



GILBERT + TOBIN CENTRE OF PUBLIC LAW

ANNUAL REPORT

FOR THE YEAR ENDED 31 DECEMBER 2013

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1. THE CENTRE

The Gilbert + Tobin Centre of Public Law in the Faculty of Law was established in 2001 with the aim of providing a focus within UNSW for research and education (including teaching, research supervision, professional education and public conferences) on issues of law and policy concerning the sphere of Public Law.

The Centre's Members, Postgraduate Students and Visitors seek to actively engage with government, the legal profession and broader community through research, teaching, media and consultancy work, and events including conferences, workshops and seminars.

The Centre's operations may be generally equated with those expected of individual researchers in an academic faculty but enhanced through the possibilities of institutional collaboration and profile which are afforded by the Centre, as well as the administrative support which its members receive. In addition to the publication of traditional legal research in the areas with which the Centre is concerned, the Centre focuses strongly on the broader application and dissemination of its research efforts.

2. DIRECTOR'S REPORT: SEAN BRENNAN

Readers will find reference to many activities in this annual report on the Gilbert + Tobin Centre of Public Law for 2013, including eight major events and the establishment of a new Comparative Constitutional Law Project, as well as a wealth of academic publications, media pieces and presentations to a variety of audiences in Australia and overseas. These activities reflect the intellectual energy and desire for engagement of the Centre's 16 academic members and its postgraduate research students.

They are also a tribute to the leadership that Andrew Lynch has provided to the Centre, first as Deputy to Foundation Director George Williams from 2005 and then, after taking over from George, as Centre Director from 2008 until the end of June 2013. In that time Andrew did an outstanding job of maintaining and strengthening the Centre's reputation and performance after George's foundational work. In particular, Andrew reinforced three core strengths: high quality *scholarship*; visible, credible and timely *engagement* with policy processes, decision-makers and external audiences; and the creation of *opportunities* particularly for young and emerging scholars to develop their personal capacities and make a contribution to public and academic understanding of key issues across a broad public law canvas. These features closely corresponded with the Centre's strategic plan for 2010-2015, which emphasised research reputation on public law issues of contemporary concern; active engagement with government, the profession, the media, NGOs and the broader community; and the creation of a hub for meeting to discuss and debate current developments and reform proposals. In his farewell contribution to the annual report last year Andrew also referred to priority areas where he had sought to enhance the Centre's performance during his term as Director. They were: international linkages and reputation, postgraduate student experience and collaborative and interdisciplinary links with other Australian academic centres and public organisations.

It is an ambitious agenda but the activities carried out under the umbrella of the Centre during 2013 and brought together in this annual report testify to the level of achievement in pursuing those objectives. The Centre has maintained a suite of nine research projects, fostering expertise over the medium and longer term. There are dozens of academic publications in the form of books, book chapters and journal articles listed towards the end of this annual report, as well as numerous presentations and pieces for the print and online media. The number of *jointly authored* publications and submissions is just one illustration of the strong camaraderie within the Centre. Having attracted high-calibre postgraduate research students in recent years, several of them were completing or near to completing their theses in 2013. Our Social Justice Interns have engaged with a variety of Centre projects during their stay with us and once more have shown the capacity to grab their opportunities by publishing solo or in partnership with Centre members. The Centre's eight major events brought together a variety of perspectives across political, professional and disciplinary fields, ranging from specialised invited workshops in areas such as native title, counter-terrorism and the High Court to our flagship public event, the February Constitutional Law Conference. Webcasts, published collections and website resource pages are just some of the ways in which the Centre sought to reach wider audiences with its events and other activities in 2013. The intellectual life of the Centre was enhanced by a range of distinguished visitors through the year, including Dr Elizabeth Ferris (Brookings Institution), Dr Alexander Williams (Durham), Dr Liora Lazarus (Oxford), Professor Janet Hiebert (Queens, Canada), Professor Gerry Rosenberg (Chicago) and Professor Richard Fallon (Harvard).

I want to make specific mention of the contribution to the Centre made by Rosalind Dixon in 2013. When Andrew's period as Director came to an end I was commencing a period of sabbatical leave. Ros agreed to step up as Acting Centre Director until my term commenced in March 2014. Her leadership brought great intellectual stimulation, with a host of seminars, workshops, master-classes and roundtables, featuring local and overseas talent. These events reflected Ros's excellent networks, her particular reputation and standing in comparative constitutional law and her sheer energy and commitment when it comes to intellectual inquiry and exchange. Her leadership in these and other respects across the second half of 2013 and into the following year was greatly appreciated.

I am fortunate to take on the position of Director in March 2014 with the Centre in such a strong position. For that I can thank all those who have contributed to it over the past decade and more, and in particular the strategic leadership provided by George, Andrew and Ros. We also thank Danny Gilbert for his vision and support, the distinguished members of the Advisory Committee chaired by Sir Anthony Mason for their guidance and the Management Board for helping steer the Centre through each year of its life – I look forward to working with all of them during my term. Colleagues in the UNSW Law School and particularly our Dean, David Dixon, have been great friends and supporters of the Centre.

I commence as Director with some clearly defined objectives, the first of which is to ensure the best features of the Centre persist and flourish, in terms of scholarship,

engagement and opportunity. They also include reconfiguring our suite of projects – adapting to changes in personnel as we welcome new people to the Centre and wish others well as they move on to fresh opportunities – upgrading our efforts in communications and technology and better promoting our Centre as a home for postgraduate and postdoctoral research. A Centre Retreat in April 2014 will help us to crystallise the directions the Centre takes in the next stage of its life and the Centre will undergo a periodic review through UNSW’s Centre Secretariat later in the year. I look forward to reporting back next year on a mix of new and familiar strengths within the Centre.

3. CENTRE COMMITTEES

3.1 Advisory Committee

The composition of the Advisory Committee in 2013 was as follows:

Sir Anthony Mason AC KBE CBE, Former Chief Justice of the High Court (Chair)
The Hon Justice John Basten, Court of Appeal Supreme Court of New South Wales
Professor Rosalind Croucher, President, Australian Law Reform Commission
Professor David Dixon, Dean, Faculty of Law, UNSW
The Hon Stephen Gageler, High Court of Australia
Mr Danny Gilbert, Managing Partner, Gilbert + Tobin
The Hon Justice Anna Katzmann, Federal Court of Australia
Professor Andrew Lynch, Centre Director (until 30 June 2013)
The Hon Justice Melissa Perry, Federal Court of Australia

The Advisory Committee held its annual meeting on 24 April 2013.

3.2 Management Board

Professor David Dixon, Dean, Faculty of Law, UNSW (Chair)
Professor Rosalind Dixon, Acting Centre Director (from 1 July 2013)
Professor Andrea Durbach, Faculty of Law, UNSW
Mr Steven Glass, Gilbert + Tobin
Professor Andrew Lynch, Centre Director (until 30 June 2013)
Professor Peter Saunders, Faculty of Arts and Social Sciences, UNSW
Dr Claudia Tazreiter, Faculty of Arts and Social Sciences, UNSW

The Management Board held meetings on 17 April, 23 July and 17 October 2013.

4. STAFF

4.1 Centre Staff

Centre Staff as at 31 December 2013 consisted of the following:

Dr Jessie Blackburn

Email: j.blackbourn@unsw.edu.au

Phone: (02) 9385 9640

Interests: Terrorism, Counter-Terrorism, Anti-Terror Laws.

Associate Professor Sean Brennan, (Director, Indigenous Legal Issues Project)

Email: s.brennan@unsw.edu.au

Phone: (02) 9385 2334

Interests: Public Law, Indigenous Legal Issues, Native Title.

Ms Shipra Chordia (Director, Federalism Project)

Email: s.chordia@unsw.edu.au

Phone: (02)9385 6871

Interests: Constitutional Law, Federalism, Intergovernmental Relations, Public Law, Media Regulation.

Dr Fergal Davis

Email: f.davis@unsw.edu.au

Phone: (02) 9385 9656

Interests: Public Law, Trial by Jury, Human Rights Law and Judicial Review Skepticism, Counter-Terrorism Law.

Professor Rosalind Dixon (Acting Centre Director from 1 July 2013 and Director, Comparative Constitutional Law Project)

Email: rosalind.dixon@unsw.edu.au

Phone: (02) 9385 6964

Interests: Constitutional Law, Comparative Constitutional Law, Constitutional Design, Constitutional Amendment, Socio-Economic Rights, Law and Gender.

Dr Ben Golder (Director, Public Law and Legal Theory Project)

Email: b.golder@unsw.edu.au

Phone: (02) 9385 1843

Interests: Legal and Social Theory (particularly critical, feminist and post-structuralist approaches to law), Legal Philosophy, Criminal Law and Public Law (particularly critical approaches to counter-terrorist law and capital punishment).

Dr Paul Kildea (Director, Referendums Project)

Email: p.kildea@unsw.edu.au

Phone: 902) 9385 9655

Interests: Public Law, the Process of Constitutional Reform, Political Participation, Deliberative Democracy, Federalism.

Professor Andrew Lynch (Centre Director until 30 June 2013 and Director, Judiciary Project)

Email: a.lynch@unsw.edu.au

Phone: (02) 9385 9654

Interests: Constitutional Law, Federalism, Terrorism Law, Judicial Dissent, Judicial Appointment.

Professor Jane McAdam (Director, International Refugee and Migration Law Project until 30 October 2013)

Email: j.mcadam@unsw.edu.au

Phone: (02) 9385 2210

Interests: International Refugee Law, International Human Rights Law, Public International Law, Forced Migration, Climate-Induced Displacement, Statelessness, EU Law relating to Asylum and Human Rights.

Ms Belinda McDonald (Administrator)

Email: gtcentre@unsw.edu.au

Phone: (02) 9385 2257

Ms Nicola McGarrity

Email: n.mcgarrity@unsw.edu.au

Phone: (02) 9385 3445

Interests: Constitutional Law, Legal Responses to Terrorism, Human Rights, Constitutional Reform.

Dr Daniel McLoughlin

Email: Daniel.McLoughlin@unsw.edu.au

Phone: (02) 9385 7621

Interests: Legal Theory, Sovereignty, Politics and Theory of Human Rights.

Dr Kristen Rundle (from November 2013)

Email: k.rundle@unsw.edu.au

Phone: (02) 9385 9562

Interests: Administrative Law, Legal Theory and Law and the Holocaust

Dr Svetlana Tyulkina

Email: s.tyulkina@unsw.edu.au

Phone: (02) 9385 6676

Interests: Comparative Constitutional Law, Anti-Terrorism Legislation, International Human Rights Law, Political Participation Rights.

Dr Jason Varuhas (from November 2013)

Email:

Phone: (02) 9385 2255

Interests: Constitutional Law, Administrative Law, Human Rights Law, Remedies, Public Law Theory, Public-Private Distinction, Economic Analysis of Law, Legal Methodology.

Dr Greg Weeks

Email: greg.weeks@unsw.edu.au

Phone: (02) 9385 8242

Interests: Judicial Review, State Liability, Public Law and Private Law Remedies against Public Authorities.

Professor George Williams (Foundation Director and Director, Anti-Terror Laws and the Democratic Challenge)

Email: george.williams@unsw.edu.au

Interests: Constitutional Law, Human Rights, High Court of Australia, Electoral Law, Federalism and Anti-Terror Law.

4.2 Centre Associates

Tony Blackshield AO, Adjunct Professor, LLM Syd

Dominique Dalla-Pozza, Lecturer, ANU College of Law, BA (Hons) LLB (Hons) Syd
PhD UNSW

Megan Davis, Professor, BA LLB UQ, LLM PhD ANU

Arthur Glass, Associate Professor, BA LLB PhD Syd

Cassandra Goldie, CEO, ACOSS, B Juris LLB (Hons) UWA, LLM Dist UCL, PhD
UNSW

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

Devika Hovell, Assistant Professor, Department of Law, London School of Economics,
BA LLB (Hons) UWA, LLM NYU, DPhil Oxon

David Hume, Solicitor, BA (Hons) LLB (UNSW) LLM (Harvard)

Jill Hunter, Professor, BA LLB UNSW, PhD Lond

Jane McAdam, Professor, BA (Hons) Syd, LLB (Hons) Syd, DPhil Oxon

Garth Nettheim, Emeritus Professor, LLB Syd, AM Tufts

Rosemary Rayfuse, Professor, LLB Queens, LLM Cantab, PhD Utrecht

Alex Reilly, Associate Professor, University of Adelaide, BA (Juris) LLB (Hons) Adel,
GDLP SA, LLM British Columbia

Ben Saul, Professor, University of Sydney, BA (Hons) LLB (Hons) Syd, DPhil Oxon

Jeremy Webber, Visiting Professor, BA British Columbia, LLB, BCL McGill, LLM
Osgoode

4.3 Social Justice Internship Program

The Centre continues to take part in the Social Justice Internship Program, an elective course designed to give later year undergraduate and Juris Doctor students experience in various aspects of social justice advocacy. The students working with the Centre during 2013 were Lyndon Goddard (Semester I, 2013) and Nesha Bala (Semester II, 2013).

4.4 Postgraduate Research Students

The following postgraduate students were affiliated with and supported by the Centre during 2013:

Andrew Dahdal

Supervised by Theunis Roux

Topic: Section 51(xiii) - The Commonwealth Banking Power

Keiran Hardy

Supervised by Ben Golder and George Williams

Topic: Developing a Counter-Insurgency Model of Anti-Terrorism Law

Jackie Hartley

Supervised by Sean Brennan

Topic: Free, Prior and Informed Consent and the Rights of Indigenous Peoples to Lands, Territories and Resources

Grant Hooper

Supervised by Mark Aronson

Topic: Through the *Migration Act* Looking Glass: Can Natural Justice be Extinguished by a Legislative Code: Towards the Waterfall of Invalidity

Mitchell Landrigan

Supervised by George Williams

Topic: The Interface of Political and Religious Discourse Under the Commonwealth Constitution

Nicola McGarrity

Supervised by Andrew Lynch

Topic: Terrorism Laws and the Criminal Trial

Jennifer Norberry

Supervised by Andrew Lynch and George Williams

Topic: Law and National Security Crises - Contemporary Australian Experience

Soula Papadopoulos

Supervised by Andrew Lynch and George Williams

Topic: Co-operative Federalism is Not a Constitutional Term

Sangeetha Pillai
Supervised by Fergal Davis and George Williams
Topic: Citizenship and Anti-Terror Laws

Tamara Tulich
Supervised by Fergal Davis and George Williams
Topic: The Judiciary as a Check on Anti-Terror Laws

Rebecca Ananian-Welsh
Supervised by Andrew Lynch and George Williams
Topic: The Power to Restrain Liberty under Chapter III of the Australian Constitution:
Control Orders and Preventative Detention Orders

Kelvin Widdows
Supervised by Andrew Lynch and George Williams
Topic: Sir John Latham: Judicial Reasoning in Defence of the Commonwealth

Tamara Wood
Supervised by Jane McAdam
Topic: Who is a refugee under Article I(2) of the 1969 Organisation of African Unity
Convention Governing the Specific Aspects of Refugee Problems in Africa?

The above list does not generally include the names of supervisors outside the Centre.

5. KEY CENTRE ACTIVITIES

5.1 Research Funding

As at 31 December 2013, the Centre had the following external research grants supporting its research activities:

- 2012-14 ARC Discovery grant for \$215,000 to fund research into ‘Co-operative Federalism in Australian: Constitutional Principles and Practice’ (Lynch & Williams)

In addition, Professor George Williams continues to hold a 2009-14 ARC Laureate Fellowship of \$2,211,430 to fund research into ‘Anti-Terror Laws and the Democratic Challenge’.

5.2 Research Projects

The **ARC Laureate Fellowship: Anti-Terror Laws and Democratic Challenge Project** (Project Director: George Williams) aims to answer the question of how democratic nations (especially Australia, Canada, India, New Zealand, the United

Kingdom and the United States) can best reconcile traditional democratic processes, institutions, principles and individual freedoms with the likelihood that anti-terror laws granting war-time powers will remain in place for the foreseeable future.

This project had a very busy year with many of the PhD candidates putting finishing touches to their theses and the publication of Fergal Davis, Nicola McGarrity and George Williams' *Surveillance, Counter-Terrorism and Comparative Constitutionalism* (Routledge-Cavendish, 2013). This collection came out of the Workshop on Surveillance, Counter-Terrorism and Comparative Constitutionalism hosted by the Centre in 2012. Members of the Project have also been busy presenting their research including George Williams who delivered the annual Blackshield Lecture at Macquarie University and presentations by Fergal Davis and Jessie Blackbourn at the Centre event co-hosted with the NSW Bar Association and the Durham Human Rights Centre on Counter-terrorism Judicial Review. Amongst the PhD students, Keiran Hardy presented at Durham and Birmingham, Sangeetha Pillai published her first refereed journal article and Tamara Tulich and Rebecca Ananian-Welsh both presented and published (including a jointly authored chapter with Andrew Lynch). Both post-doctoral fellows, Jessie Blackbourn and Svetlana Tyulkina, delivered several presentations overseas, including at Oxford, Manchester and Cork, and Budapest and Vancouver respectively. Jessie Blackbourn, Nicola McGarrity and George Williams contributed through the media to public debate regarding two major reports in 2013 recommending reform to counter-terrorism laws. Fergal Davis has remained active on issues concerning Ireland and Northern Ireland, including work with Jessie Blackbourn and Centre intern Jennifer Goh on non-jury trial arrangements.

The **Charter of Human Rights Project**, one of the Centre's longest-running projects, contributed to the debate about a national Charter of Human Rights and maintained a watching brief on the intersection of human rights with other public law issues in Australia. The Centre made a very substantial contribution to the National Human Rights Consultation (NHRC) chaired by Frank Brennan and Centre submissions were extensively quoted in the final NHRC report in 2009. Community discussion and political support for a federal Charter subsided after the Rudd Government rejected the proposal in 2010. The Project changed direction to focus on the emergence of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The Centre partnered with several other organisations in a funding bid to develop research resources connected with the new, predominantly parliamentary, model for rights protection, but the bid went into abeyance when the Commonwealth government cut off funding sources in the 2012 Budget.

Human rights continued to figure prominently in the work of several other Centre projects during 2013, including the ARC Laureate Fellowship, the Indigenous Legal Issues Project and the Public Law & Legal Theory Project. Centre members and interns pursuing research in these and other areas were able to draw on the substantial amount of work done and the excellent resources page produced during the life of the Charter of Human Rights Project. In 2014 the Centre will consider drawing a line under the work of this Project for the present, though its work on rights protection will remain highly relevant to a newly-established project concerning parliaments, amongst others.

The **Comparative Constitutional Law Project** (Project Director: Rosalind Dixon), established in 2013, aims to contribute to increased interest in and knowledge about comparative constitutional developments among constitutional scholars, and particularly, lawyers and legal policy-makers in Australia. The project builds on the comparative work of the Director, Rosalind Dixon, and on links with a broader Faculty Working Group on Constitutionalism in New Democracies. A website has been created with information on recent and upcoming events hosted by the Project, as well as links provided in its Resource Page to other useful sites on comparative constitutional law, and judicial and legislative developments in certain other jurisdictions. During 2013 the Project hosted three key events: the Final Courts Roundup, the December Comparative Constitutional Law Roundtable and an August workshop on Constitutional Amendments and its Limits.

The **Federalism Project** (Project Director: Shipra Chordia) received a new body of external funds in 2012 through an ARC Discovery grant of \$215,000 supplemented by \$100,000 from UNSW. This money is funding further research into the effect of intergovernmental co-operation on Australia's system of constitutional democracy and the relationship between, on the one hand, harmonisation and 'co-operative' federal-state relations and, on the other hand, constitutional principles such as responsible government and public accountability. During 2013, the project has focused its analysis on the repercussions of the High Court's decision in *Williams v Commonwealth (School Chaplains case)*. An extended treatment, by Shipra Chordia, Andrew Lynch and George Williams, was published as a case note in the *Melbourne University Law Review* and a further authored paper considering the implications of this case was presented at an 'After Williams' colloquium hosted by the University of Southern Queensland.

The Centre also supported an international workshop organised in May 2013 by UNSW colleagues in the Faculty of Arts and Social Sciences on Gender and Intergovernmental Relations and drew a number of insights from the event about the workings of the Council of Australian Governments (COAG). For that event Paul Kildea and Andrew Lynch contributed a paper on COAG and George Williams joined a panel that included former Queensland Premier Anna Bligh and top-level federal officials Peter Shergold and Mary Ann O'Loughlin. Centre members also made parliamentary submissions, did media interviews and produced opinion pieces and explainers on the constitutional recognition of local government, a proposal that ultimately did not proceed to a referendum. Andrew Lynch, Shipra Chordia and George Williams put a submission into the National Commission of Audit on federal-state relations and, between them, presented in Western Australia and Queensland on federal-State reform issues as well as publishing comment pieces in various print and online media.

The **Indigenous Legal Issues Project** (Project Director: Sean Brennan) in 2013 continued its focus on two particular issues, native title and constitutional reform. The Project, in partnership with UNSW's Indigenous Law Centre (ILC), hosted a national workshop in April 2013 evaluating progress made in the 20 years since the passage of the *Native Title Act*. The event brought together over a dozen presenters, many of them with decades of experience in the field, to address the links between native title, Indigenous

economic empowerment, Indigenous political empowerment and wider changes in Australian law and society. With speakers from Aboriginal organisations, anthropology, public policy, community development, economics and the law, there was rich and robust discussion amongst the 50 or so invited participants, which included a healthy contingent of PhD students working in the area. An edited collection from the workshop will be published by Federation Press in 2014.

Sean Brennan and George Williams once more had the opportunity to work in 2013 with the National Congress of Australia's First Peoples on the issue of constitutional change, an association that dates back to the first national meeting of the representative body in June 2011, when the Centre conducted workshops for National Congress delegates in partnership with the ILC. Sean Brennan had a welcome chance to engage with a regional audience of Aboriginal and non-Aboriginal people in the town of Parkes at a community forum on constitutional change in November 2013.

Finally, as a supervisor of postgraduate research, Sean Brennan was associated with the successful completion of three PhDs in 2013, dealing with Orang Asli land rights in Malaysia (Yogeswaran Subramaniam), the tax treatment of benefits pursuant to mining agreements under native title and land rights regimes (Fiona Martin) and recent waves of reform affecting Aboriginal land in the Northern Territory (Leon Terrill).

The **International Refugee and Migration Law Project** (Project Director: Jane McAdam) continued, in the first half of the year, to focus on forced migration law generally, and the relationship between climate change and mobility in particular. The project hosted two research visitors: Dr Elizabeth Ferris (Brookings Institute) whose work encompasses a wide range of issues relating to internal displacement, humanitarianism action, natural disasters and climate change; and Professor Satvinder Juss (Kings College) who ran a master class on 'Complicity, Exclusion, and the 'Unworthy' in Refugee Law'. The Project also hosted seminars and the regional conference of the International Association of Refugee Law Judges and made several submissions to parliamentary inquiries. As well as attending the first-ever regional consultation of the Nansen Initiative on Disaster-Induced Cross-Border Displacement in the Cook Islands, Jane was honoured as a Young Global Leader of the World Economic Forum on East Asia and appointed to the International Bar Association's Climate Change Justice and Human Rights Taskforce.

During the latter half of the year, the project was transformed through a very exciting initiative: the creation of the Andrew & Renata Kaldor Centre for International and Refugee Law which was launched at UNSW Law on 30 October. It is the world's first research centre dedicated to international refugee law issues and it aims to bring a principled, human rights-based approach to the issue of refugee law and policy in Australia by feeding high-quality research into public policy debates and legislative reform. Jane McAdam is its Founding Director and after seven years with the Gilbert + Tobin Centre we wish Jane and her colleagues every success in this important new venture.

The **Judiciary Project** (Project Director: Andrew Lynch) continues to house the work done by Centre members on the High Court and other courts as institutions. This includes the annual survey of decision-making on the High Court and media pieces, commentary and submissions to inquiries on issues affecting the Australian judiciary. During 2013 Andrew wrote and presented mainly on judicial dissent, judicial appointments and judicial diversity.

The **Public Law and Legal Theory Project** (Project Director: Ben Golder) examines many of the foundational concerns of the Centre (public law, sovereignty, democracy, human rights and counter-terrorism) through the lens of contemporary political theory, legal philosophy and critical legal theory. Ben Golder was accepted to give a paper at the Second Annual Junior Faculty Forum for International Law, a joint initiative of New York University, and the Universities of Nottingham and Melbourne, held in Nottingham in May 2013. His paper was entitled 'The Critique of Human Rights in Contemporary International Legal Thought'. Ben was joined in the Project during 2013 by Daniel McLoughlin, who was awarded one of UNSW's highly-prized Vice-Chancellor's Post-Doctoral Fellowship.

The **Referendums Project** (Project Director: Paul Kildea) was created to explore the holding of referendums in Australia. Referendums have long been important to the work of the Centre in areas like federalism and Indigenous legal issues, but have not themselves been the subject of direct attention. On 9 May 2013 the federal government announced that it would hold a referendum on local government funding on the same day as the federal election (14 September). The Centre's intern, Lyndon Goddard, worked with Paul Kildea to produce a comprehensive information and resources page for the Centre website. In addition to Paul Kildea, a variety of other Centre people contributed commentary to the public debate that ensued online and in the print media, including Shipra Chordia, George Williams, Rosalind Dixon, Nicola McGarrity, Lyndon Goddard and Jackie Hartley. The Gillard government abandoned the proposed local government referendum in August 2013 and Paul Kildea critiqued some of the government's process and decision-making at the 3rd Biennial Electoral Regulation Workshop in Brisbane soon after and on the UK Constitutional Law Blog. Paul Kildea also presented on popular deliberation and modest constitutional amendments at King's College London.

In late 2013 Paul Kildea, George Williams and Sean Brennan all wrote or presented on the process towards a constitutional referendum regarding Aboriginal and Torres Strait Islander peoples, still the subject of bipartisan political support at a federal level following the change of government.

5.3 Events

The Centre held several successful events during 2013:

- 2013 Constitutional Law Conference and Dinner

On 15 February, the Centre again hosted its annual constitutional law conference at the Art Gallery of New South Wales. The conference, the twelfth in this series, gathered together practitioners, judges, scholars and members of the general public to discuss recent events and future trends in Australian constitutional law. Participants were updated on recent important developments in the High Court, Federal Court and States and gained an understanding of the issues that will emerge in the future. The event attracted over 220 people and participants at the conference also enjoyed the dinner that night at New South Wales Parliament House. The guest dinner speaker was the Hon Justice Virginia Bell AC of the High Court of Australia.

- Workshop on Native Title: A Vehicle for Change and Empowerment?

At the twenty-year point for the *Native Title Act 1993*, this two-day workshop in April 2013 explored the recent past and the mid-term future for native title in Australia. Co-hosted with the Indigenous Law Centre, the workshop provided an appraisal of the positive and negative developments of the past twenty years and a realistic assessment of where native title might go in the next twenty. A number of renowned Aboriginal and non-Aboriginal speakers presented, around the themes of Indigenous economic and political empowerment, as well as the impact of native title on wider Australian law and society. Beyond speakers and discussants, the workshop included a number of invited academics, research students and people who work in the native title system. An edited collection from the workshop will be published by Federation Press in 2014.

- Critical Debates on Counter-Terrorist Judicial Review Workshop

On 12 June 2013, the Centre and the Durham Human Rights Centre hosted a major international workshop on critical debates on counter-terrorist judicial review at the Durham University Law School. The quality of judicial review of counter-terrorist measures has long been a matter of contention within the legal academy, especially as it arises in liberal democracies struggling to confront terroristic violence while maintaining their constitutional(ist) form. This workshop brought together perspectives from domestic and international law, from North America, Europe, and Australasia, and from both practice-based and theoretical perspectives, to consider these debates.

- Workshop on Relocation, Land Rights and Governance in the Pacific

This workshop in August 2013 brought together 12 researchers from the disciplines of law, geography and political science working on the relocation of populations in the Pacific linked to environmental change. The purpose of the workshop was to connect researchers from different institutions in Australia, New Zealand and the United States to discuss key issues, gaps, needs and challenges in the research agenda; identify synergies in research and scope for future collaboration; and find ways of better linking research into international and national policy discussions.

- Workshop on Constitutional Amendment and Its Limits

A workshop on this topic was held on 21 August with Centre visitors Assistant Professors Richard Albert (Boston College Law School) and David Landau (Florida State University) along with Dr Carlos Bernal-Pulido (Macquarie University) and Acting Centre Director Rosalind Dixon. The workshop explored the comparative experience of constitutional amendment in countries such as India, Germany, the US, Colombia, Nicaragua, Venezuela and Hungary, and also considered the potential advantages, and disadvantages, of courts attempting to set limits on the amendment process.

- High Court Workshop

On 7/8 November 2013 the Centre hosted a workshop of leading Australian constitutional lawyers and political scientists on the ‘The High Court, the Constitution & Australian Politics’, as part of the preparation of a collection of essays on this topic co-edited by Acting Centre Director Rosalind Dixon and Professor George Williams, which will be published in 2014 by Cambridge University Press. The workshop involved the presentation and discussion of draft chapters on the 12 distinct eras in the High Court’s history corresponding to the tenure of each Chief Justice, as well as thematic/overview chapters on rates of constitutional invalidation by the High Court across its history, patterns of judicial dissent and processes of constitutional amendment.

- 2013 Final Courts Roundup

This end of year event, hosted by the Centre for the third time, provided an outline of recent constitutional developments in three jurisdictions – the United States, Canada and New Zealand – of key interest to Australian constitutional lawyers. This year the event featured three leading international constitutional experts: Professor Richard Fallon (Harvard Law School), Professor Janet Hiebert (Queens University), and Professor Claudia Geiringer (Victoria University of Wellington). These experts discussed cases in their jurisdictions involving voting rights, affirmative action, gay rights (same-sex marriage in the US, and anti-gay hate speech in Canada), indigenous/treaty rights, de facto partnerships and disability care.

- Comparative Constitutional Law Roundtable

On 11 December, as an adjunct to the Final Courts Roundup, the Centre hosted a small comparative constitutional law roundtable for constitutional scholars. The topics of papers at the workshop included papers on ‘The Meaning of Legal “Meaning” and the Indeterminacy of Interpretive Theories’ (by Professor Richard Fallon), ‘Constitutional Completeness, Specificity & Coherence’ (by Acting Director Rosalind Dixon) and ‘American Ideas Abroad: A Conceptual Map for the Comparative Application of U.S. Supreme Court Decision-Making Models’ (by Professor Theunis Roux, UNSW). Commentary on these papers was also given by Dr Dale Smith (Monash), Professor Claudia Geiringer, Professor Adrienne Stone (Melbourne), Dr William Partlett (Columbia Law School), Professor Janet Hiebert and Professor Helen Irving (Sydney).

In addition, during 2013 several seminars were given by Centre visitors:

- Associate Professor Nick Stephanopoulos (University of Chicago) gave a seminar on ‘Elections and Alignment’;
- Dr Alexander Williams (Durham University) spoke on ‘The Scope of Judicial Review’;
- Dr Elizabeth Ferris (Brookings Institute) discussed ‘Syria’s Humanitarian Crisis: Implications for International Law and Global Governance’;
- Professor Liora Lazarus (Oxford) presented on ‘Positive Obligations and Criminal Justice: Duties to Protect or Coerce’;
- Professor Janet Hiebert (Queens) spoke about ‘Protecting Rights and the Westminster Challenge’;
- Dr William Partlett (Columbia Law School) gave a seminar on ‘Criminal Law & Co-operative Federalism’;
- Professor Tonja Jacobi (Northwestern Law School) spoke on ‘The Self-Stabilising Constitution’;
- Associate Professor Dan Meagher presented on ‘The High Court on Free Speech: Offensive Letter Writing, Public Preaching and the Constitution’.

Some master-classes were also held following Centre meetings:

- Dr Liora Lazarus gave a class on ‘Positive Obligations and Criminal Justice: Duties to Protect or Coerce’;
- Professor Gerry Rosenberg gave a class, based on his well known book *The Hollow Hope*, on ‘Constitutional Courts and Social Change’.

6. PUBLICATIONS

Publications for the year ending 2013 are set out below.

Joint Publications

Jessie Blackburn, Fergal Davis and Natasha Taylor, ‘Academic Consensus and Legislative Definitions of Terrorism: applying Schmid and Jongman’ (2013) 34(3) *Statute Law Review* 239-261;

Alysia Blackham and George Williams, 'Australian Courts and Social Media' (2013) 38 *Alternative Law Journal* 170-175;

Alysia Blackham and George Williams, 'The Accountability of Members of Australia's Federal Parliament for Misconduct' (2013) 13 *Oxford University Commonwealth Law Journal* 115-156;

Janina Boughey and Greg Weeks, "'Officers of the Commonwealth' in the Private Sector: Can the High Court Review Outsourced Exercises of Power?" (2013) 36 *University of New South Wales Law Journal* 316-357;

Lisa Burton, Nicola McGarrity and George Williams, 'The Extraordinary Questioning and Detention Powers of the Australian Security Intelligence Organisation' (2012) 36(2) *Melbourne University Law Review* 415-469;

Lisa Burton and George Williams, 'The Integrity Function and ASIO's Extraordinary Questioning and Detention Powers' (2012) 38 *Monash University Law Review* 1-34;

Lisa Burton and George Williams, 'Australia's Exclusive Model of Parliamentary Rights Protection' (2013) 34 *Statute Law Review* 58-94;

Lisa Burton and George Williams, 'What Future for Australia's Control Order Regime?' (2013) 24 *Public Law Review* 182-208;

Shipra Chordia, Andrew Lynch and George William, '*Williams v Commonwealth*: Commonwealth Executive Power and Australian Federalism' (2013) 37 *Melbourne University Law Review* 189-231;

Fergal Davis, Nicola McGarrity and George Williams, *Surveillance, Counter-Terrorism and Comparative Constitutionalism* (2013) (Routledge-Cavendish);

Fergal Davis, Nicola McGarrity and George Williams, 'Mapping the Terrain' in Fergal Davis, Nicola McGarrity and George Williams (eds), *Surveillance, Counter-Terrorism and Comparative Constitutionalism* (2013) (Routledge-Cavendish);

Rosalind Dixon and Tom Ginsburg, 'The South African Constitutional Court and socio-economic rights as "insurance swaps"' (2013) *Constitutional Court Review*, 1-30;

Keiran Hardy and George Williams, 'What is "Terrorism"?: Assessing Domestic Legal Definitions' (2011) 16 *UCLA Journal of International Law and Foreign Affairs* 77-162;

David Hume, Andrew Lynch and George Williams, 'Heresy in the High Court? Federalism as a Constraint on Commonwealth Power' (2013) 41 *Federal Law Review* 71-93;

David Hume and George Williams, *Human Rights under the Australian Constitution* (Oxford University Press, 2nd ed 2013), 1-388;

Paul Kildea and George Williams, 'The *Constitution* and Commonwealth Proposals for New Media Regulation' (2013) 18 *Media & Arts Law Review* 2-16;

Jo Lennan and George Williams, 'The Death Penalty in Australian Law' (2012) 34 *Sydney Law Review* 659-694;

Andrew Lynch, Tamara Tulich and Rebecca Welsh, 'Secrecy and Control Orders: the Role and Vulnerability of Constitutional Values in the United Kingdom and Australia' in D Cole et al (eds), *Secrecy, National Security and the Vindication of Constitutional Law*, (Edward Elgar, 2013), 154-72;

Andrew Lynch and George Williams, 'The High Court on Constitutional Law: The 2012 Statistics' (2013) 36 *University of New South Wales Law Journal* 514-533;

Nicola McGarrity and George Williams, 'From Covert to Coercive: A New Model of Surveillance for Intelligence Agencies' in Fergal Davis, Nicola McGarrity and George Williams (eds), *Surveillance, Counter-Terrorism and Comparative Constitutionalism* (2013) (Routledge-Cavendish);

Nicola McGarrity, Rishi Gulati and George Williams, 'Sunset Clauses in Australian Anti-Terror Laws' (2012) 33(2) *Adelaide Law Review* 307-333;

D. Miller, J. Blackburn, H. Dexter and R. Dhanda, *Critical Terrorism Studies since 11 September 2001: What has been Learned?* (London and New York: Routledge, 2014).

Joint Media

Jessie Blackburn and Nicola McGarrity, 'Anti-terror laws and the knowledge gap', *Inside Story*, 23 May 2013;

Jessie Blackburn and Nicola McGarrity, 'Our excessive anti-terrorism laws must go', *The Drum*, 15 May 2013;

Shipra Chordia and Andrew Lynch. 'The Brandis Agenda', *Inside Story* (4 December 2014);

Shipra Chordia and Andrew Lynch, 'Federal-State reform: is Abbott offering the real deal?' *The Conversation* (21 August 2013);

Mary Crock, Michelle Foster and Jane McAdam, 'Overheated Carr Takes Aim at Scapegoats in Boats', *The Age* (2 July 2013);

Jane McAdam and Ben Saul, 'Inefficient Coalition Asylum Policy Will Flood the Courts', *The Age* (16 August 2013);

Lyndon Goddard and Nicola McGarrity, 'Constitutional recognition a referendum challenge', *The Drum*, 10 May 2013;

Jackie Hartley and Paul Kildea, 'The Referendum is Coming: But are we Ready?' *Inside Story*, 27 June 2013.

Rebecca Ananian-Welsh

'Understood But Undefined: Why Do Argentina and Brazil Resist Criminalising Terrorism?' (2013) 7(3) *Vienna Journal of Comparative Constitutional Law*, 327-348;

'A Path to Purposive Formalism: Interpreting Chapter III for Judicial Independence and Impartiality' (2013) 39(1) *Monash University Law Review*, 66-105;

'Anti-Terror Preventive Detention and the Independent Judiciary' in P Keyzer (ed) *Preventive Detention: Asking the Fundamental Questions* (Intersentia, 2013) 137-158.

Jessie Blackburn

'Power without Responsibility: There is no Valid Scrutiny of Australia's Anti-Terrorism Laws', in D. Baldino (ed.), *Spooked* (University of New South Wales Press, 2013), 264-287;

'The UK's Anti-Terrorism Laws: Does their Practical Use Correspond to Legislative Intention?' (2013) 8.1 *Journal of Policing, Intelligence and Counter Terrorism*, 19-34.

Media

'Independent Review of Australian Anti-Terrorism Laws: An Effective Oversight Mechanism?' *Oxford Human Rights Hub Blog* (6 June 2013).

Shipra Chordia

Media

'Legally binding or not? Why breaking the Gonski funding deals matters', *The Conversation* (27 November 2013);

'Explainer: why are we having a referendum on local government?', *The Conversation*, 13 May 2013.

Fergal Davis

‘Article 28.3.3⁰: Terrorism, Democracy, Supra-Legality and the “State of Emergency” in the Irish Constitution’ in E Carolan (ed) *The Constitution of Ireland: Perspectives and Prospects* (Bloomsbury Professional, 2012) 355-373;

‘The Jury as a Political Institution in an Age of Counterterrorism’ (2013) 33(1), *Politics*, 5-18.

Media

‘Explainer: what are double dissolutions and how do they work?’ *The Conversation* (16 October 2013);

‘Seanad abolition would not close the issue of bicameralism’ *The Irish Times* (11 September 2013);

‘Senates and sensibility: how best to reflect the people's will?’ *The Guardian*, Comment is Free (11 September 2013);

‘A smaller parliament and no upper house is not a good recipe for accountability’ *The Irish Times*, (29 August 2013);

Diaspora deserve vote in presidential polls to select who represents them' *The Irish Times*, 22 January 2013.

Rosalind Dixon

‘The Supreme Court of Canada and Constitutional (Equality) Baselines’ (2013) 50 *Osgoode Hall Law Journal* 637;

‘Constitutions Inside Out: Outsider Interventions in Domestic Constitutional Contests’ (2013) 38 *Wake Forest Law Review* 149 (with Vicki Jackson).

Media

‘Referendums Need a Big Idea to Stay Relevant’, *Canberra Times* (17 May 2013).

Paul Kildea

Media

‘Australia’s Abandoned Local Government Referendum’ *UK Constitutional Law Blog*, 14 November 2013.

Andrew Lynch

Media

‘Court forces Canberra’s hand on super’ *The Australian* (12 April 2013);

‘Heydon’s push for judicial individualism admirable, but will it catch on?’ *The Australian* (22 March 2013).

Jane McAdam

‘Migrating Laws? The “Plagiaristic Dialogue” between Europe and Australia’ in H Lambert, J McAdam and M Fullerton (eds), *The Global Reach of European Refugee Law* (Cambridge University Press, Cambridge, 2013);

‘Rethinking the Origins of “Persecution” in Refugee Law’ (2013) 25(4) *International Journal of Refugee Law*;

‘Editorial: Australia and Asylum Seekers’ (2013) 25(3) *International Journal of Refugee Law*, 435-48;

‘Leading on Protection’ in Bob Douglas and Jo Wodak (ed), *Refugees and Asylum Seekers: Finding a Better Way: Essays by Notable Australians* (Australia 21, 2013);

‘Conceptualizing Climate Change-Related Movement’ in American Society of International Law, *Proceedings of the 106th Annual Meeting: Confronting Complexity* (March 28–31 2012, Washington DC) (2013) 433-36;

‘Pacific Islanders Lead Nansen Initiative Consultation on Cross-Border Displacement from Natural Disasters and Climate Change’, Brookings Web-Ed (30 May 2013);

‘New Australian Law: All Asylum Seekers Who Arrive by Boat Will Be Processed Offshore’, Human Rights and Democracy blog (22 May 2013);

‘Creating New Norms? The Nansen Initiative on Disaster-Induced Cross-Border Displacement’ (1 April 2013), Asia-Pacific Environment and Migration Network, Editorial.

Media

‘Offshore Processing Centres Are No Place for Asylum Seeker Children’, *The Conversation* (27 November 2013);

‘Australia’s Draconian Refugee Policy is Built on Myths’, *The Guardian* (30 October 2013);

‘Are They Illegals? No, and Scott Morrison Should Know Better’, *Sydney Morning Herald* (23 October 2013);

‘Australian Parties in ‘Race to Bottom’ on Asylum Seeker Policy’, CNN.com (4 September 2013);

‘UN Slams Australia’s Treatment of Refugees’, *Lowy Interpreter* (27 August 2013);

‘What to do about Climate Migration’, *The Interpreter* (Lowy Institute) (1 July 2013);

‘Eight Reasons Offshore Processing is a Failure’, *Sydney Morning Herald* (20 June 2013);

‘Use of Term “Illegal” is Ignorant or Mischievous’, *National Times*, 23 April 2013;

‘Kiribati: A Nation Going Under’, *The Global Mail*, 15 April 2013;

‘Caught between Homelands’, *Inside Story*, 13 March 2013.

Nicola McGarrity

Let the Punishment Match the Offence: Determining Sentences for Australian Terrorists’ (2013) 2(1) *International Journal for Crime and Justice* 18-34;

‘The Criminalisation of Terrorist Financing in Australia’ (2012) 38(3) *Monash University Law Review* 55-86.

Tamara Tulich

‘Adversarial Intelligence? Control Orders, TPIMs and Secret Evidence in Australia and the United Kingdom’ (2012) 12(2) *Oxford University Commonwealth Law Journal* 341-369.

Svetlana Tyulkina

‘Terrorism and Constitutional Change: Lessons from Spain’, (2013) 7(2) *International Constitutional Law Journal* 49-74;

‘Prohibition of Political Parties: Effective Tool in the Business of Protecting Democracy?’ (2013) 94(3) *Comparative Constitutional Law Review*, 1-8.

George Williams

‘Law Reform and the Constitution’ in Troy Bramston (ed), *The Whitlam Legacy* (Federation Press, 2013), 280-288;

‘The Legal Legacy of the “War On Terror”’ (2013) 12 *Macquarie Law Journal* 3-16;

‘Tony Blackshield as a Teacher and Author’ (2013) 12 *Macquarie Law Journal* 17-19;

‘True Reconciliation Requires a Treaty’ *Oxford Human Rights Hub Blog* (20 November 2013);

‘Australia’s Federal Future’ *Sir Samuel Griffith Series* (Griffith University, 2013), 1-5;

‘How to Solve the Problem of the Senate’ *NSW Labor Lawyers Guest Blog*, 25 October 2013;

‘Race and the Australian Constitution’ (2013) 28 *Australasian Parliamentary Review* 4-16;

‘Mission Impossible? Achieving Social Justice Through Constitutional Change’ in Jones, BT, and McKenna, M (eds), *Project Republic: Plans and Arguments for a New Australia* (Black Inc, 2013), 94-110;

‘Can Tasmania Legislate for Same-Sex Marriage?’ (2012) 31 *University of Tasmania Law Review* 117-133;

‘Does Constitutional Recognition Negate Aboriginal Sovereignty?’ *Indigenous Law Bulletin*, Vol 8(3), November/December 2012, 10-11;

‘10th Henry Parkes Oration’ *The Australia Institute Newsletter* (vol 71, December 2012), 7-9.

Media

‘Tony Abbott Lacks a Road Map for Reforms to Federation – It Could Save Billions’ *Sydney Morning Herald* (19 November 2014);

‘Treaty with Australia's Indigenous People Long Overdue’ *Sydney Morning Herald* (13 November 2014);

‘Lost Senate votes in WA: Time to Consider Electronic Voting’ *Sydney Morning Herald* (5 November 2014);

‘ACT’s Move Improves Marriage Bill’s Chances’ *Sydney Morning Herald* (22 October 2013);

‘Right, you Lot, It’s Time we Seceded’ *Sydney Morning Herald* (8 October 2013);

‘Aboriginal Voices are the Key to Real Change’ *Sydney Morning Herald* (24 September 2013);

‘Electoral Reform Vital to Halt Micro Problem’ *Sydney Morning Herald* (10 September 2013);

‘Coalition Would Find Asylum Processing Plan Fails on Two Fronts’ *Sydney Morning Herald* (27 August 2013);

‘States may Leave PM at the Altar on Gay Marriage’ *Sydney Morning Herald* (13 August 2013);

‘More than a Legal Issue, PNG Plan Challenges Core Principles’ *Sydney Morning Herald* (23 July 2013);

‘Nation's Very Foundation Built on Right to Choose Own God’ *Sydney Morning Herald* (16 July 2013);

‘All Eyes on the Independents after Rudd Defeats Gillard’ *Sydney Morning Herald* (26 June 2013);

‘Chances of Return to Death Penalty Remain Almost Nil’ *Sydney Morning Herald* (18 June 2013);

‘Action on Inept Anti-Terror Laws must get Priority’ *Sydney Morning Herald* (21 May 2013);

‘Constitutional Change Makes Sense’ *Sydney Morning Herald* (9 May 2013);

‘Windsor Vote Push Could Open Can of Worms’ *Sydney Morning Herald* (30 April 2013);

‘Come Clean on Role We Played in Abetting Torture’ *Sydney Morning Herald* (22 April 2013);

‘Even Heroes Must Comply with the Laws of the Land’ *Sydney Morning Herald* (8 April 2013);

‘Privacy: The Fix Should not be Left to Judges’ *Sydney Morning Herald* (26 March 2013);

‘States’ Grip on Gang Laws could Scupper Federal Clampdown’ *Sydney Morning Herald* (12 March 2013);

‘Tasmania Leads Way on Voluntary Euthanasia’ *Sydney Morning Herald* (27 February 2013);

‘Broad Support for Fixed-Term Elections Should be Catalyst for Action’ *Sydney Morning Herald* (12 February 2013);

‘Eleventh Hour for Action to Change Federal Funding to Local Councils’ *Sydney Morning Herald* (29 January 2013);

‘Clock Ticks on Urgent Reform’ *Sydney Morning Herald* (22 December 2012);

‘Lost Change of \$20b a Year is Falling Through Federal-State Divide’ *Sydney Morning Herald* (5 December 2012).

Tamara Wood

‘Fragile states and protection under the 1969 African Refugee Convention’ (2013) 43 *Forced Migration Review* 17-19.

7. PRESENTATIONS

Joint Presentations

Julian Burnside QC and Jane McAdam, Keynote speakers for *Human Rights Day*, the International Commission of Jurists and NSW Young Lawyers, Sydney, 12 December 2013;

Shipra Chordia and Andrew Lynch, ‘Federalism in Australian Constitutional Interpretation: the Significance of *Williams v Commonwealth*’, After *Williams* Colloquium: University of Southern Queensland, Toowoomba, 4 October 2013;

Paul Kildea and George Williams, ‘The Mason Court’, *The High Court, the Constitution and Australian Politics Workshop*, University of New South Wales, Sydney, 7-8 November 2013;

Paul Kildea and Andrew Lynch, ‘Australian Intergovernmental Relations: Ripe for Reform?’ *Gender and Intergovernmental relations: Australian and International Perspectives*, University of New South Wales, Sydney, 16-17 May 2013.

Jessie Blackburn

‘Independent Reviewers as Alternative; an Empirical Study from Australia and the UK’, Bar Association of New South Wales, 21 November 2013;

‘Normalising Post-Agreement Northern Ireland’, *9th North South Criminology Conference*, University College Cork, 20 June 2013;

‘Independent Reviewers of Anti-Terrorism Laws as Effective Oversight Mechanisms: Australia and the UK Compared’, *Society for Terrorism Research 7th Annual Conference*, UEL, 27 June 2013;

‘Normalising Post-Agreement Northern Ireland’, Keynote Address, *Postgraduate Research Workshop*, University of Kent, 17 June 2013;

‘Independent Reviewers as Alternative; an Empirical Study from Australia and the UK’, Critical Debates on Counter-Terrorist Judicial Review, Durham University, 12 June 2013;

‘Independent Reviewers of Anti-Terrorism Laws as Effective Oversight Mechanisms: Australia and the UK Compared’, University of Manchester Law School Research Seminar, 5 June 2013;

‘Independent Reviewers of Anti-Terrorism Laws as Effective Oversight Mechanisms: Australia and the UK Compared’, Public Law Discussion Group, University of Oxford, 30 May 2013.

Sean Brennan

‘Should We Change the Australian Constitution?’, *Constitution Information Night*, Parkes Reconciliation Group, Parkes, 27 November 2013;

‘Thematic Introduction’, *Native Title: A Vehicle for Change and Empowerment?*, UNSW Law School, 5 April 2013.

Fergal Davis

‘The Politics of Counterterrorism Judicial Review: creating effective parliamentary scrutiny’, Bar Association of New South Wales, 21 November 2013.

Rosalind Dixon

‘Partial Bills of Rights’, *UNSW Comparative Constitutional Law Roundtable*, 11 December 2013; Melbourne Law School, 13 December 2013;

‘Treaty Implementation & the Tasmanian Dam Case: A Comparative Perspective’ for *ANU CIPL Conference* on the 30th Anniversary of the Dam Case, August 2013;

‘Panel on Socio-economic Rights in Comparative Perspective’ at Macquarie University, International Symposium on Constitutional Rights, August 2013;

‘Constitutional Interpretation Curves’, *Chicago University Constitutional Law Workshop*, February 2013;

Paper on “Constitutional Interpretation Curves”, *George Washington School of Law Comparative Constitutional Law Workshop*, February 2013.

Ben Golder

‘The Critique of Human Rights in Contemporary International Legal Thought’, *Second Annual Junior Faculty Forum for International Law*, University of Nottingham, 29-30 May 2013.

Keiran Hardy

‘Smart Power Thinking in Australian Counter-Terrorism’, Laureate Work in Progress Seminar, 25 November 2013;

‘Ruthlessness and Sympathy: Hard and Soft Power in Counter-Terrorism and Counter-Insurgency’, Human Rights Centre, Durham University, 16 April 2013;

‘What is “Cyber-Terrorism”? Computer and Internet Technology in Legal Definitions of Terrorism’, *A Multidisciplinary Conference on Cyber-terrorism*, Birmingham, 11 April 2013.

Jackie Hartley

‘Consultation, Consent or a ‘Sliding Scale’? New Directions in Securing the Rights of Indigenous Peoples’, *Australian and New Zealand Society of International Law, Postgraduate Workshop*, 3 July 2013;

‘Welcome to the Human Rights Consultation’: Using role plays to stimulate student engagement with human rights issues’, *Human Rights Tertiary Teachers’ Workshop*, Australian Human Rights Centre, UNSW, 25 February 2013.

Paul Kildea

‘The Referendum Was Coming: Lessons from the Local Government Referendum that Wasn’t’, *3rd Biennial Electoral Regulation Workshop*, University of Queensland, Brisbane, 31 October, 1 November 2013;

‘Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples: Where Are We Now?’, Gadens Lawyers, Sydney, 29 May 2013;

‘Worth Talking About?: Modest Constitutional Amendment and Citizen Deliberation in Australia’, *Law and Deliberative Democracy Symposium*, King’s College, London, 9 April 2013.

Andrew Lynch

‘Judicial Dissent, Diversity and Electoral Politics’, *The High Court, The Constitution and Australian Politics*, Gilbert + Tobin Centre of Public Law, UNSW, 7 November 2013;

‘Beyond Sex on the High Court – What Diversity Means Now’, *Australian Lawyers’ Alliance Conference*, Canberra, 25 October 2013;

‘The MRRT – the Constitutional Context and Challenge’, *2013 Australian Political Studies Association Conference*, Murdoch University, Perth, 2 October 2013;

‘Roles and Responsibilities’ *Sir Samuel Griffith Symposium – Australia’s Federal Future*, ANZSOG and Griffith University, Brisbane, 26 July 2013;

‘Worth Talking About?: Modest Constitutional Amendment and Citizen Deliberation in Australia’, *Law and Deliberative Democracy Symposium*, King’s College, London, 9 April 2013.

Jane McAdam

‘Australia and Asylum Seekers: Taking the Politics out of Protection’, address to the University of the Third Age, Mittagong, 8 November 2013;

‘The Changing Climate of Climate Change and Migration: The Nansen Initiative on Disaster-Induced Cross-Border Displacement’ *NSW Young Lawyers Symposium*, 7 November 2013;

‘Planning for Environmental Migration: The Legal and Policy Challenges’, *Environment and Planning Law Association (NSW) Annual Conference*, Sydney, 17 October 2013;

‘Asylum in Australia’, Q&A Panel, UNSW Amnesty International, 17 September 2013;

Macquarie Group Legal and Governance Mid-Year Function, 8 August 2013;

Young Global Leaders Annual Summit and World Economic Forum, Myanmar, June 2013;

‘Protection Concerns: Lessons from the Past’, Pacific Regional Consultation of the Nansen Initiative on Disaster-Induced Cross-Border Displacement, Cook Islands, 21–24 May 2013;

‘Complementary Protection in Australia’, CLE at Gilbert + Tobin, Sydney, 9 May 2013;

Academy of the Social Sciences in Australia: ‘Precarious Migrants and National Migration Systems’, Sydney, 4–5 April 2013;

‘A Race to the Bottom: Recent Changes to Refugee Law in Australia’, CLE for the Human Rights Committee of NSW Young Lawyers, Sydney, 13 March 2013;

‘Climate Change and Forced Migration: The Limits of International Law’, Australian Meteorological and Oceanographic Society (AMOS) presentation, Sydney, 22 March 2013;

‘International Refugee Law’ and ‘Climate Change and Displacement’, University of the Third Age, Bowral, 5 March 2013.

Nicola McGarrity

‘Terrorists, Bikies and Secret Evidence’, *Law, Justice and Secrecy Workshop*, Legal Intersections Research Centre, University of Wollongong, 6 November 2013;

‘Religion on Trial: The Cause Element in the Definition of a Terrorist Act’, Centre for Legal Governance, Macquarie University Law School, 31 July 2013;

The human rights challenges of anti-terrorism laws’, HSC Legal Studies Study Day, 12 March 2013 and 13 May 2013.

Sangeetha Pillai

‘The Constituent Power of “The People of the Commonwealth”: Reflections on Citizenship in the 1897-1898 Australasian Constitutional Convention Debates’, *Australia New Zealand Law and History Society Conference*, Faculty of Law, 25-27 November 2013.

Svetlana Tyulkina

‘Militant Democracy and Counterterrorism policies’, Max Planck Institute for Comparative Public Law and International Law seminar *Referentenbesprechung*, (Heidelberg, Germany), 27 May 2013;

‘Freedom of Association as Related to Political Parties under the International Covenant on Civic and Political Rights’, *European Convention of Human Rights and Inter-American Convention of Human Rights* (Budapest, Hungary), 16 May 2013;

‘Militant Democracy Concept as the Guardian of Democracy’, Legal Studies Department seminar, Central European University (Budapest, Hungary), 15 May 2013.

George Williams

‘Maintaining Momentum in Federal Reform’ *Discussion Forum on an Australian Federation for the 21st Century*, Sir Samuel Griffith Legacy Series, Griffith University, Brisbane, 20 November 2013;

‘True Reconciliation Requires a Treaty’ *Intelligence Squared Debate*, Wheeler Centre, Melbourne Town Hall, 12 November 2013;

‘The Mason Court’ *The High Court, The Constitution And Australian Politics Workshop*, UNSW, 8 November 2013;

‘Is it Time to Write Aboriginal Peoples into the Australian Constitution?’ *George Shipp Memorial Lecture*, WEA Sydney, 5 November 2013;

‘High Court Challenges and the Limits of Political Finance Law’ *3rd Biennial Electoral Regulation Workshop*, University of Queensland, Brisbane, 31 October 2013;

‘The Scope and Constitutionality of the *Same Sex Marriage Bill 2013* (NSW)’ NSW Parliament, Sydney, 30 October 2013;

‘How to Solve the Problem of the Senate’ Public Forum, New South Wales Society of Labor Lawyers, Parliament House, Sydney, 24 October 2013;

‘Federal Responses to Human Rights’ *2013 Colloquium of the Judicial Conference of Australia*, Sydney, 12 October 2013;

‘The Legal Legacy of the War on Terror’ *Blackshield Lecture*, Macquarie University, 10 October 2013;

‘Human Rights Law Reform in Australia’ Public Interest Advocacy Centre, Sydney, 19 September 2013;

‘Same-Same but Difficult?’ *Hot Topics Law Reform Event*, Law Institute of Victoria Young Lawyers Seminar, Melbourne, 12 September 2013;

‘The State of Play on Aboriginal Constitutional Recognition’ *Constitutional Recognition Workshop*, National Congress of Australia’s First Peoples, Sydney, 10 September 2013;

‘Recognising Aboriginal Peoples in the Constitution’ Open Seminar, The George Institute for Global Health, Sydney, 4 September 2013;

‘Human Rights and the *Tasmanian Dams Case*’ *30th Anniversary Symposium on the Tasmanian Dams Case*, Australian National University College of Law, Canberra, 22 August 2013;

‘Should Aboriginal Peoples be Recognised in the Australian Constitution?’ Whitlam Institute and University of Western Sydney School of Law, Parramatta, 20 August 2013;

‘The *Williams Case* and Australian Federalism’ COAG Reform Council Seminar, Sydney, 15 August 2013;

‘The Strengths and Weaknesses of the Australian Federation: How Do We Maximise the Potential and Diminish the Weaknesses?’ *Sir Samuel Griffith Symposium: Australia’s Federal Future*, Griffith University, Brisbane, 26 July 2013;

‘Security AND Rights: Closing Australia’s Guantanamo Bay’ Queensland Council for Civil Liberties Public Lecture, Brisbane, 23 July 2013;

‘Who Cares about the Constitution?’ *2013 Constitution Day Forum*, National Archives of Australia, Canberra, 9 July 2013;

‘Letting the People Decide: Local Government, Gay Marriage and the Politics of Referendums’ *Electoral Regulation Research Network Public Forum*, NSW Parliament House, Sydney, 25 June 2013;

‘Campaigning to Change the Constitution’ Constitutional Roundtable, House of Representatives Committee on Social Policy and Legal Affairs, Parliament House, Canberra, 20 June 2013;

‘Human Rights in Government Decision-Making’ *Excellence in Government Decision-Making Conference*, Australian Government Solicitor, Canberra, 21 June 2013;

‘The Local Government Referendum’ *National General Assembly of Local Government*, National Convention Centre, Canberra, 18 June 2013;

‘What Needs to be Done to Win a Referendum?’ KPMG National Reconciliation Week Forum, Sydney, 12 June 2013;

‘Bringing on the Republic’ *Project Republic* Book launch, Parliament House, Canberra, 3 June 2013;

‘Constitutional Recognition: Sell-out or Stepping Stone for Indigenous Australia?’ *Melbourne Conversations*, City of Melbourne and ANTaR, Melbourne Town Hall, Melbourne, 30 May 2012;

‘Recognising Aboriginal Australians: What the Constitution Should Say’ Public Forum, Reconciliation Victoria, Shepparton Region Reconciliation Group and University of Melbourne, Shepparton, Victoria, 29 May 2013;

‘Building your Research Profile: Social Media & Professional Presence’ Seminar, UNSW Library and UNSW Researcher Development Unit, UNSW, 28 May 2013;

‘Understanding the Politics of Intergovernmental Relations’ *Gender and Intergovernmental Relations: Australian and International Perspectives Workshop*, University of New South Wales, 16 May 2013;

‘Key Issues Affecting Intergovernmental Relations in Australia’ *Forum on Intergovernmental Relations*, COAG Reform Council, Sydney, 15 May 2013;

‘Assange and Freedom of Speech’ Public Forum, University of Adelaide, 3 April 2013;

‘Can NSW Legislate for Marriage Equality?’ NSW Fabian Society AGM, Sydney, 13 March 2013;

‘Constitutional Recognition of Aboriginal Peoples’, Open Forum, Macquarie University Students for Community Legal Engagement, Macquarie University, 12 March 2013;

‘Constitutional Recognition of Local Government’, Public Forum, Trades Hall, Sydney, 11 March 2013;

‘From Covert to Coercive: A New Model of Surveillance by Intelligence Agencies?’ *States of Surveillance: Counter-Terrorism and Comparative Constitutionalism*, 2012 International Association of Constitutional Law Research Group on Constitutional Responses to Terrorism Workshop, UNSW, 14 December 2012.

Tamara Wood

‘The African war refugee: Using IHL to interpret the 1969 African Refugee Convention's expanded refugee definition’, *Refuge from inhumanity: Enriching refugee protection Standards through recourse to international humanitarian law conference*, University of Oxford, 11-12 February 2013.

8. SUBMISSIONS

Joint Submissions

Shipra Chordia and George Williams, Submission to National Commission of Audit on ‘Scope of Government’ (21 November 2013);

Nicola McGarrity and George Williams, Submission to Senate Standing Committee on Employment and Education ‘Inquiry into the provisions of the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013’ (19 November 2013);

Shipra Chordia, Sangeetha Pillai, Lyndon Goddard and George Williams, Submission to Senate Standing Committee on Finance and Public Administration on ‘Inquiry into Citizen Initiated Referendum Bill 2013’ (22 April 2013);

Lyndon Goddard and George Williams, Submission to Premier of Tasmania on ‘Consultation Paper on Voluntary Assisted Dying’ (14 March 2013);

Jessie Blackburn, Fergal Davis and Jennifer Goh, Submission to the Secretary of State for Northern Ireland: Non-Jury Trial Arrangements for Northern Ireland (11 March 2013).

Jane McAdam

Submission No 11 to the Senate Legal and Constitutional Affairs Legislation Committee on the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012 (14 December 2012) and oral evidence (31 January 2013);

Submission No 6 to the Parliamentary Joint Committee on Human Rights on Migration Legislation (Regional Processing and Other Measures) Act 2012 and Related Bills and Instruments (11 January 2013).

George Williams

Submission to Expert Reference Group on the Size of the Assembly ‘Review into the Size of the ACT Legislative Assembly’ (18 February 2013);

Submission to Standing Committee on Social Issues of the New South Wales Parliament ‘Inquiry into the Same Sex Marriage Law in NSW’ (31 January 2013).

