



THE UNIVERSITY
OF
NEW SOUTH WALES



FACULTY OF LAW

GILBERT + TOBIN CENTRE OF PUBLIC LAW

ANNUAL REPORT

FOR THE YEAR ENDED 31 DECEMBER 2004

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1. DIRECTOR'S REPORT

Relationship of the Centre to UNSW

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

Benefits to UNSW

The Centre provides a focal point for research and other activity in the field of public law at UNSW. Further details can be found in section 2 of this report and in the attached newsletters.

Financial position of the Centre

The financial position of the Centre as at 31 December 2004 recorded a surplus of \$178,464.54. This figure represents a surplus of \$14,881.01 higher than 2003. Refer to Statement of Financial Performance attached.

Success or failure in meeting research objectives

All research projects of the Centre met or exceeded their research objectives.

The **Electoral Law Project** has run its course and came to an end on 1 July 2004. This project produced leading scholarship that assisted the development of an appropriate regime of electoral law in the 21st century. During its term, the project, in collaboration with Griffith Law School, explored and studied key issues of concern to contemporary electoral law culminating in the publication of its book *Realising Democracy* as well as a number of articles in Australian and overseas journals. During its term, the project was innovative in meeting its goal of better informing the public about electoral law, one example being the creation and maintenance of an online Electoral Law Resource Page.

The **Bill of Rights Project** remains active even though Australia has yet to achieve a national Bill of Rights. However, 2004 saw the introduction of its first Bill of Rights, with the ACT Human Rights Act coming into force on 1 July 2004. This Act has given impetus to the debate and to commemorate this historical event, a forum was held in conjunction with the Australian National University to examine its significance for Australia. The project has also supported other projects, such as the Protecting Human Rights project run by the Public Interest Advocacy Centre. The Bill of Rights Resource page has been extensively reworked and now includes material on Bills of Responsibilities, including on the ACT Charter of Responsibilities Bill 2004, the first such Bill introduced into parliament in the world.

The **International Law Project** in conjunction with the Centre for International and Public Law at the Australian National University, is conducting a review and assessment of the relationship between international law and the Australian legal system. During 2004, the project partners saw the publication in the *Sydney Law Review* of its article entitled "Deep Anxieties: Australia and the International Legal Order". The project also launched its website (www.ilals.unsw.edu.au) which contains useful information about the project personnel, publications, conferences and events. Its Resource Page acts as a database of resources on the relationship between international law and Australian law.

With the War in Iraq there has been amplification of Australia's engagement with the international legal order in political debate, the media and civil society. Case studies were completed on the decision-making process leading to Australia's entry into two distinct treaties: the Optional Protocol to the International Covenant on Civil and Political Rights and the Framework Convention on Tobacco. During 2004 the project hosted an expert workshop on "International Law and the Australian Legal System" and also focused on the signing of the Australia-United States Free Trade Agreement and ratification of the Rome Statute to the International Criminal Court.

The **Treaty Project** has focused its research on Indigenous and non-Indigenous notions of sovereignty. The second, third and fourth in the series of issues papers were published during the year looking at different aspects of the treaty debate. The project continued to work with its ARC project partners at Jumbunna Indigenous House of Learning at UTS and the highlight of the year was the National Forum held in September on Indigenous Health and the Treaty Debate. This forum brought together people from a wide range of Indigenous and non-Indigenous organisations as well as interested members of the public and media. The project director gave a number of presentations during the year and continued to take a strong interest in the areas of Indigenous legal issues. He was awarded a UNSW Faculty Research grant to pursue native title research and is also part of a working group providing advice to Reconciliation Australia on ideas for moving the reconciliation process forward.

The **Homelessness, Human Rights and the Law Project** operates in partnership with the Public Interest Law Clearing House Homelessness Persons' Legal Clinic in Melbourne and made a major contribution to the economic, social and cultural aspects of homelessness. Its website www.gtcentre.unsw.edu.au/homelessness-legal-rights contains an extensive Resource Page on Homelessness, Human Rights and the Law, covering such areas as Public Space Rights, Equality Rights and Criminal Justice Issues. During 2004 two Resource Bulletins were published as well as a number of papers.

The **International Trade and Development Project** was established in September 2004 to contribute to a better understanding of contemporary international trade and development issues. This project plays an important role in providing original, non-partisan research into issues of systemic importance in the field. The project emphasises research into fundamental issues of importance related to public international trade law and will examine some of the more poignant issues facing Australia and the World Trade Organisation. The project aims to influence actual events and policy-making in Australia and to provide important critiques of governmental and WTO policies and negotiations.

2. CHAIR OF MANAGEMENT COMMITTEE'S REPORT

Summary of Centre's achievements

- The Centre was successful in regard to three Australian Research Council grants. One discovery grant was for a project entitled 'Terrorism and Public Law after September 11' and involved a grant of \$410,000 over five years. Another linkage grant was received in partnership with Professor Larissa Behrendt at the University of Technology, Sydney. The grant is for a project on 'Regional Governance for Aboriginal and Torres Strait Islander Communities' and is for \$180,000 over two years. Our industry partner on this grant is the South West

Aboriginal Land and Sea Council in Western Australia, which is also making a substantial in kind contribution as well as providing cash funding of \$40,000. The third grant was with a number of partners and was for \$114,036 for the enhancement of the Australian Policy Online website (www.apo.org.au/). This grant is to be based at Swinburne University of Technology. All up, over the past four years, the Centre has been successful in attracting competitive grant funding from the Australian Research Council and other sources of over \$1.7 million. This does not include the Centre's participation, with many other partners, in a \$1.5 million Australian Research Council network grant for 'The Governance Research Network' coordinated by Professor Charles Sampford at Griffith University.

- On 11 May 2004 Centre Director George Williams appeared as a barrister in the Supreme Court of Fiji. He represented Mr Mahendra Chaudhry, leader of the Fijian Labour Party in a matter on the number of seats that Party is entitled to in the Fijian Cabinet. The case was initiated by a reference to the Supreme Court by the President of Fiji. The Court has reserved its decision.
- In October 2004, the Centre Director with John Basten QC and Rachel Pepper, instructed by the Public Interest Advocacy Centre, appeared in the High Court in *APLA Ltd v Legal Services Commissioner of New South Wales*. The matter involved a challenge to the constitutional validity of new regulations that prohibited a wide range of communications (defined as 'advertising') by New South Wales lawyers. The legal team was successful in its application to the High Court to intervene in the proceedings as amicus curiae representing the Combined Community Legal Centres' Group (New South Wales) Inc and the Redfern Legal Centre. The case raised a range of important and novel constitutional issues ranging from freedom of political communication to the idea of an implied right to access to justice to freedom of interstate intercourse as it relates to the internet.
- The Centre Director, with Ben Zipser, instructed by Kingsford Legal Centre, appeared in the Supreme Court of New South Wales in a case dealing with prisoners' rights to political information. An urgent application was heard by Justice Smart of the Supreme Court in which it was argued that Justice Action should be able to have distributed electoral information containing the policies of the major parties as they relate to prisoners and also information relating to prisoners' voting rights. The application was ultimately not decided because New South Wales prisoners completed voting before the polling day of 9 October and before the matter could be resolved.
- During 2004 the Centre assisted the work of Federal Parliamentary Committees. The Centre Director made a submission and appeared before the Senate Legal and Constitutional Committee in its inquiry into an Australian republic. Other submissions were made by the Centre to the same Committee in its inquiries into Australian expatriates, the Anti-Terrorism Bill 2004 and the Migration Amendment (Judicial Review) Bill 2004. A submission was also made to the Joint Standing Committee on Electoral Matters of the Federal Parliament in its inquiry into the disclosure of donations to political parties and candidates.

Public Recognition and Profile

The Centre, throughout 2004, continued to enjoy a high media profile playing a prominent, independent role in public debate on issues vital to Australia's future: including human rights, the reconciliation process, reform of the Australian Constitution and the question of an Australian republic. The Centre's bi-annual newsletter is put up on the website and is posted to the 1,650 people on the database, which includes academics, lawyers, journalists, politicians and members of the general community.

Website

The Centre website www.gtcentre.unsw.edu.au has become a popular portal into public law issues and the work of the Centre. It is innovative in including features such as a Constitutional Law Teacher's Clearing House and resource pages linked to ongoing research. The site has led to considerable interaction between Centre researchers and international scholars and to contact with potential postgraduate students from Australia and overseas. During 2004 there were over 500,000 server requests on the Centre website, a considerable increase from 110,000 requests made during 2003. The main countries accessing the site came from Australia, the United States, New Zealand the United Kingdom, with the majority of users coming from UNSW, other universities, government departments and non profit organisations.

Projects

The key projects undertaken during 2004 by the Centre were:

- Bills of Rights
- High Court of Australia
- Homelessness, Human Rights and the Law
- International Law and the Australian Legal System
- International Trade and Development
- Public Law Litigation
- The Republic
- A Treaty between Indigenous Australians and the Wider Community

During 2004 the Centre continued to work with PhD students involved in fields of law and public policy (see section on postgraduate students below).

Events

The Centre held several successful events during 2004.

2004 Constitutional Law Conference and Dinner

On 20 February 2004, the Centre again hosted a major constitutional law conference at the Art Gallery of New South Wales. The conference, the third in this series of annual events, gathered together practitioners, judges, scholars and members of the general public to discuss recent events and future trends in Australian constitutional law. The event attracted 220 people and participants at the conference also enjoyed the dinner that night at New South Wales Parliament House. The speaker was Chief Justice Murray

Gleeson who spoke on the High Court and its challenges for the next century and the dinner was again followed by a High Court trivia quiz.

Race Hate Event

In February 2004 the Centre and the Faculty of Law hosted an informal symposium to discuss current issues in law and policy surrounding the regulation of race hate in Australia. An assortment of postgraduate students and interested academics gathered to enjoy a lunch and the thoughts of academics currently researching in the area of race hate.

2004 Human Rights Act Forum

This forum was held on 1 July 2004, the day the new ACT Human Rights Act 2004 came into force. Speakers examined its significance for Australia, including whether it is a landmark development or a negative step in the protection of human rights. While the event focused on changes to the law made by Australia's first Bill of Rights, it was aimed at both a legal and non-legal audience. The event was run in partnership with the Centre for International and Public Law at the ANU.

Workshop on International Challenges to the Australian Legal System

As part of the International Law Project, the Centre in partnership with the ANU Centre for International and Public Law held an expert workshop in Canberra on 12-13 August. The workshop brought together invited participants, including government lawyers, academics, barristers and PhD students from Australia, New Zealand and Canada. The aim of the workshop was to inspire and develop debate on the role of international law within the domestic legal system.

National Forum - Indigenous Health & the Treaty Debate: Rights Governance & Responsibility

More than 200 people from around Australia gathered at The Scientia at UNSW on 11 September for a national forum staged by the Centre and its partners in the Treaty Project. The event was called *Indigenous Health and the Treaty Debate: Rights Governance and Responsibility*. It was held to address the question whether, apart from its symbolic significance, a treaty could make a practical difference in the everyday lives of Indigenous people. To give focus to that question it concentrated on the vital issue of Indigenous health and well-being.

Ruddock v Roxon: The Great Legal Debate

With the Australian Financial Review, the Centre organised what was the key legal event of the 2004 Federal election campaign, a debate between Attorney-General Philip Ruddock MP and Shadow Attorney-General Nicola Roxon MP. The debate explored the policies of the major parties in regard to the Australian legal system and the legal profession.

ACT Human Rights Act 2004: Australia's First Bill Of Rights

A seminar was held at NSW Parliament House on Friday 29 October on the ACT Human Rights Act 2004: Australia's First Bill Of Rights co-organised by the Centre and the Sydney Centre for International and Global Law at the University of Sydney. Speakers examined the Act and its affect upon human rights, the legal profession and legal institutions as well as the implications for national debate on Bills of Rights and public education and awareness.

Contribution to UNSW

The Centre has boosted the already strong national profile of public law at UNSW. It has provided a platform for academics at UNSW to engage in national debates through appearances in the media and also the organisation of national conferences.

3. CENTRE COMMITTEES

The composition of the Committees for 2004 were as follows:

Advisory Committee

Sir Anthony Mason, Former Chief Justice of the High Court (Chair)
Professor Larissa Behrendt, Jumbunna Indigenous House of Learning, University of Technology, Sydney
Professor James Crawford, Cambridge University
Ms Andrea Durbach, Faculty of Law, UNSW
Mr Stephen Gageler SC, NSW Bar
Mr Danny Gilbert, Managing Partner, Gilbert + Tobin
Justice Ronald Sackville, Federal Court of Australia
Mr Michael Sexton SC, Solicitor-General of NSW
Professor Leon Trakman, Dean, Faculty of Law, UNSW
Professor George Williams, Centre Director
Professor George Winterton, Faculty of Law, UNSW

The Advisory Committee held its second meeting on 11 March 2004. During this meeting the Committee discussed and offered strategic advice on the work of the Centre to date.

Management Committee

Professor David Dixon, Associate Dean (Research), Faculty of Law, UNSW (Chair)
Ms Carmel Harrington, Gilbert + Tobin
Professor Peter Saunders, Social Policy Research Centre, UNSW
Associate Professor Elaine Thompson, School of Politics & International Relations, UNSW
Dr Derek Wilding, Director, Communications Law Centre, UNSW
Professor George Williams, Centre Director

The Management Committee held its second meeting on 3 March 2004. During the meeting the Centre's budget and other operations were reviewed.

4. OPERATIONAL SUMMARY

Objectives of the Centre

The Centre was established as a national focal point for research into and discussion of important questions of public law for the academic, professional and wider community. The Centre has strong support from the Faculty of Law, which provides office space, computer resources etc and a part time administrator. Many members of the Faculty are Associates of the Centre.

The Centre's activities involve not only administrative and constitutional law, but also related areas of intersection and structural legal reform, such as human rights, Indigenous legal issues, cyberlaw and electoral law. In these and other areas, the Centre is involved in research and contemporary public debates of political and legal significance. It acts as a change agent through the excellence of its research, the highly visible platform it provides for key participants and its constructive community leadership in debate and opinion formation.

Research

The Centre has established itself as a leading research institution in the field of public law in Australia and in the region. We are continuing to develop an international profile for our research work.

Funding

Gilbert + Tobin funds the salary of its Director (this funding is provided direct to the Faculty of Law and not to the Centre).

Additional funding that enables the Centre to employ other full-time people is as follows:

Treaty Between Indigenous and Non-Indigenous Australians

The Australian Research Council awarded the Centre and its partners the following research funding for this project:

2002:	\$70,000
2003:	\$100,000
2004:	\$134,083

The project is also supported by funding of \$90,000 from the Myer Foundation.

Electoral Law

The Australian Research Council awarded the Centre and its partner the following research funding for this project:

2002:	\$77,506
2003:	\$32,561

The project was also supported by funding of \$60,000 from the Electoral Council of Australia and came to an end in 2003.

International Challenges to the Australian Legal System

The Australian Research Council awarded the Centre and its partner the following funding for this project:

2002:	\$57,000
2003:	\$107,000
2004:	\$136,520
2005:	\$72,000

During 2004 the Centre received further funding from several of its successful events. The 2004 Constitutional Law Conference and Dinner made a profit of \$32,000 and the ACT Human Rights Act Forum added a further \$4,000 to the Centre's funding.

Future of the Centre

The Centre now has a solid financial base, and we are looking forward to producing more exciting and important research outcomes. Its new project Terrorism and the Law will get underway in 2005 with ARC funding of \$410,000 over five years. Another grant received in partnership with the University of Technology, Sydney for \$180,000 over two years is for a project on Regional Governance for Aboriginal and Torres Strait Islander Communities. A third grant with a number of partners is for \$114,036 for the enhancement of the Australian Policy Online website and will be based at Swinburne University of Technology.

5. STAFF

Centre Associates

Nicole Abadee, *Part-time Lecturer*, BA LLB (Hons) Syd, LLM (Hons) (Cambridge)

Roy Baker, *Project Director*, Communications Law Centre, LLB, LLM UBC, LLM UNSW

Tony Blackshield, *Adjunct Professor*, LLM Syd

Dorne Boniface, *Senior Lecturer*, BCom (Ec) UNSW, LLB UNSW, LLM Uni Syd

Adam Czarnota, *Senior Lecturer*, LLM PhD N.Copernicus

Julian Disney, *Professor*, AO LLB Adel, Hon LLD UNSW

Colin Fong, *Librarian*, Australian Taxation Studies Program, BEc (Syd); AALIA; MLS (Hons) (UTS)

Arthur Glass, *Associate Professor*, BA LLB PhD Syd

Ben Golder, *Part-Time Lecturer at the University of East London*, BA (Hons) LLB (UNSW)

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

Jill Hunter, *Associate Professor*, BA LLB UNSW, PhD Lond

Martin Krygier, *Professor*, BA LLB Syd, PhD ANU

Irene Nemes, *Senior Lecturer*, BA Syd, LLB UNSW, LLM Syd

Garth Nettheim, *Emeritus Professor*, LLB Syd, AM Tufts

Justine Nolan, *Lecturer*, LLB (Hons) ANU, MPP University of California

Richard Potok, *Visiting Fellow*, BComm LLB NSW, BCL Oxon

Rosemary Rayfuse, *Senior Lecturer*, LLB Queens, LLM Cantab, PhD Utrecht

Ronnitt Redman, *Lecturer*, BA LLB Syd LLM McGill

Ben Saul, *Lecturer*, BA (Hons) LLB (Hons) Syd, DPhil Oxon

Robert Shelly, *Lecturer*, BA LLB Syd

Joan Staples, *Part-Time Lecturer*, BA Syd

Alex Steel, *Senior Lecturer*, BA LLB (Hons) Macq, MA (Media, Tech & Law) Macq

Jeremy Webber, *Visiting Professor*, BA (British Columbia), LLB (McGill), LLM (Osgoode) 1988

Leslie Zines, *Visiting Professor*, AO LLB (Syd) LLM (Harv) Hon LLD (ANU)

Postgraduate Students

The following postgraduate students are supported by the Centre:

Cassandra Goldie

Supervised by Professor George Williams

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

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

Andrew Lynch
Supervised by Professor George Williams
Topic: Dissent in the High Court of Australia in Constitutional Cases

Dan Meagher
Supervised by Professor George Williams
Topic: The Why and How of Race Hate Speech Regulation in Australia

Ms Anne Twomey
Supervised by Professor George Williams
Topic: The Powers of the New South Wales Government

Social Justice Internship

The Centre continues to take part in the Social Justice Intern Program, an undergraduate elective designed to give later year undergraduate students experience in various aspects of social justice advocacy. The students working with the Centre during 2004 were Michael Walton (semester I, 2004) and Lara Kostakidis-Lianos (semester II, 2004).

Centre Staff

Staff as at 31 December 2004 consisted of the following:

Sean Brennan (Director, Treaty Project)
Email: s.brennan@unsw.edu.au
Phone: (02) 9385 2334

Interests:

Public Law, Indigenous Legal Issues, Native Title.

Megan Davis (on secondment) (Director, Bills of Rights Project)
Email: megan.davis@unsw.edu.au
Phone: (02) 9385 2863

Interests:

Human Rights, Public Law, International Law.

Ben Golder (Research Assistant, Faculty of Law)

Cassandra Goldie (Director, Homelessness Legal Rights Project)
Email: c.goldie@unsw.edu.au
Phone: (02) 9385 1295

Interests:

Human Rights, Social Justice Law and Policy Homelessness and Housing Community
Legal Education and Development

Devika Hovell (Director, International Law Project)
Email: d.hovell@unsw.edu.au

Phone: (02) 9385 2875

Interests:

International humanitarian law, International criminal law, Use of force, International Courts and Tribunals, International law and Human Rights in Australia

Belinda McDonald (Administrator)

Email: gtcentre@unsw.edu.au

Phone: (02) 9385 2257

Bryan Mercurio (Director, International Trade and Development)

Email: b.mercurio@unsw.edu.au

Phone: (02) 385 3445

Interests:

Electoral Law, International Trade Law and Intellectual Property.

George Williams (Centre Director)

Email: 9385 2259

Phone: (02) 9385 2259

Interests:

Constitutional law, human rights and electoral law.

6. PUBLICATIONS

Publications for the year ending 2004 are set out below.

George Williams

Books

The Case for an Australian Bill of Rights: Freedom in the War on Terror (UNSW Press, 2004), 1-95.

Book Chapters

‘The Rule of Law and the Regulation of Terrorism in Australia and New Zealand’ in Hor, M, Roach, K, and Ramraj, V, *Comparative Anti-Terrorism Law & Policy* forthcoming by Cambridge University Press.

‘Human Rights and Judicial Review in a Nation without a Bill of Rights: The Australian Experience’ in Huscroft, G, and Brodie, I (eds), *Constitutionalism in the Charter Era* (Butterworths, 2004), 305-334.

‘A Supreme Court for the United Kingdom? A View from the High Court of Australia’ in Morgan, D (ed), *Constitutional Innovation: The Creation of a Supreme Court for the United Kingdom; Domestic, Comparative and International Reflections* (Legal Studies, 2004), 188-209 (with Tracey Stevens).

Articles

‘A Tale of Two Systems: The Use of International Law in Constitutional Interpretation in Australia and South Africa’ forthcoming in the *Melbourne University Law Review* (with Devika Hovell).

‘A Bill of Responsibilities for Australia?’ forthcoming in the *Alterative Law Journal* (with (with Lara Kostakidis-Lianos).

‘The Australian Diaspora and the Right to Vote’ (2004) 32 *University of Western Australia Law Review* 1-29 (with Bryan Mercurio).

‘Australian Electoral Law: Free and Fair?’ (2004) 32 *Federal Law Review* 365-395 (with Bryan Mercurio).

‘What is “Terrorism”? Problems of Legal Definition’ (2004) 27 *University of New South Wales Law Journal* 270-295 (with Ben Golder).

‘“Sovereignty” and its Relevance to Treaty-Making Between Indigenous Peoples and Australian Governments’ (2004) 26 *Sydney Law Review* 307-352 (with Sean Brennan and Brenda Gunn).

‘Responding to Terrorism without a Bill of Rights: The Australian Experience’ (2004) 2 *AsiaRights* (Issue 2, September / October 2004)
<<http://rspas.anu.edu.au/asiarightsjournal/Williams.html>>.

‘Human Rights and Judicial Review in a Nation without a Bill of Rights: The Australian Experience’ (2004) 23 *Supreme Court Law Review* (2d) 305-334.

‘The High Court on Constitutional Law: The 2003 Statistics’ (2004) 27 *University of New South Wales Law Journal* 88-99 (with Andrew Lynch).

‘The Constitutional Role of the Courts: A Perspective from a Nation without a Bill of Rights’ (2004) 2 *New Zealand Journal of Public and International Law* 25-46.

‘A Supreme Court for the United Kingdom? A View from the High Court of Australia’ (2004) 24 *Legal Studies* 188-209 (with Tracey Stevens).

‘The Power to Go to War: Australia in Iraq’ (2004) 15 *Public Law Review* 5-9.

‘Electoral Law Symposium: An Introduction’ (2004) 32 *Federal Law Review* 357-363 (with Graeme Orr and Bryan Mercurio).

‘Commentary on “The Growth of Constitutional Writs”’ (2004) 12 *Australian Journal of Administrative Law* 30-34.

Treaty – What’s Sovereignty Got to Do With It? (Issues Paper No 2, Treaty Project, Gilbert + Tobin Centre of Public Law, January 2004) (with Sean Brennan and Brenda Gunn).

Electronic

'Federalism Needs Fixing' *On Line Opinion*
<<http://www.onlineopinion.com.au/view.asp?article=2845>> at 9 December 2004.

'High Time to Reform the High Court Selection Process' *On Line Opinion*
<<http://www.onlineopinion.com.au/view.asp?article=2773>> at 30 November 2004.

'Federalism Needs Fixing' in *Its Time*, e-magazine of the Whitlam Institute, Issue 22
<http://www.whitlam.org/its_time/22/federal.html> at 18 November 2004.

'High Court Appointments: Time for Reform' *Australian Policy Online*
<http://www.apo.org.au/webboard/results.shtml?filename_num=00932> at 15 November 2004.

'Federalism Needs Fixing' *Australian Policy Online*
<http://www.apo.org.au/webboard/results.shtml?filename_num=00932> at 2 November 2004.

'ACT Debates World's First Bill of Responsibilities' *On Line Opinion*
<<http://www.onlineopinion.com.au/view.asp?article=2486>> at 25 August 2004 (with Lara Kostakidis-Lianos).

'The Other Side of the Rights Debate' *Australian Policy Online*
<http://www.apo.org.au/webboard/results.shtml?filename_num=00819> at 20 August 2004 (with Lara Kostakidis-Lianos).

'The Butler Affair Serves up an Opportunity to Reform Vice-Regal Appointments' *On Line Opinion*
<<http://www.onlineopinion.com.au/view.asp?article=2453>> at 18 August 2004.

'Choosing the Next Governor' *Australian Policy Online*
<http://www.apo.org.au/webboard/results.shtml?filename_num=00809> at 12 August 2004.

'The ACT Bill of Rights is Just the First Step in the Right Direction' *On Line Opinion*
<<http://www.onlineopinion.com.au/view.asp?article=2341>> at 5 July 2004.

'In any Society, it's a Risk to Take Freedoms for Granted' *Australian Policy Online*
<<http://www.apo.org.au/webboard/items/2004/07/00747.shtml>> at 1 July 2004.

'The Dangers in New Anti-terror Laws' *Australian Policy Online*
<www.apo.org.au/webboard/items/00663.shtml> at 6 May 2004.

'Public Involvement is Essential for a Viable Republic Referendum Process' *On Line Opinion*
<www.onlineopinion.com.au/view.asp?article=2141> at 15 April 2004.

'Debate Should Involve All of us From the Start' *Australian Policy Online*
<www.apo.org.au/webboard/items/2004/04/00647.shtml> at 15 April 2004.

'Finally, Australia's First Bill of Rights' *Australian Policy Online*
<www.apo.org.au/webboard/items/00624.shtml> at 12 March 2004.

'The ACT's Bill of Rights: A New Era in Rights Protection for All Australians' *On Line Opinion* <www.onlineopinion.com.au/view.asp?article=2079> at 19 March 2004.

General Media

'Where Women are Always Overlooked' *Hobart Mercury* (24 November 2004).

'Remove the Doubt on Judges' *The Australian* (16 November 2004).

'High Court Needs a Woman's Touch' *Sydney Morning Herald* (11 November 2004).

'Federalism Needs Fixing' *Australian Financial Review* (26 October 2004).

'Speak No Evil – Security Law on the Books' *NewMatilda.com* (1 September 2004) <<http://www.newmatilda.com/home/articledetail.asp?Destination=45&ArticleID=79&HomepageID=33>>.

'Time for Our Parliament to Put the State to Rights' *Adelaide Advertiser* (23 August 2004).

'The Other Side of the Rights Debate' *Canberra Times* (20 August 2004) (with Lara Kostakidis-Lianos).

'Fix an Archaic System, Let the People Choose their Governor' *Adelaide Advertiser* (12 August 2004).

'Governor Must be People's Choice, not Sent to Reign' *Sydney Morning Herald* (11 August 2004).

'Fix the Vice-Regal Mess' *Courier Mail* (11 August 2004).

'How to Reform the Appointment of Governors' *The Age* (11 August 2004).

'Time for NSW to Adopt its Own Bill of Rights' *Newcastle Herald* (2 August 2004).

'Rights Way to Go' *Courier Mail* (19 July 2004).

'Now, More than Ever, We Need a Bill of Rights' *The Age* (16 July 2004).

'Guard for Our Rights' *Hobart Mercury* (15 July 2004).

'Iraq Needs a Bill of Rights – Why is Australia Denied One?' *Canberra Times* (2 July 2004).

'ACT Bill of Rights a Good Starting Point' *Australian Financial Review* (2 July 2004).

'In any Society, it's a Risk to Take Freedoms for Granted' *Sydney Morning Herald* (1 July 2004).

'Law on Terror Erodes Freedoms' *Courier Mail* (30 April 2004).

'The Dangers in Anti-Terror Laws' *The Age* (30 April 2004).

'Clear Vision for Change Needed on Republic' *Courier Mail* (21 April 2004).

'A Republic is Back on the Agenda' *The Age* (14 April 2004).

'Debate on a Republic Should Involve All of Us From the Start' *Sydney Morning Herald* (13 April 2004).

'Finally, Australia's First Bill of Rights' *Australian Financial Review* (12 March 2004).

Sean Brennan

'Native Title and the 'Acquisition of Property' under the Australian Constitution' (2004) 28 *Melbourne University Law Review* 28.

'Reconciliation in Australia: the Relationship between Indigenous Peoples and the Wider Community' (2004) 11 *Brown Journal of World Affairs*.

Treaty – What's Sovereignty Got to Do With It? Issues Paper No 2, Treaty Project, Gilbert + Tobin Centre of Public Law, January 2004 (with Brenda Gunn and George Williams).

Native Title and the Treaty Debate - What's the Connection?, Issues Paper No 3, Treaty Project, Gilbert + Tobin Centre of Public Law, May 2004.

Could a Treaty make a Practical Difference in People's Lives? The Question of Health and Well-being Issues Paper No 4, Treaty Project, Gilbert + Tobin Centre of Public Law (December 2004).

'"Sovereignty" and its Relevance to Treaty-Making Between Indigenous Peoples and Australian Governments' (2004) 26 *Sydney Law Review* 307-352 (with Brenda Gunn and George Williams).

Megan Davis

Terrorism Hot Topics No 42 Legal Information Access Centre, State Library of New South Wales

Ben Golder

'What is "Terrorism"? Problems of Legal Definition' (2004) 27 *University of New South Wales Law Journal* 270-295 (with Ben Golder).

'It forced me to open more than I could bear': HAD, Paedophilia, and the Discursive Limits of the Male Heterosexual Body' (2004) 34 *Studies in Law, Politics and Society* (Chapter 3).

'The Homosexual Advance Defence and the Law/Body Nexus: Towards a Poetics of Law Reform' (2004) 11(1) *E Law – Murdoch University Electronic Journal of Law* (www.murdoch.edu.au/elaw).

‘From *McFarlane* to *Melchior* and Beyond: Love, Sex, Money and Commodification in the Anglo-Australian Law of Torts’ (2004) 12 *Torts Law Journal* 128.

‘Law, History, Colonialism: An Orientalist Reading of Australian Native Title Law’ (2004) 9 *Deakin Law Review* 41.

Devika Hovell

‘Chinks in the Armour: International Law, Terrorism and the Use of Force’ (2004) 27(2) *University of New South Wales Law Journal* 398.

‘A Tale of Two Systems: The Use of International Law in Constitutional Interpretation in Australia and South Africa’ forthcoming in the *Melbourne University Law Review* (with George Williams).

Bryan Mercurio

‘Should Australia Continue Negotiating Bilateral Free Trade Agreements?: A Practical Analysis’ (2004) 27 *University of New South Wales Law Journal* 667.

‘Improving Dispute Settlement in the WTO: The DSU Review – Making It Work?’ (2004) 38 *Journal of World Trade* 795.

‘TRIPs, Patents and Access to Life-Saving Drugs in the Developing World’ (2004) 8 *Marquette Intellectual Property Law Review* 211.

‘Democracy in Decline: Can Online Voting Save the American Electoral System’ (2004) 22 *John Marshall Journal of Computer and Information Law* 409.

‘Still Under Construction: Voting and the Internet Superhighway’ (2004) 166 *Communications Update* 15.

‘The Australian Diaspora and the Right to Vote’ (2004) 32 *University of Western Australia Law Review* 1-29 (with George Williams).

‘Australian Electoral Law: Free and Fair?’ (2004) 32 *Federal Law Review* 365-395 (with George Williams).

‘Electoral Law Symposium: An Introduction’ (2004) 32 *Federal Law Review* 357-363 (with Graeme Orr and George Williams).

PRESENTATIONS

George Williams

‘The Growth of Constitutional Writs: Commentary’ delivered at *2004 Administrative Law Seminar*, Federal Court of Australia, Sydney, 3 April 2004.

‘The Rule of Law and the Regulation of Terrorism in Australia and New Zealand’ delivered at *Comparative Anti-Terrorism Law & Policy Symposium*, Faculty of Law, National University of Singapore, 26 June 2004.

‘What is ‘Terrorism’? Problems of Legal Definition’ delivered at *Twenty Years of Human Rights Scholarship and Ten Years of Democracy*, Centre for Applied Legal Studies and the School of Law, University of the Witwatersrand, Johannesburg, 5-7 July 2004.

‘The Appointment of High Court Judges: Issues of Gender and Process’ delivered at University of Tasmania Law Faculty, 23 August 2004.

‘The Case for an Australian Bill of Rights’ delivered at *MESSTA Inc. HSC Legal Studies Human Rights Conference*, NSW Parliament House Theatre, 15 October 2004.

‘Human Rights in Australia after September 11’ delivered at *Law and Society HSC Legal Studies Day*, Legal & Business Studies Seminars, 11 November 2004.

‘Overview of Terrorism Laws and the Scope of Legislative Review’ delivered at *Workshop on Terror Laws – Building Networks and Strategies*, UTS, Sydney, 12 November 2004.

‘Contemporary Issues in the Teaching of Constitutional Law’ delivered at *2004 Constitutional Law Teachers Workshop*, University of Melbourne Faculty of Law supported by UTS, Sydney, 26 November 2004.

‘Reform of the High Court Appointment Process’ delivered at *Constitutional Fundamentals and Judicial Power*, University of Sydney Law School, 27 November 2004.

‘Definitions of Terrorism’ delivered at Human Rights Class, School of Government and International Relations, University of Sydney, 2 December 2004.

Sean Brennan

‘Indigenous Peoples and Treaty-Making in Australia’, delivered at Kingsford Legal Centre, Sydney, 9 June 2004.

‘Native Title, Regional Autonomy and Treaty’, delivered at ANTaR National Congress, Brisbane, 18 June 2004.

‘The Possibility of Treaty-Making’ delivered at *Terra Alterius: Land of Another*, Ivan Dougherty Gallery, Sydney, 20 August 2004.

‘Forum Close’ delivered at *Indigenous Health and the Treaty Debate: Rights Governance and Responsibility*, Sydney, 11 September 2004.

‘Learning From Each Other: Overseas Influences on an Australian Project about Treaties’ delivered at Association for Canadian Studies in Australia and New Zealand (ACSANZ) Biennial Conference, Sydney, 24 September 2004.

‘The Idea of Modern Treaty-Making between Indigenous Peoples and Australian Governments’ delivered at the 2004 Conference of the International Bar Association, Auckland, New Zealand, 26 October 2004.

Megan Davis

HREOC/ATSIS Consultations on the United Nations Draft Declaration on Indigenous Peoples Rights, delivered at the Mercure Hotel Sydney, 29-31 March 2004.

United Nations Permanent Forum on Indigenous Issues, delivered in New York, 10-23 May 2004.

‘Indigenous Rights: Looking Forward’ delivered at the ACT Bill of Rights Forum, Australia National Museum, Canberra, 1 June 2004.

‘WTO TRIPS, International Trade and Women’ delivered at HREOC Women Taking Action Workshops, UNSW, 17 June 2004.

‘International Trade Law and Indigenous Peoples: WTO Softwood Lumber dispute’ delivered at the Annual Conference, Australian New Zealand Society of International Law, 19 June 2004 Canberra.

‘Indigenous Peoples in Australia’ delivered at the United Nations Fellows Forum, Barcelona Forum 2004, Barcelona, Spain, 11 August 2004.

‘International Human Rights Advocacy: Unexamined Casualty of the Demise of ATSIC’ delivered at the National Association of Community Legal Centres Stamford Grand Hotel Glenelg Adelaide, 29 August 2004.

‘United Nations Draft Declaration on the Rights of Indigenous People’ delivered in Geneva, Switzerland 13-24 September 2004.

‘Indigenous Peoples and the United Nations’ delivered at the Commonwealth Aging and Health Department Indigenous Conference, Novotel Brighton Beach, 28 November 2004.

‘Indigenous Peoples and leadership at the United Nations’ delivered at the Australian Indigenous Leadership Centre, Novotel Brighton Beach, 6 December 2004.

Ben Golder

‘Valuing Reproductive Freedom in Birth-Related Medical Negligence Claims: A Legal and Policy Analysis’, delivered at 10th Australian Bioethics Association/Australian Institute of Health Law and Ethics Conference, *Contesting Freedoms in Health Care: Policy, Practice and Ethics*, 13-14 November 2004.

Cassandra Goldie

‘Indigenous People and Public Space: The Use of Move On Powers in Darwin, Northern Territory and Associated Legal Challenges’ delivered at Indigenous People and Public Space meeting, Human Rights and Equal Opportunity Commission, Brisbane 27 February 2004.

‘Telling Stories’ delivered at Homelessness, Human Rights and the Law Symposium, Council to Homeless Persons, Melbourne 10 March 2004.

Devika Hovell

‘Notion of State Sovereignty and Limits of Intervention’, delivered at Seminar: International Human Rights Law and its relevance to Australia, Grace Hotel, Sydney, 18 February 2004.

‘Necessity: the Mother of In(ter)vention’, delivered at The Challenge of Conflict: International Law Responds Conference, Adelaide, 28 February 2004.

‘Detention Without Charge: Paradise Lost?’, Hypothetical, delivered at the Supreme Court of Adelaide, 29 February 2004.

‘Red Cross Hypothetical: Terrorism and the global legal order’, delivered at Banco Court, Supreme Court of NSW, Sydney, 20 May 2004.

“Legality of the Second Gulf War”, Guest Lecture, delivered at Sydney University Law School, 24 May 2004.

‘Cigarettes and Rights: Observations from case studies of Australian Treaty Negotiation’, delivered at Annual Conference, Australian and New Zealand Society of International Law, 19 June 2004.

‘International Law and Domestic Law: Which is to be Master?’ delivered at Expert Workshop, *International Challenges to National Legal Systems*, Canberra, 12 August 2004.

‘International Law Before Australian Courts’ delivered at CLE Seminar, *Introduction to International Practising Human Rights Law in Australia*, Law Society of New South Wales, 23 August 2004.

Bryan Mercurio

‘Free Trade Agreements: The Big Picture’ delivered at in Sydney at ‘A Practical Guide to Obtaining a Competitive Advantage Using the Australia-US Free Trade Agreement’, sponsored by Coudert Brothers, 27 April 2004.

SUBMISSIONS

Submission by Bryan Mercurio and George Williams to Senate Legal and Constitutional References Committee on Voting by Overseas Australians (19 February 2004).

Submission by George Williams to Senate Legal and Constitutional References Committee of the Federal Parliament on the Republic (18 March 2004) .

Submission by Bryan Mercurio to the Joint Committee on Treaties Inquiry into the Australia-United States Free Trade Agreement (5 April 2004).

Submission by George Williams and Bryan Mercurio to the Joint Standing Committee on Electoral matters on 'Inquiry into Disclosure of Donations to Political Parties and Candidates' (5 April 2004).

Submission by George Williams and Michael Walton made to Senate Legal and Constitutional Committee on the Anti-Terrorism Bill 2004 (15 April 2004).

Submission by Bryan Mercurio to the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America (26 April 2004).

Submission by Lara Kostakidis-Lianos and George Williams to Senate Legal and Constitutional Legislation Committee on 'Inquiry into the Provisions of the Criminal Code Amendment (Suicide Related Material Offences) Bill 2004' (26 August 2004).