. It is fitting recognition for three colleagues we value within the Centre for the quality of their scholarship, their commitment to public and policy engagement, and their collegiality. In other news, we said farewell to Dr Fergal Davis, Director of the Parliament Project, who was appointed to a Readership at King's College London.

Grant Hoole and Simon Halliday have now joined UNSW Law and the Centre, from Canada and the UK respectively. Inside you will find pieces from both Grant and Simon, introducing themselves and their research interests. It is a pleasure to have Grant back with us in a postdoctoral capacity after his earlier visit in 2012 as a PhD student, and we are very excited that Simon brings his reputation for first-class socio-legal investigation of public law issues, and for postgraduate supervision, to the Centre.

In conclusion, I want to acknowledge two people who have been very important to the sustained success of the Centre. David Dixon finished his term as Dean of UNSW Law in June, with the respect and affection of his colleagues. Throughout his ten year term, David was also Chair of the Centre's Steering Committee. In that formal role, but even more so informally as a leader of the Faculty and source of advice for me and previous Directors, David was a champion for our Centre. We thank him for his support and for his enormous contribution to the health of our Faculty. His ability to differentiate what matters in academic life – including justice, engaged scholarship, the experience we offer our students, and a decent and participative workplace – from what doesn't (a list I won't enumerate here), was absolutely crucial to putting the Faculty in the strong position it is in. Our new Dean, George Williams, was of course the founding Director of the Centre. That forms a great foundation for our ongoing relationship with the Faculty, as we enter a new era at the University under Vice-Chancellor Ian Jacobs. I am very pleased that Justine Nolan, the Associate Dean (Academic) who has particular responsibility for integrating the work of Centres with the rest of the Faculty, has agreed to be the new Chair of our Steering Committee.

And finally I want to acknowledge Danny Gilbert, the Managing Partner of Gilbert + Tobin, and the firm, for renewing their support for the work of the Centre for another three years. The initial agreement to support a Centre devoted, as Danny put it, 'to informed public debate about laws vital to Australia's future as an open and democratic society' was an act of vision. At this point, 16 years on, I want to thank Danny and Gilbert + Tobin for their sustained commitment to that vision and to the Centre's work. Cumulatively, it amounts to a very substantial long-term investment in public law scholarship and public engagement at our University.

Associate Professor Sean Brennan
Centre Director

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

The Centre's Twitter account keeps you up to date between newsletters and e-bulletins: @GTCentre

Or if you prefer Facebook: www.facebook.com/pages/Gilbert-Tobin-Centre-of-Public-Law/138063326284705



2016 Constitutional Law Conference



2016 Public Law in the Classroom Workshop

[CENTRE ACTIVITIES]

2016 CONSTITUTIONAL LAW CONFERENCE AND DINNER

On 12 February 2016 the Centre, with the support of the Australian Association of Constitutional Law, held its fifteenth consecutive staging of this event at the Art Gallery of New South Wales.

In the first session, Justice Carmel McClure and Jeremy Kirk SC reviewed the key themes of constitutional law decisions in the High Court, Federal Court and State Courts in 2015. The following two sessions looked at recent cases including a number from the political hotspot of NSW: *McCloy v NSW*, *ICAC v Cunneen* and *Duncan v NSW*. Speakers also addressed the constitutional challenges to ‘paperless arrests’ in the Northern Territory in *NAAJA v NT* and to offshore immigration detention in *Plaintiff M68/2015 v Minister for Immigration and Border Protection*, and a corporations power case from Queensland, *CEPU v Queensland Rail*. In the final session, Gabrielle Appleby, Peter Quiggin and Walter Sofronoff QC tackled the topic ‘Governing and Constitutional Law’ through the prism of three public offices: Solicitor-General, Parliamentary Counsel and Attorney-General.

Attendees at the dinner held in NSW Parliament House were kept entertained and very interested by guest speaker Justin Gleeson SC, Solicitor-General of the Commonwealth. An edited version of his remarks is available on the Centre website, as are the webcast videos of each conference session and written papers provided by some of the speakers.

PUBLIC LAW AND POLITICS IN THE CLASSROOM

Thursday 11 February heralded the second annual Public Law in the Classroom Workshop, hosted by UNSW’s Gilbert + Tobin Centre of Public Law and the Public Law and Policy Research Unit at the University of Adelaide. Following the success of the first workshop in 2015, this year the event attracted more than 60 public law teachers from law schools across Australia.

The workshop kicked off with a panel discussion discussing politics in the public law classroom. Associate Professor Dan Meagher (Deakin) gave a keynote that highlighted his own attempts to separate the important small ‘p’ political context and capital ‘P’ politics. Responses followed from Professor Kath Gelber (UQ), Professor John McMillan AO (NSW Ombudsman), Associate Professor Matthew Zagor (ANU), and Gemma McKinnon (UNSW).

The second session featured a number of presentations, including Dr Anna Olijnyk (Adelaide) on statutory interpretation in administrative law, Peter Black (QUT) on teaching constitutional law in the cloud and Luke Beck (UWS) on using multiple choice questions in constitutional law. PDFs from the poster session, some of which were also included in Session 2 presentations, are available on the workshop webpage: www.gtcentre.unsw.edu.au/events/public-law-classroom-2016.

The final session presented a forthcoming book project, *The Critical Judgments Project: Re-reading Monis v The Queen* (Federation Press), edited by Professor Rosalind Dixon (UNSW) and Dr Gabrielle Appleby (UNSW). The book introduces students to different critical legal perspectives, with different chapters presenting a re-written judgment from the implied freedom case of *Monis v The Queen*.

The day was defined by vibrant and dynamic discussion, both in the classroom and online under #publawteach. The online conversation has been captured on Storify: https://storify.com/Gabrielle_J_A/public-law-in-the-classroom-2016.



Deputy Chief Justice Dikgang Mosenke speaking on 'The Balance Between Robust Constitutionalism and the Democratic Process'
Photo: Anna Kucera



Deputy Chief Justice Dikgang Mosenke, Sean Brennan and George Williams
Photo: Anna Kucera

THE BALANCE BETWEEN ROBUST CONSTITUTIONALISM AND THE DEMOCRATIC PROCESS: PUBLIC LECTURE BY DEPUTY CHIEF JUSTICE DIKGANG MOSENEKE

The Centre was proud to present a Public Lecture by the Honourable Dikgang Mosenke, the recently retired Deputy Chief Justice of the Republic of South Africa on 15 June. The event was held in the Federal Court in Sydney and was co-hosted by UNSW Law and the Rule of Law Institute of Australia.

DCJ Mosenke commenced by reflecting on the centrality of a democratic ideal to the anti-apartheid movement: the notion that all people, irrespective of ethnicity, should be vested with an equal right to vote for a representative and accountable national government. He observed, however, that unqualified majoritarian democracy is prone to abuse of the very principles needed to sustain free societies. He cited the experiences of several post-colonial societies, where parliamentary supremacy has taken root without corresponding checks on government power, to illustrate the dissonance between unfettered majority rule and the public interest. DCJ Mosenke thus advocated a model of constitutional supremacy which empowers courts to enforce legal constraints upon elected governments.

Reflecting on the South African experience post-apartheid, he suggested that democracy and constitutional supremacy were not incompatible. Rather, the Constitution has a democratic foundation as a pre-commitment against repeating abuses of the past. It also facilitates broad democratic participation and representation through the enforcement of rights, and fosters a range of government and non-governmental institutions that work to align public policy with the public interest. Focusing on the Constitutional Court, he noted its accomplishments both in safeguarding individuals against majoritarian excess (for example, in invalidating capital punishment), and in effecting realisation of broad societal values (for example, in enforcing access to anti-retroviral medication for pregnant mothers infected with HIV).

The event concluded with DCJ Mosenke responding to questions from the audience. Asked to reflect on the current condition of South African society in light of the ideals of the anti-apartheid movement, he urged a focus on fundamental values as a beacon, so that departures from those values continue to be called out and brought into sharp relief. He praised the engagement of South African youth, the country's strong civil society, and institutions such as the Public Protector, Human Rights Commission, and courts. He concluded that law is not a panacea for every problem, noting in particular the challenges facing South Africa that arise from corruption, violence, and severe economic inequality. The ideals embodied in South Africa's revolution nevertheless continue to signal a way forward, and the Constitution is an enduring statement of those ideals and means of giving them reality.

A copy of Justice Mosenke's lecture is available on the Centre website.

2016 POSTGRADUATE WORKSHOP IN PUBLIC LAW

On 14-15 July the Centre hosted its 4th biennial Postgraduate Workshop in Public Law. As in previous years, the workshop provided postgraduate researchers with the opportunity to share their work, offer each other constructive feedback and ideas, and form new collegial relationships to carry into their future careers. This year's workshop was distinguished by an unprecedented number of applications to participate, making for a very competitive selection process. In total, 22 students delivered presentations, representing 14 different institutions in Australia, South Africa and the United Kingdom. Presentations ranged from deep engagement with recent jurisprudence on core principles of public law,



Brandis v Dreyfus: The 2016 Pre-Election Legal Affairs Debate
Photo: Anna Kucera



Brandis v Dreyfus: The 2016 Pre-Election Legal Affairs Debate - Fiona McLeod SC, Senator George Brandis QC, Anna Cody, Mark Dreyfus QC, Chris Merritt and Sean Brennan
Photo: Anna Kucera

to proposals for the creation of new representative and deliberative institutions, to the study of government lawyers' involvement in controversial public policy and political decision-making.

Dean George Williams opened the conference by sharing valuable advice on how postgraduate researchers can approach their work to establish expertise, pursue publication, and set the foundation for academic careers. Professor Janet McLean, our guest from the University of Auckland, then delivered a keynote address exploring the intersection of public law, ideology, and politics. Reflecting on personal experiences, she noted the influence of early career exposure to public law issues that became lasting sources of research interest, assuming new significance over time. Several participants remarked on Professor McLean's generosity in participating in all student panels, and on her genuine interest in speaking with students individually throughout the workshop.

Participant feedback registered the quality of presentations and the workshop's value in supporting students' research pursuits. The workshop remains one of the highlights of the Centre's calendar.

BRANDIS V DREYFUS: THE 2016 PRE-ELECTION LEGAL AFFAIRS DEBATE

In the run-up to the 2016 federal election, the Centre's Pre-Election Legal Affairs Debate featured the Attorney-General, Senator the Hon George Brandis QC, and the Shadow-Attorney-General, the Hon Mark Dreyfus QC MP.

The debate explored the policies of the Coalition and the Australian Labor Party as they affect the Australian legal system and legal profession. The Attorney-General and the Shadow Attorney-General made opening and closing statements. In between, a panel of three posed questions to each speaker. The panel members were Associate Professor Anna Cody, Director of Kingsford Legal Centre at UNSW and Board member of the National Association of Community Legal Centres; Ms Fiona McLeod SC, President-elect of the Law Council of Australia and Mr Chris Merritt, Legal Affairs Editor of *The Australian*.

The event was held at the premises of Gilbert + Tobin on 20 June, two weeks out from the election and attracted a large audience and considerable media attention to a series of policy issues in the portfolio. Some of that print, radio and social media coverage can be accessed via links on the Centre website, together with audio and video webcasts of the event.

CENTRE SEMINARS

Alongside its major public and academic events, the Centre maintains a lively intellectual atmosphere hosting seminars that feature distinguished visitors from interstate and overseas. Professor Rosalind Dixon is particularly energetic and enterprising in attracting speakers to the Centre who are travelling in eastern Australia.

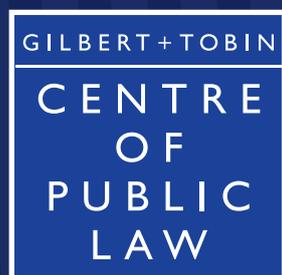
In the first half of 2016 these seminars included Kate O'Regan (previously a judge of the South African Constitutional Court) reflecting on 20 years of that country's constitution, Manuel Cepeda (former judge of the Colombian Constitutional Court) on judicial supervision of social change and visiting Fulbright Distinguished Chair Professor Carol Weissert speaking on intergovernmental bargaining in health policy in the US and Australia. The Centre also hosted a discussion with Emeritus Professor Bill Buss of the University of Iowa on his forthcoming book about the US influence on the Australian Constitution.



AUSPUBLAW Blog



Centre Member Professor
Simon Halliday



THE AUSPUBLAW BLOG

2016 has seen the AUSPUBLAW blog, hosted by the Gilbert + Tobin Centre of Public Law, continue to provide its readership with cutting-edge commentary, analysis and research from leading public law experts. This year, the blog has included analysis of the *Bell Group v Western Australia* decision by Dr Anna Olijnyk (Adelaide); Dr Ryan Goss (ANU) on the failed challenge to the changed Senate voting rules in *Day v Electoral Commissioner*; an analysis by Dr Paul Kildea (UNSW) on setting rules for a same-sex marriage plebiscite; Emeritus Professor Tony Blackshield on PNG's Supreme Court and Manus Island; Dr Brendan Gogarty on State constitutional reform in Tasmania; Professor George Williams and Daniel Reynolds (UNSW) on Australia's parliamentary regime for human rights scrutiny; Professor Graeme Orr (UQ) on the NSW Electoral Commission decision about public funding and disclosure of political donations; Dr Glenn Patmore (Melbourne) on politicians' justifications for initiating a republic referendum; a special series on *McCloy* and proportionality from Shipra Chordia (UNSW) and Murray Wesson (UWA); David Hume (UNSW) on *Plaintiff M68*; Professor John McMillan on the continuing importance of strong FoI; and Dr Matthew Stubbs (Adelaide) on substantive constitutional recognition of Indigenous people.

In addition to these and other substantive posts, the blog publishes a very useful monthly events roundup detailing upcoming public law lectures and conferences across Australia.

To subscribe to the blog, sign up at www.auspublaw.org or follow it on Twitter @auspublawblog. To submit a post for consideration at the blog, or to advise an upcoming public law event, contact the editors at auspublaw@unsw.edu.au.

[CENTRE PEOPLE]

SIMON HALLIDAY

Professor Simon Halliday has recently joined UNSW and the Gilbert + Tobin Centre, having previously worked in the UK (at the Universities of York, Strathclyde and Oxford). Although he has worked on a range of issues, his central concern is and always has been on the delivery of public services. He has a particular interest in the delivery of services to vulnerable individuals and populations. He has conducted research, for example, on homeless people seeking housing, on the families of patients with chronic disorders of consciousness seeking to let their relatives die, and on those convicted of criminal offences working with social workers to avoid custodial sentences.

Some of the main research questions that have animated his research to date are as follows:

- What happens to legal rules when they are implemented at 'street-level' in public bureaucracies? What role, if any, do legal values have?
- What influence do experiences of judicial review have on routine public administration?
- How do public agencies manage the risk of legal liability in the delivery of public services?
 - To what extent does the risk of liability affect the delivery of public services?
- Why do welfare applicants not pursue rights of redress in light of refusals of entitlement?

Simon has two main research projects that he will complete during his initial years at UNSW. First, he is co-editing a book of essays on the fate of social welfare rights in Europe in the current age of austerity.

- What has happened to social welfare policies since the financial crisis of 2008?
- How have public law rights been used to try to hold back the tide of austerity reforms?
- What might the success or failures of these efforts tell us about the power and limits of socio-economic rights?

Second, he will write a book on 'positive' administrative law, focusing on public agencies' engagement with vulnerable populations, such as asylum seekers and the poor. Taking a 'public health' approach to the subject, he will explore ways by which law might promote and sustain good decision-making and not merely correct bad decision-making. Such an approach, of course, entails the tackling of two fundamental questions:

1. What does good decision-making look like?
2. How might law contribute to its promotion and sustenance?

As for the first question, it involves (very broadly) the removal of barriers to the take up of entitlements, on the one hand, and the fostering of compassion on the part of street-level bureaucrats, on the other. As to the second (and more challenging) question, that is for a later bulletin.

GRANT HOOLE

My first contact with the Gilbert + Tobin Centre was as a visiting fellow in 2012, when I was still in the midst of completing my PhD at the University of Ottawa. I was struck then by the welcoming and dynamic atmosphere of the Centre and hoped that I might have a future opportunity to return. I'm thrilled to have had this opportunity materialise, and to join the Centre for a more extended period as Vice-Chancellor's Postdoctoral Fellow at UNSW Law.

My research interests broadly concern the design of legal institutions charged with fostering integrity and accountability in public life, such as commissions of inquiry, anti-corruption commissions, and ombudspersons. More specifically, I'm interested in exploring the role of legal procedure within such institutions, and in analysing whether conventional legal procedures are well-matched to the social problems that these institutions are often tasked to address. This interest arises in part from my doctoral thesis, which explored how constitutional principles surrounding the service of judges on commissions of inquiry should inform the procedural content of inquiries and demarcate limits on their investigative potential. Currently, I'm concerned with studying whether breakdowns in bureaucratic systems of accountability share common characteristics across diverse contexts, and if so whether the identification of those commonalities can help improve the design of responsive legal processes. I'm also interested in exploring how procedure can be used as a lens for evaluating institutional roles and competency, guiding decisions as to the allocation of problem-solving responsibilities between multiple institutions of public law.

One of the great attributes of the Centre is that it facilitates links between individual research and opportunities for collaboration and engagement. Since arriving in February of this year, I have worked with colleagues to present a submission to a select committee of the Commonwealth Senate, publish media commentary, and help organise the Centre's biennial postgraduate student workshop.



Gemma McKinnon, Grant Hoole and Gabrielle Appleby at DCJ Moseneke public lecture



Centre Social Justice Intern, Brigid McManus

SOCIAL JUSTICE INTERN REPORT

BRIGID MCMANUS

My semester as the Social Justice Intern for the Gilbert + Tobin Centre of Public Law was both eye-opening and inspiring. It enriched my understanding of public law and its potential and has left me with a deep appreciation of the Centre's work.

During the course of the semester, I worked with the Centre's members on a range of projects, spanning issues as diverse as expatriate judging in the Pacific region, the status of Australia Day as a public holiday and the constitutional implications of recent political developments in Myanmar. I assisted in preliminary research for the Centre's submission to the Select Committee on the Establishment of a National Integrity Commission as well as a presentation by Dr Paul Kildea and Professor Andrew Lynch on the interaction between federalism and public health policy. I was particularly struck by the extent to which these tasks involved exploration of new and often slightly unexpected areas, giving me insight into the innovative potential of public law as a field, and the type of creativity the Centre seems to foster.

I also spent some time working with the Centre's online platform, updating it in response to current events. The most substantive of these tasks involved preparing a set of brief responses to frequently asked questions regarding the government's proposed same-sex marriage plebiscite. I also assisted Associate Professor Gabrielle Appleby with the events roundup for the Auspublaw blog and updated the resources page for the Centre's Treaty project in light of the Victorian government's announcement that it would begin consultations with its Indigenous community regarding a treaty. These activities sought to bridge the gap between academic discourse and the broader public by providing a platform for informed debate and law reform. Accordingly, they allowed me to realise the Centre's potential to facilitate systemic change and law reform, deepening my understanding of its status as a social justice organisation.

Centre Director, Associate Professor Sean Brennan, was very generous with his time throughout my internship, often helping me refine my research and pointing me to issues and approaches I had not considered. He, and the other Centre members, had a strong focus on enriching my experience and sought to assign me tasks that aligned with my own personal interests or furthered my learning. For example, I was given the opportunity to attend a conference reflecting on the 20th anniversary of South Africa's Constitution, an experience that was absolutely fascinating. As my time with the Centre has come to an end, I find myself wishing that I could stay on. I am very grateful for having been involved, and welcomed so warmly.

PHD REPORTS

JENNIFER NORBERRY

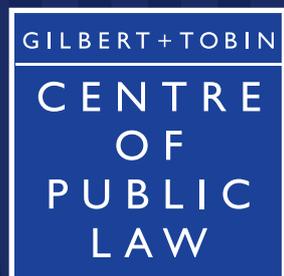
I commenced a part-time, external PhD in 2009 and, after a break of one semester, submitted my thesis in 2015. My topic was 'Law and National Security Crisis in Australia'. The thesis asked what factors have driven the responses of federal parliamentarians to proposals for exceptional national security laws during times of 'crisis'. My interest in this question was piqued in the post-9/11 period when I worked in the Law Group of the Commonwealth Parliamentary Research Service. It also brought to mind an earlier time in Australian history when Parliament debated and passed legislation designed to ban the Communist Party and 'unlawful associations'.



Gabrielle Appleby, Deputy Chief Justice Dikgang Moseneke, Mrs Kabo Moseneke, Sean Brennan and George Williams



Centre PhD student Sarah-jane Morris



My PhD focused on two periods of national security ‘crisis’ — the Cold War and the ‘War on Terror’. It examined the passage of the *Communist Party Dissolution Act 1950* (Cth), the *Security Legislation Amendment (Terrorism) Act 2002* (Cth) and the *Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Act 2003* (Cth). It involved an analysis of Hansard, the use of legal history and doctrinal research, and the application and assessment of a theoretical framework proposed by legal scholar Oren Gross. In broad terms, Gross is interested in how democratic states respond to crisis. More particularly, he suggests that two fundamental assumptions underpin legal responses to crisis and ease acceptance of extraordinary laws. The first is the ‘assumption of constitutionality’. This is the idea that constitutional norms and legal rules control governmental responses to crisis. My thesis asked whether and, if so, how constitutional and legal norms shaped Parliament’s response to the bills I selected for study. It also interrogated Gross’s ‘assumption of separation’. In doing so, it asked whether and how parliamentary debate was influenced by the idea that proposed laws would be temporary and that they would apply to an enemy ‘other’. It also considered whether parliamentarians accorded the executive government special deference in the distinct realm of national security.

Life as a part-time, external PhD student presented some challenges. However, study with the Gilbert + Tobin Centre of Public Law was more than ample compensation. In George Williams and Andrew Lynch I had supervisors of exceptional calibre. I benefited from the depth and breadth of their knowledge, their generous feedback and support, their patience and their good humour. My review panel — Theunis Roux, Fergal Davis and Ben Golder — looked closely at each of my chapters and provided constructive criticism at annual meetings held with me and my supervisors. The Gilbert + Tobin Centre and, in particular, the Laureate Project, was a rich resource of counter-terrorism law scholarship. I recommend the Centre for anyone interested in doctoral studies in public law. It is a wonderfully rewarding experience.

SARAH-JANE MORRIS

I started a PhD at the beginning of this year, looking at the relationship between the principle of finality and administrative law adjudication in the Australian legal system, under the supervision of Emeritus Professor Mark Aronson and Dr Greg Weeks.

My research will consider the interplay between finality and opposing revisionist concerns in judicial review and merits review proceedings in courts and tribunals, respectively. Specifically I will address the extent to which the common law closure rules (for example *res judicata*) and their statutory counterparts do and should apply to these proceedings. I will also consider how administrative law in the Australian constitutional context affects the principle of finality by facilitating the re-opening of adjudications.

After more than 10 years as a public law practitioner at the NSW Crown Solicitor’s Office, I am thoroughly enjoying the opportunity to spend time reflecting upon an area of law that fascinates me. In hindsight, sharing my government clients’ frustration about the re-litigation of administrative law matters may have initially attracted me to the project. However, having had the chance to view the principle of finality more critically, I now appreciate that the balance between finality and revisionism in the structure and rules of the legal system is far from straightforward and deserves specific consideration in the Australian public law context.



Fergal Davis and some Centre colleagues at lunch just before his departure to the UK

[PROJECT REPORTS]

COMPARATIVE CONSTITUTIONAL LAW PROJECT

Project Director: Rosalind Dixon

Deputy Director: Melissa Crouch

As a result of a conference held in December 2014, Rosalind Dixon and Melissa Crouch have published a special journal issue on the first decade of the Indonesian Constitutional Court, which is available free at [SSRN](#).

In 2016, Melissa Crouch has been invited to work with the International Institute for Democracy and Electoral Assistance (International IDEA, a major INGO focused on constitutional and electoral reform) in the establishment of the Myanmar Constitution ('MyConstitution') Centre in Yangon. Melissa has provided advice on curriculum design and produced curriculum on the processes and principles of constitutional design, as part of the establishment of the centre. The MyConstitution Centre aims to support the process of constitutional reform in Myanmar by offering training in constitutional law to a wide range of actors.

In May 2016, Melissa Crouch and former UNSW PhD student, Fritz Siregar (now of University of Indonesia), were successful with a grant from ANU to conduct an empirical study of the administrative courts in Indonesia.

In 2016, Melissa has continued to speak at a wide range of national and international forums (Singapore, Korea, Canberra, Melbourne) on the legal reform process in Myanmar and the challenges that minorities face in particular. While Myanmar is now led by a National League for Democracy government, the military still retains ultimate control, and there remain ongoing constitutional issues in the immediate future.

In April 2016, UNSW Law welcomed a delegation of professors and students from Sultan Agung Islamic University (known as '[UNISSULA](#)') Semarang, Indonesia. Melissa Crouch facilitated the visit together with the Indonesian Embassy. George Williams and Colin Picker (Associate Dean International) met with the group and discussed the possibility of future cooperation.

At a seminar and book launch in April at UNSW Law, *The Future for Muslims in Myanmar: Implications for Australia and the Region*, Melissa was both organiser and presenter, along with Dr Nicholas Farrelly (ANU) and UNSW Professor Clive Kessler, who launched Melissa's new edited collection *Islam and the State in Myanmar* (Oxford University Press 2016).

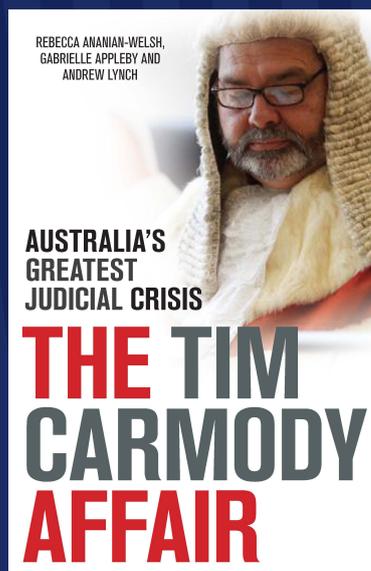
Meanwhile Ros Dixon staged two major comparative law events in mid-2016. At the end of April she organised, with Professor Theunis Roux, a major workshop on The South African Constitution in Global & Critical Perspective. Some additional satellite events are described elsewhere in the newsletter under Centre Seminars.

A week later in Melbourne, Ros collaborated with University of Melbourne colleagues to stage *The Invisible Constitution in Comparative Perspective*, an International Association of Constitutional Law Roundtable.

INDIGENOUS LEGAL ISSUES PROJECT

Project Director: Sean Brennan

Discussions of Indigenous 'recognition' have taken a new, if belated, turn in the direction of participation by Australia's First Peoples. As a result of pressure from Aboriginal leaders, the Abbott government relented in 2015 on the question of government support for Indigenous-designed and led gatherings, to discuss constitutional change. The government-appointed Referendum Council, established in December 2015 and constituted



Book cover of *The Tim Carmody Affair: Australia's Greatest Judicial Crisis*

by a mix of Indigenous and non-Indigenous members, has largely turned over the next stage to consultations amongst Aboriginal and Torres Strait Islander people, although the Council will also host online discussions for the entire community through a new digital platform. The three leadership meetings held by Aboriginal and Torres Strait Islander delegates in mid-2016 to discuss ideas for structural and symbolic change and the consultation process will now be followed by a series of regional dialogues that will run into 2017. The discussions take place amid renewed interest in the question of a treaty or treaties between governments and first peoples, particularly after the Victorian State government initiated a community engagement process on Aboriginal self-determination and empowerment.

Project Director Sean Brennan was fortunate to be invited as an independent legal adviser to attend two of the mid-year leadership meetings held in Broome and Melbourne, drawing on research and engagement work through the Centre that has been going on since 2002. Other Centre colleagues have also continued to make significant public contributions. Gabrielle Appleby wrote about design challenges for constitutionalising a new Indigenous advisory body in the *Australian Indigenous Law Review* (AILR). George Williams also wrote in the AILR about the Indigenous advisory body proposal, as well as other pieces on federal and State constitutional recognition, including a submission to the Tasmanian Department of Premier and Cabinet. Paul Kildea wrote on the interplay of the treaty and constitutional recognition debates in *The Conversation* and PhD student Harry Hobbs argued in *The Guardian* that greater public respect for Aboriginal decision-making is necessary whether the context is allowing tourists to climb Uluru, tackling socio-economic challenges or changing the Constitution.

JUDICIARY PROJECT

Project Co-Directors: Gabrielle Appleby and Andrew Lynch

The Directors of the Project, Associate Professor Gabrielle Appleby and Professor Andrew Lynch, have commenced a number of major new joint projects this year. Working with Rebecca Ananian-Welsh (University of Queensland), Gabrielle and Andrew have completed a book called *The Tim Carmody Affair: Australia's Greatest Judicial Crisis*, published by NewSouth Publishing in early September. For the first time, the book traces the full story of the appointment, brief tenure and ultimate resignation of Tim Carmody as Chief Justice of Queensland. As leading researchers on judicial independence, appointment and regulation, Rebecca, Gabrielle and Andrew provide the legal background to the saga, and conclude with an analysis as to what reform is needed to avoid this kind of controversy from arising again.

Working with Associate Professor Suzanne Le Mire (University of Adelaide) and Professor Brian Opeskin (Macquarie University), in March Gabrielle and Andrew commenced a survey of Australian judicial officers to identify the nature and extent of the different challenges that face the institutional integrity of the Australian judiciary and how reforms might be designed to address them. All courts in Australia – at federal, state and territory level – have been approached to take part in the first exploratory study of its kind in Australia. It will provide an important data-set from which future research into the Australian judiciary can be targeted.

Gabrielle and Andrew are also part of a research team (again including Professor Opeskin and Associate Professor Le Mire) that has been commissioned by the Judicial Conference of Australia to complete a substantial research project in relation to acting/temporary/part-time/reserve judges. The research will consider the various issues involved in such appointments. The report is due November 2016.

Both Gabrielle and Andrew were in New York in July to present at the *International Legal Ethics Conference VII*, hosted by the Fordham Law School. Andrew presented two papers. The first considered the support for and regulation of judicial incapacity and the second, the role played by professional associations in judicial appointments. Gabrielle also presented two papers, the first with Dr Alysia Blackham (University of Melbourne) on the ethical regimes that apply to former judges and the second with Associate Professor Le Mire on ethical advisory mechanisms that are available for sitting judges.

The Project welcomed two visitors in mid 2016. James Lee from King's College London joined the Project to continue his research on the dynamics of judicial reasoning in the United Kingdom Supreme Court and the High Court of Australia. Byron Karemba is a PhD student at the University of Leeds School of Law conducting research into the constitutional role of the Supreme Court of the United Kingdom, comparing that court with apex courts in other jurisdictions, including Australia. Byron participated in the Centre's postgraduate conference in July as part of his six-week visit.

REFERENDUMS PROJECT

Project Director: Paul Kildea

Both major parties remain committed to the idea of holding a referendum on the constitutional recognition of Aboriginal and Torres Islander peoples in 2017. However, no concrete timetable has been proposed and agreement on a specific model remains elusive. The most significant development of recent months was a meeting of the Referendum Council, the body appointed by the Prime Minister to lead national consultations and promote community engagement on this issue. At its May meeting, the Council announced a new consultation process, beginning with three meetings of Aboriginal and Torres Strait Islander leaders. These will be followed by 'national consultations including broader Indigenous dialogues, community-wide and digital consultations'. The Council will deliver its final report to the Prime Minister after those consultations have concluded. That report is expected to include advice on the next steps that should be taken towards a referendum.

The Turnbull government remains committed to holding a plebiscite on same-sex marriage by the end of 2016. The conduct of the plebiscite was discussed by Paul Kildea in a piece for *AUSPUBLAW*, in which he noted the enormous discretion the federal Parliament has in setting ground rules on such basic matters as the franchise, the manner of voting and campaign finance. Paul argued that the government should use the plebiscite as a testing ground for possible innovations to referendum practice, such as more rigorous rules around campaign spending. George Williams, meanwhile, argued in the *Sydney Morning Herald* that 16- and 17-year olds should be able to vote in the plebiscite as they have a genuine stake in the outcome.

The Centre also published a set of plebiscite 'FAQs'. These were written by student intern, Brigid McManus in mid-2016, and appear on the Centre website. This resource includes answers to common questions such as 'What is a plebiscite?', 'Could same-sex marriage be introduced without a plebiscite?' and 'What are the positions of the major parties?'.

'After a period of time, it becomes trite to observe that the United Kingdom and Australia have followed different paths on issues such as public law estoppel and legitimate expectations without seeking to explain why that should be so. Part of the reason is inevitably constitutional. ... However, as important as this constitutional element is, we believe that there is greater complexity to the division between English and Australian approaches than it reflects alone.'

Matthew Groves and Greg Weeks, 'The Legitimacy of Expectations About Fairness: Can Process and Substance be Untangled?' in Bell et al (eds), *Public Law Adjudication in Common Law Systems: Process and Substance* (Hart Publishing, 2016).

[PUBLICATIONS AND PRESENTATIONS]

PUBLICATIONS

Joint Publications

Gabrielle Appleby and Joanna Howe, 'Scrutinising Parliament's Scrutiny of Delegated Legislative Power' (2015) 15 *Oxford University Commonwealth Law Journal* 3;

Gabrielle Appleby, Alexander Reilly and Sean Brennan, 'Foreword: Special Issue on Teaching Public Law' (2015) 25 *Legal Education Review* 295;

Gabrielle Appleby and Adam Webster, 'Cycling and the Law' (2016) 39(1) *University of New South Wales Law Journal* 129;

Alysia Blackham and George Williams, 'Craig Thomson and the Limits of Parliamentary Accountability for Misconduct' on AUSPUBLAW (21 June 2016) <https://auspublaw.org/2016/6/craig-thomson/>;

AJ Brown and Paul Kildea, 'The Referendum That Wasn't: Constitutional Recognition of Local Government and the Australian Federal Reform Dilemma' (2016) 44(1) *Federal Law Review* 143;

Simon Butt, Melissa Crouch and Rosalind Dixon, 'The First Decade of Indonesia's Constitutional Court' (2016) 16(2) *Australian Journal of Asian Law* 1;

Shipra Chordia and Andrew Lynch, 'Constitutional Incongruence: Explaining the Failure of the Council of the Australian Federation' (2015) 43 *Federal Law Review* 339;

David Cowan, Caroline Hunter and Simon Halliday, 'Homelessness Internal Reviews: the Long View', invited submission to the blog of the UK Administrative Justice Institute, 9 May 2016;

Melissa Crouch and Tom Ginsburg, 'Between Endurance and Change in Southeast Asia: The Military and Constitutional Reform in Myanmar and Thailand', in *Annual Review of Constitution Building* (IDEA, 2016);

Rosalind Dixon and Adrienne Stone, 'Constitutional Amendment and Political Constitutionalism: A Philosophical and Comparative Reflection' in David Dyzenhaus and Malcolm Thorburn (eds), *Philosophical Foundations of Constitutional Law* (Oxford University Press, 2016);

Matthew Groves and Greg Weeks, 'The Legitimacy of Expectations About Fairness: Can Process and Substance be Untangled?' in John Bell et al (eds), *Public Law Adjudication in Common Law Systems: Process and Substance* (Hart Publishing, 2016) 165;

Keiran Hardy and George Williams, 'Executive Oversight of Intelligence Agencies In Australia' in ZK Goldman and SJ Rascoff (eds), *Global Intelligence Oversight: Governing Security in the Twenty-First Century* (Oxford University Press, 2016), 315;

Keiran Hardy and George Williams, 'Executive Oversight of Intelligence Agencies in Australia' in *Lawfare* (11 May 2016);

Harry Hobbs and George Williams, 'The Australian Senate's Reformed Electoral System is a Major Improvement', *UCL Constitution Unit Blog* (29 March 2016);

Caroline Hunter, Joanne Bretherton, Simon Halliday and Sarah Johnsen, 'Legal Compliance in Street-Level Bureaucracy: A Study of UK Housing Officers' (2016) 38(1) *Law & Policy* 81;

Paul Kildea and Rodney Smith, 'The Challenge of Informed Voting at Constitutional Referendums' (2016) 39(1) *University of New South Wales Law Journal* 368;

'We have a system where giving money can influence outcomes - and that's a soft form of corruption. It comes by way of improved access, in particular to people making key decisions that affect corporate interests. And that's something that runs counter to the most basic democratic ideals.'

George Williams, *Four Corners*, ABC Television, 23 May 2016.

Daniel Reynolds and George Williams, 'The Operation and Impact of Australia's Parliamentary Scrutiny Regime for Human Rights' (2015) 41 *Monash University Law Review* 469;

Daniel Reynolds and George Williams, 'The First Four Years of Australia's Parliamentary Scrutiny Regime for Human Rights', *UK Constitutional Law Blog* (6 April 2016);

Daniel Reynolds and George Williams, 'The First Four Years of Australia's Parliamentary Scrutiny Regime for Human Rights' on AUSPUBLAW (7 April 2016) <<https://auspublaw.org/2016/03/australias-parliamentary-scrutiny-regime-for-human-rights/>>.

Gabrielle Appleby

The Role of the Solicitor-General: Negotiating Law, Politics and the Public Interest (Hart Publishing, 2016);

'Institutional Costs of Judicial Independence' in Rebecca Ananian-Welsh and Jonathan Crowe (eds), *Judicial Independence in Australia: Contemporary Challenges, Future Directions* (Federation Press, 2016);

'Constitutionalising an Indigenous Voice in Australian Law-making: Some Institutional Design Challenges' (2015) 18 *Australian Indigenous Law Review* 98;

'Functionalism in Constitutional Interpretation: Factual and Participatory Challenges: Commentary on Dixon' (2015) 43 *Federal Law Review* 493.

Shipra Chordia

'Proportionality and *McCloy v New South Wales*: close but not quite?' on AUSPUBLAW (1 March 2016) <<https://auspublaw.org/2016/3/proportionality-and-mccloy/>>.

Melissa Crouch

'Islamic Law and Society in Southeast Asia' in Anver M Emon and Rumees Ahmed (eds) *The Oxford Handbook on Islamic Law* (Oxford University Press, 2015);

'Constitutionalism, Islam and the Practise of Religious Deference: The Case of the Indonesian Constitutional Court' (2016) 16(2) *Australian Journal of Asian Law* 1;

'Promiscuity, Polygyny and the Power of Revenge: The Past and Future of Burmese Buddhist Law in Myanmar' (2016) 3(1) *Asian Journal of Law and Society* 85;

Module on Principles and Processes of Constitution-making, prepared for workshops run by the International Institute for Democracy & Electoral Assistance (IDEA), May 2016, Yangon, 1-48;

Curriculum Guidelines on Constitutional Design for MyConstitution Centre, International Institute for Democracy and Electoral Assistance (IDEA), Yangon, 1-16.

Rosalind Dixon

'An Australian (Partial) Bill of Rights' (2016) 14(1) *International Journal of Constitutional Law* 80;

'The Functional Constitution: Re-Reading the 2014 High Court Term' (2015) 43 *Federal Law Review* 455;

'The Future of Constitutional Comparison: A Colloquy on Ran Hirschl's Comparative Matters: Toward a Realistic Comparative Constitutional Studies?' (2016) 64 *The American Journal of Comparative Law* 193;

'Constitutional Drafting & Distrust' (2015) 13(4) *International Journal of Constitutional Law* 819.

David Hume

'Plaintiff M68 – offshore processing and the limits of Chapter III' on AUSPUBLAW (26 February 2016) <<https://auspublaw.org/2016/3/plaintiff-m68-2015/>>.

Paul Kildea

'Setting the ground rules for the same-sex marriage plebiscite' on AUSPUBLAW (27 April 2016) <<https://auspublaw.org/2016/04/same-sex-marriage-plebiscite/>>.

Andrew Lynch

'Keep Your Distance: Independence, Individualism and Decision-Making on Multi-Member Courts' in Rebecca Ananian-Welsh and Jonathan Crowe (eds), *Judicial Independence in Australia – Contemporary Challenges, Future Directions* (The Federation Press, 2016) 156.

Greg Weeks

Soft Law and Public Authorities: Remedies and Reform (Hart Publishing, 2016).

George Williams

'The High Court, the Constitution and Human Rights' in S Rajkhowa and S Deka (eds), *Comparative Public Law* (EBH Publishers (India), 2016), 333;

'Should the Australian Constitution Establish an Indigenous Advisory Body?' (2015) 18 *Australian Indigenous Law Review* 111;

'The High Court, the Constitution and Human Rights' (2015) 21 *Australian Journal of Human Rights* 1;

'The UK Human Rights Act Debate', *Law Society of NSW Journal* (April 2016) 22;

'The Danger of Our Laws', *Law Society of NSW Journal* (March 2016) 31;

'Recognising Aboriginal and Torres Strait Islander Peoples in the *Constitution*' (2015) 34 *University of Tasmania Law Review* 114.

PRESENTATIONS

Joint Presentations

Gabrielle Appleby and Alysia Blackham, 'The Shadow of the Court: Ethics for Former Judges', *International Legal Ethics Conference VII*, Fordham Law School, New York, 14-16 July 2016;

Gabrielle Appleby and Suzanne Le Mire, 'Ethical Guidance and Counselling in a Modern Judiciary', *International Legal Ethics Conference VII*, Fordham Law School, New York, 14-16 July 2016;

Gabrielle Appleby and Anna Olijnyk, 'Constitutional dimensions of law reform', *The National Law Reform Conference*, ANU, 14 April 2016;

Mark Bruerton and Paul Kildea, 'Practitioners' Opinions on Barriers to Federal Reform', *Sir Samuel Griffith Conference: A People's Federation for the 21st Century*, Brisbane, 17 June 2016;

Simon Halliday, Caroline Hunter, David Cowan and Abi Dymond, 'Reconsidering Mandatory Reconsideration', *Initial Decision-Making, Internal Review and Administrative Justice Conference*, University of Manchester, UK, 11 May 2016;

Paul Kildea and Andrew Lynch, 'Intergovernmental Relations and Health Policy', *The Politics of Australian Health Policy Workshop*, Faculty of Arts and Social Sciences and Gilbert + Tobin Centre of Public Law, UNSW, 12 May 2016.

'[T]he solicitor-general has no control over how government uses or represents his or her advice (or even the lack of advice). Misrepresentation, intentional or otherwise, is possible, particularly when the political stakes are high and the legal issues are complex.'

Gabrielle Appleby, 'A Fragile Relationship' *Inside Story*, 10 June 2016

Gabrielle Appleby

'ICAC – Theory and Practice', *Australasian Study of Parliament Group Seminar*, 21 June 2016;

'Walking the tightrope: Balancing the role of advisor and advocate as a government lawyer', *Victorian Government Solicitor Seminar Series*, 21 March 2016;

'The Solicitor-General as Constitutional Adviser', 2016 Gilbert + Tobin Centre of Public Law *Constitutional Law Conference*, Sydney, 12 February 2016.

Melissa Crouch

'How to Study Conflict in Times of Crisis' *Roundtable*, Asia Research Institute, Singapore, 28 June 2016;

'Forced Migration and Regional Cooperation Southeast Asia: Policymakers' Perceptions, Strategies and Constraints', *Closed Roundtable for Policymakers and Academics* Deakin University, 10 June 2016;

'The Opportunities for Legal Research on Myanmar and the Importance of Online Resources', *AsianLII Myanmar/Burma Law Database Launch*, Austlii, UNSW Law, 24 May 2016;

Invited Speaker, *Myanmar Under the NLD*, Myanmar Research Centre and the Lowy Institute for International Policy, Canberra, 30 March 2016;

'How Authoritarian Law Constrains Politics in Myanmar', *New Authoritarianism in Asia*, Friedrich-Ebert-Stiftung and Asian Political and International Studies Association, Ewha Womans University, Seoul, South Korea, 3-5 March 2016;

Australian Human Rights Commission, *Invite-only Roundtable on Alternatives to Third Country Resettlement*, Sydney, 17 March 2016;

'Understanding Religious Diversity in Myanmar', *Rethinking Muslim Communities in Southeast Asia*, S.Rajaratnam School of International Studies, Singapore, 24 February 2016;

Workshop on Researching Statelessness in the Asia-Pacific, University of Melbourne, Kaldor Centre for International Refugee Law and United Nations High Commissioner for Refugees, 27-29 January 2016.

Rosalind Dixon

'Constitutional Implications in Australia', *IACL Roundtable on the Invisible Constitution*, Melbourne Law School, 2-3 May 2016;

'Responsive Judicial Review', *Legal Processes and Human Rights Workshop*, Macquarie University Research Centre for Agency, Values and Ethics, 26 April 2016;

'Responsive Judicial Review & Constitutional Dialogue', *Conference on Constitutional Dialogue* Princeton University (via video-link), 26 April 2016.

Andrew Lynch

'Integrity in Judicial Ethics and Regulation: The Challenges of Judicial Incapacity', *International Legal Ethics Conference VII*, Fordham Law School, New York, 14-16 July 2016;

'With the Support of the Profession': The Role and Responsibilities of Lawyers' Professional Associations in Judicial Appointments', *International Legal Ethics Conference VII*, Fordham Law School, New York, 14-16 July 2016;

'A Decade of the United Kingdom's Judicial Appointments Commission – What Lessons are there for Australia?', *Supreme and Federal Court Judges Conference*, Brisbane, 25 January 2016.

‘Even if the Commonwealth were not convinced to introduce a shiny new integrity commission, there are three more modest – and we would even say relatively uncontroversial – improvements that could be made to the existing institutions immediately. First, to address the incongruous position that there are no institutions with the specific goal of fostering integrity within Parliament itself, the Commonwealth should appoint an independent parliamentary ethics officer ... Second, there is an urgent need for a handbook to help public servants and the public understand and navigate the existing mechanisms. ... Third, all of the existing major integrity institutions must be given budgetary security.’

Gabrielle Appleby and Grant Hoole, ‘What should a federal ICAC look like? The hypothetical long arm’ *The Mandarin*, 29 April 2016

George Williams

‘When Courts and Tribunals Use Social Media – The Potential Benefits and Risks’, *A Symposium: Challenges of Social Media for Courts and Tribunals*, Judicial Conference of Australia and Australasian Institute of Judicial Administration, Melbourne, 26 May 2016;

‘An Ideal Constitution?’, *The Tasmanian Constitution: A Symposium*, Faculty of Law, University of Tasmania, 22 February 2016;

‘Does Australia Have a Human Rights Problem?’, *Twilight Seminar*, Faculty of Law, Bond University, 17 February 2016;

‘Developing your Research Career’, *Seminar*, Faculty of Law, Bond University, 17 February 2016.

MEDIA PUBLICATIONS

Joint Media Publications

Gabrielle Appleby and Grant Hoole, ‘What should a federal ICAC look like? The hypothetical long arm’, *The Mandarin* (29 April 2016);

Gabrielle Appleby and Adam Webster, ‘Getting bike laws right means balancing rights of cyclists and motorists’, *The Conversation* (29 February 2016).

Gabrielle Appleby

‘A Fragile Relationship’, *Inside Story* (10 June 2016);

‘Election Explainer: when does the government enter caretaker period and what does it mean?’, *The Conversation* (11 May 2016);

‘Releasing government’s advice would help parliament better scrutinise laws’, *The Conversation* (17 December 2015).

Melissa Crouch

‘What now for Myanmar’, *Sydney Morning Herald* (2 April 2016);

‘A Moral Hazard, Indonesia at a Flash Point over Gay Rights’, *Sydney Morning Herald* (20 February 2016);

‘Dawn of a Democratic Era or Dialogue with Dictators: The New Leaders of Myanmar’, *ConstitutionNet* (12 February 2016);

‘Indonesia: Persecution disguised as Fighting Terrorism’, *Sydney Morning Herald* (28 January 2016).

Rosalind Dixon

‘Replacing Justice Scalia: Lessons for Australia?’, *Australian Financial Review* (16 February 2016);

Paul Kildea

‘Turnbull’s plan to fix the federation is bold – but can he deliver?’, *The Conversation* (31 March 2016).

George Williams

‘The Soft Corruption at the Heart of our Political System’, *Sydney Morning Herald* (30 May 2016);

‘Why the Major Parties Can’t Ignore the Greens’, *Sydney Morning Herald* (16 May 2016);

This year has borne out former Prime Minister Tony Abbott's prediction that 'for some time to come, the delicate balance between freedom and security may have to shift'. Government agencies can now access the metadata of every person, journalists can be jailed for reporting on matters of public interest and Australians can be banished after having their citizenship revoked.

George Williams, 'We Must Speak Up When Our Rights are Squashed by Power' *Sydney Morning Herald* (28 December 2015)

'The Court Case that Could Derail Turnbull's Election Plans', *Sydney Morning Herald* (2 May 2016);

'Stripping of Citizenship a Loss in More Ways Than One', *Sydney Morning Herald* (18 April 2016);

'We Should be Told How Our High Court Judges are Chosen', *Sydney Morning Herald* (4 April 2016);

'Australia's Problem with Innocent Until Proven Guilty', *Sydney Morning Herald* (16 March 2016);

'Senate Voting Below the Line Needs to be Reformed as Well', *Sydney Morning Herald* (29 February 2016);

'Teens Aged 16 and 17 Should Vote in Marriage Equality Plebiscite', *Sydney Morning Herald* (22 February 2016);

'Not a Good Day for M68 or Any Other Asylum Seeker for that Matter', *Sydney Morning Herald* (4 February 2016);

'The Growing Assault on our Democratic Rights', *The Age* (28 December 2015);

'We Must Speak Up When Our Rights are Squashed by Power', *Sydney Morning Herald* (28 December 2015);

'The Growing Assault on Our Democratic Rights', *Canberra Times* (28 December 2015);

'How an Indigenous Treaty Would Build a Better Foundation for Australia', *The Age* (14 December 2015);

'How an Indigenous Treaty Would Build a Better Foundation for Australia', *Sydney Morning Herald* (14 December 2015).

SUBMISSIONS

Joint Submissions

Gabrielle Appleby, Sean Brennan, Shipra Chordia and Grant Hoole, Submission to the Senate Select Committee Inquiry on the Establishment of a National Integrity Commission (20 April 2016);

Daniel Reynolds and George Williams, Submission to Parliament of Queensland Legal Affairs and Community Safety Committee 'Human Rights Inquiry' (11 March 2016).

George Williams

Submission to Tasmanian Department of Premier and Cabinet on 'Constitutional Recognition of Tasmanian Aboriginal People' (8 June 2016);

Submission to Joint Standing Committee on Electoral Matters 'Inquiry into the Commonwealth Electoral Amendment Bill 2016' (26 February 2016).



Participants at *Brandis v Dreyfus*:
The 2016 Pre-Election Legal
Affairs Debate

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