



CENTRE FOR INTERNATIONAL AND PUBLIC LAW FACULTY OF LAW



THE AUSTRALIAN NATIONAL UNIVERSITY

NEWSLETTER

Issue 3/2002
December 2002

Dear Friends of CIPL

This newsletter covers the period July to December 2002. It indicates the range of activities organised by the Centre and undertaken by individual Faculty members. 2002 was certainly our busiest year yet! Thanks to all those involved in these events and we look forward to an equally productive and interesting 2003.

Cathy Hutton
Editor

Events for 2003

ANZSIL Conference

3-5 July 2003, Wellington NZ

The annual conference of the Australian and New Zealand Society of International Law (ANZSIL) will take place in Wellington, New Zealand from 3-5 July. The call for papers will be made in February.

Public Law Weekend

7-8 Nov 2003

This will be the eighth annual conference and the fourth on constitutional law. This year the PLW will be organised in conjunction with the Australian Association of Constitutional Law (AACL).

Details of our regular program of seminars on current issues in international and public law will appear on our website
<http://law.anu.edu.au/CIPL>

Final Events for 2002

Two conferences and an intensive training program were organised by the Centre in the last quarter of the year.

Public Law Weekend

1-2 November 2002

This was the seventh annual conference and the fourth on administrative law and was convened by Professor Robin Creyke.

This year the conference focused on administrative law: the special theme seminar on Friday 1 November centred on executive power - an interest sparked by the events surrounding the *Tampa*; while 2 November was a day for celebrating anniversaries. These were the 25th anniversaries of the *Administrative Decisions (Judicial Review) Act 1977* and the establishment of the Ombudsman's Office, the twentieth anniversary of the *Freedom of Information Act 1982* (Cth), and, a little prematurely, the first birthday of the *Privacy (Private Sector) Amendment Act 2001*.

Speakers included the Commonwealth Ombudsman, Mr Ron McLeod, whose term comes to an end in the New Year, the Privacy Commissioner, Mr Malcolm Crompton, the Shadow Attorney-General, Mr Robert McClelland, Justice James Allsop of the Federal Court of Australia, Emeritus Professor Carol Harlow, London School of Economics, Professor George Winterton,

University of New South Wales, Mr (now Justice) Brad Selway, then South Australian Solicitor-General, as well as a number of barristers, academics and practitioners.

The conference was attended by nearly 200 people from around Australia, many of them regular attendees. The PLW is a principal event in the Centre's annual calendar and helps sustain ANU's reputation as a leading institution in public law.

The conference papers are currently being reviewed for inclusion in either a special edition of the *Federal Law Review*, or in one or two parts of the *AIAL Forum*.

Intensive training course for DFAT Graduate Trainees 21, 22, 25 and 26 November 2002

The Centre organised an intensive course in Fundamentals of International Law for Department of Foreign Affairs and Trade graduate trainees. Centre members Andrew Byrnes, Hilary Charlesworth, JP Fonteyne, Pene Mathew and Wayne Morgan presented a program for the eighteen participants.

Both presenters and participants enjoyed the opportunity to discuss the international law relevant to 21st century diplomacy.

Comparative perspectives on Bills of Rights 18 December 2002

This one-day conference was jointly organised with the ANU's National Institute of Government and Law (NIGL) and was held in the superb Visions Theatre at the National Museum of Australia. It was devised to complement the series of public meetings on the Bill of Rights that had been held in Canberra in the period June-November 2002 and to focus the key threads of the Bill of Rights debate in the final weeks of the ACT enquiry into whether the ACT should adopt a Bill of Rights.

We invited four leading experts on Bills of Rights to draw on their experience of the implementation of the Bill of Rights in their own country in order to explore ideas that

would be relevant for Australians when considering the issue of a Bill of Rights.

- **Professor Penelope Andrews**, Law School, City University of New York, South African academic and consultant on the South African Bill of Rights. Commentator: **Professor John Warhurst** (ANU)
- **Professor Andrew Byrnes**, Faculty of Law, ANU, previously at the University of Hong Kong and consultant to the HK Government 1990-91 on the drafting of the Hong Kong Bill of Rights Ordinance. Commentator: **Professor John McMillan** (ANU)
- **Ms Francesca Klug OBE**, Senior Research Fellow, Centre for the Study of Human Rights, London School of Economics, primary drafter of the United Kingdom Human Rights Act 1998. Commentator: **Ms Julie Debeljak** (Monash)
- **Rt Hon E W Thomas DCNZM QC**, Visiting Fellow, Law Program RSSH, ANU and former Judge of the Court of Appeal of New Zealand. Commentator: **Dr Adrienne Stone** (ANU)

The papers will be published early in 2003 and will be available on the Centre's web site and in hard copy.

Centre Publications 2002 Law and Policy Papers

Paper 20

The International Criminal Tribunal for Rwanda

The text of the fifth Geoffrey Sawer Lecture given by Judge Navanethem Pillay, President of the Tribunal, on 31 July 2002

The history and development of the International Criminal Tribunal for Rwanda and an assessment of its significance for the development of international criminal law.

Published October 2002

Paper 21

Two Decades of Open Government – What Have We Learnt?

The text of a public lecture given by Professor John McMillan at the Faculty of Law, ANU, on 5 March 2002.

A survey of the developments in twenty years of open government in Australia that reflects on its achievements, continuing challenges and paths that might have been taken. (to be published early 2003)

Paper 22

British Tribunals of Inquiry: Legislative and Judicial Control of the Inquisitorial Process - Relevance to Australian Royal Commissions

Professor Geoffrey Lindell
(to be published early 2003)

Recent Arrivals in the Centre

The Centre welcomes **Madelaine Chiam** who has taken up a new position of Research Fellow/Lecturer. Madelaine will be working on the ARC Discovery Project being conducted by Hilary Charlesworth and George Williams (UNSW) on "International Challenges to the Australian Legal System: Trade and Human Rights". She will also teach in the Law Faculty. Madelaine is actually returning to CIPL – she was a research associate here in 1995 with the then Director, Philip Alston. In the meantime she has worked in legal practice in Melbourne and for the University of Surrey, and has recently completed an LLM at the University of Toronto.

We also welcome **Frances Voon** as a Summer Scholar in the Centre from December 2002 to February 2003. Frances is a student at the UNSW Law School. Her project in the Centre is a study of the ASIO legislation introduced into federal Parliament in 2002.

Recent Visitors and Events in the Centre

In the second half of the year the Centre hosted a number of distinguished visitors who had been invited to make presentations as part of the Centre's program of activities.

Lectures

The Centre's two annual special lectures were held in July.

John Dauth LVO, Australia's Ambassador to the United Nations, gave the Australia and the United Nations lecture, this year entitled Letter from New York, on 24 July. The text of this lecture is on the Centre's web site.

The fifth Geoffrey Sawer Lecture was given on 31 July by **Judge Navanethem Pillay**, President of the International Criminal Tribunal for Rwanda. The text of this lecture has been published by the Centre as Law and Policy paper 20. During her time here, Judge Pillay also participated in an informal discussion with over thirty graduate students on issues of international justice and human rights.

International Criminal Court (ICC) Seminar Series

A new series of seminars on the International Criminal Court (ICC) and related issues was organised in 2002 by the Centre in conjunction with the Royal Netherlands Embassy. Their generous support enabled us to invite two distinguished Dutch scholars to present seminars - **Professor Fritz Kalshoven** of the University of Groningen spoke on *Legal and political challenges to the new ICC* on 5 September, and **Professor Menno T Kamminga** of the Maastricht Centre for Human Rights spoke on *Recent developments in the exercise of universal jurisdiction by States over alleged gross violators of human rights* on 7 November. These seminars were also supported by the International Humanitarian Law Committee of the Australian Red Cross (ACT).

The other seminar given in this period was by **Professor James Crawford** of the University of Cambridge on *Challenges facing the new ICC* on 5 August,

Bill of Rights Seminar Series

The Centre's seminar series on the Bill of Rights attracted much interest as this issue has been of particular significance for the ACT in 2002. Many Canberrans have participated in the enquiry into whether the ACT should adopt a Bill of Rights, and

Centre Director Hilary Charlesworth is chairing the ACT Bill of Rights Consultative Committee. The series was opened on 13 August with the **Rt Hon E W Thomas DCNZM QC**, Visiting Fellow in the Law Program at the ANU's Research School of Social Sciences, who spoke on The New Zealand Bill of Rights and its relevance to the Australian debate. **Justice Frank Iacobucci**, Justice of the Supreme Court of Canada, spoke on *the Canadian Charter of Rights and Freedoms* on 13 September. Other seminars in this series were presented by Centre members **Peter Bailey** *Protecting economic, social and cultural rights* on 29 August, **Andrew Byrnes** *The Hong Kong Bill of Rights and its relevance to the Australian debate* on 23 October, and **Leighton McDonald** *Rights, 'dialogue' and the democratic objection to judicial review* on 27 November. Former Centre member Adrienne Stone spoke on *The new scepticism of Bills of Rights* on 9 October.

Distinguished Visiting Fellow

The Faculty's Distinguished Visiting Fellow **Professor Geoffrey Lindell** gave two seminars for the Centre during his week's "residence" in the Faculty - *Breaching public international law in private international law (Kuwait Airways Corporation Case)* for the International Law Discussion Group on 20 August, and *Immunity of former members of Parliament from parliamentary inquiries - The Reith Affair* in the Current Issues Seminar Series, on 21 August. The Centre also hosted the dinner organised by John McMillan on 21 August to celebrate the career of Professor Lindell on the occasion of his recent retirement.

International Law Discussion Group (ILDG) seminars

We were delighted to welcome back, even if only briefly during a flying visit to Canberra, former Centre member **Professor Robert McCorquodale**, now at the University of Nottingham. Robert gave a seminar on *Terrorists, transnationals, torturers: the privatisation of human rights violations and the absence of law* (1 August).

Other visitors were **Greg Hunt MP** who spoke on *Human rights and the parliamentary life* (27 August) and

Professor Fred Soons of the University of Utrecht who met informally with Centre members on 26 November during his brief visit to Canberra.

Current issues seminars

Dr Daniel Warner, Deputy Director of the Graduate Institute of International Studies in Geneva, spoke on *The US at War* (12 September).

A seminar to mark the 10th Anniversary of the High Court's "Free Speech Cases" was organised with the Australian Association of Constitutional Law on 26 September and entitled *Freedom of political communication: ten years on*. The speakers were former Centre member **Dr Adrienne Stone**, now at the Law Program RISS, and **Mr George Witynski** from Australian Government Solicitor. The seminar was chaired by Centre member **Fiona Wheeler**.

Recent Publications by Centre Members

Please contact Centre members directly for further information on their publications. The standard email address format is LastnameInitial@law.anu.edu.au

Hilary Charlesworth

'Sex, Gender and September 11' (2002) 96 *American Journal of International Law* 600-605 (with Christine Chinkin)

'The Hidden Gender of International Law' (2002) *Temple International and Comparative Law Journal*

'Human Rights in Australian Law' (2002) 13 *Public Law Review* 155-160

Robin Creyke

'Executive Perceptions of Administrative Law - An Empirical Study' (2002) 9 *Australian Journal of Administrative Law* 163-190 (with J McMillan).

Ann Kent

'The Unpredictability of Liberal States: Australia and International Human Rights' (2002) 6(3) *The International Journal of Human Rights* 55-84

'China's International Socialization: The Role of International Organizations' (2002) 8 *Global Governance* 343-364

John McMillan

'Judicial Restraint and Activism in Administrative Law' (2002) 30 *Federal Law Review* 335-371

'Executive Perceptions of Administrative Law - An Empirical Study' (2002) 9 *Australian Journal of Administrative Law* 163-190 (with R Creyke)

'Immigration Law and the Courts' in *Upholding the Australian Constitution* Vol 14, 167-186

'Better Decision-Making: By What Standard?' (2002) 105 *Canberra Bulletin of Public Administration* 43-46

'Advice on the Proposal for an Inspector-General of Taxation', in Board of Trade, *Inspector-General of Taxation: Report to the Minister for Revenue* (July 2002) Attachment D

Recent Papers, Presentations and Other Activities by Centre Members

Please contact Centre members directly for further information on their activities. The standard email address format is LastnameInitial@law.anu.edu.au

Peter Bailey

- 'Protecting economic, social and cultural rights', presentation in the Centre's Bill of Rights seminar series, 29 August 2002
- made a submission to the ACT Bill of Rights Committee, focusing on economic, social and cultural rights, drafting and enforcement, 3 September 2002
- chaired a consultation with religious groups on the proposed ACT Bill of Rights for the ACT Consultative Committee, 30 October 2002
- participated as panel member in the Deliberative Poll on an ACT Bill of Rights, 29-30 November 2002
- chaired the South African Experience session at the Centre's Comparative Perspectives on Bills of Rights conference, 18 December 2002

Andrew Byrnes

- chaired 'Challenges Facing the New ICC', presentation by Professor James Crawford in the Centre's International Criminal Court seminar series, 5 August 2002

- chaired and introduced 'National Human Rights Institutions: An Issue Central to the UN Human Rights Agenda' lecture by Brian Burdekin, Special Adviser to the UN High Commissioner on Human Rights in the ANU Public Lecture series, 2 September 2002
- panelist in the 'Legal and Political Challenges to the new International Criminal Court' seminar in the Centre's International Criminal Court seminar series, 5 September 2002
- 'International legal aspects of September 11', paper for the Pluto Institute's September 11: One Year On seminar, Canberra, 10 September 2002
- visitor at the University of Tasmania - staff seminar on 26 September, human rights class on 27 September 2002
- 'The Hong Kong Bill of Rights and its relevance to the Australian debate', paper for the Centre's Bill of Rights seminar series, 23 October 2002
- participated as a resource person at the UN Division for the Advancement of Women and the UN Economic and Social Commission for Asia and the Pacific's Regional Judicial Colloquium on the application of international human rights law at the domestic level, Bangkok, 4-6 November 2002
- chaired 'Recent developments in universal jurisdiction' presentation by Professor Menno Kamminga, University of Maastricht, in the Centre's International Criminal Court seminar series, 7 November 2002
- participated in the Asian Development Bank's External Forum on Gender and Development meeting, Manila, 12-14 November 2002
- participated as panel member in the Deliberative Poll on an ACT Bill of Rights, 29-30 November 2002
- 'The Hong Kong Experience', paper for the Centre's Comparative Perspectives on Bills of Rights conference, 18 December 2002

Hilary Charlesworth

- 'Indicators for Human Rights: Domestic and International', paper (with George Williams) for the Democratic Audit of Australia Indicators Workshop, ANU, 11 July 2002

- 'A negative vote on torture puts Australia in dubious company' *Sydney Morning Herald* 30 July 2002
 - 'The International Criminal Court: implications of Australia's ratification', paper for the Australian Member Committee of the Council for Security Cooperation in the Asia-Pacific (AUS-CSCAP) Meeting, Canberra, 7 August 2002
 - 'Educating the community about human rights', paper for the Australian Human Rights Education Association's Dignity, Democracy, Equality national strategic conference, Canberra, 23 August 2002
 - 'Women and Human Rights in Latin America' paper for the Humanities Research Centre, ANU Arts and Human Rights in Latin America conference, 10 September 2002
 - 'The First Anniversary of 11 September 2001', paper for the ANU Deans and Directors lecture series, 11 September 2002
 - Chair for the Federation Dialogue on 'The Protection of Human Rights' between Justice Iacobucci, Supreme Court of Canada, and Justice Michael Kirby, High Court of Australia, Canberra, 12 September 2002
 - 'Is Cosmopolitan Democracy Useful for Women?' paper for the Hamline University School of Law's Democracy, Globalisation and Law conference, Minnesota, 19-23 September 2002
 - 'Capabilities and Human Rights', paper for the Catholic Commission for Justice, Development and Peace's *Rerum Novarum* lecture, Melbourne, 1 October 2002
 - member of the Monash University Law School Review Committee, 2-4 October 2002
 - 'An ACT Bill of Rights?', presentation for the Mallesons Stephen Jaques annual Legal Staff and Senior Management dinner, Canberra, 11 October 2002
 - 'Human Rights and Terrorism', paper for the Department of the Parliamentary Library's Vital Issues seminar program, Canberra, 16 October 2002
 - Exhibition launch of *Queue Here*, at the Canberra Contemporary Art Space, 14 November 2002
 - participated as panel member in the Deliberative Poll on an ACT Bill of Rights, 29-30 November 2002
 - Discussant for the Thematic and Analytic Frameworks session at the Regnet, ANU Gender, Migration and Governance in Asia conference, 5 December 2002
 - 'Re-defining International Security', keynote speech for the inaugural Evatt Trophy, United Nations Youth Association's National Security Council competition, Canberra, 12 December 2002
- Jennifer Clarke**
- commentator on the *Ward v WA* paper for the ANU Institute for Indigenous Australia (ANUIIA) lecture by Mick Dodson, November 2002
- Robin Creyke**
- speaker at 25th Anniversary Dinner of Ombudsman, University House, ANU, Canberra, 1 July 2002
 - 'Justiciability', address to the Australian Association of Constitutional Law, Perth, 10 July 2002
 - Co-Director (with Peter Sutherland) of the Inaugural workshop for ACT Tribunals and first steps towards setting up the ACT Chapter of the Council of Australasian Tribunals (COAT), Law Faculty, ANU, 18 October 2002
 - 'Evidence and fact-finding', paper for the Inaugural workshop for ACT Tribunals, Law Faculty, ANU, 18 October 2002,
 - Convenor of the Centre's Annual Public Law Weekend, 1-2 November 2002
 - 'The Judicial Review Project and External Review Project in Australia' (joint paper with J McMillan) for International Workshop on Judicial Review and Bureaucratic Impact, Tilburg University, the Netherlands, 7-8 November 2002
 - reappointed as member of the Commonwealth Administrative Review Council until December 2005

Penelope Mathew

- (with JC Hathaway and M Foster) 'The Role of State Protection in Refugee Analysis' Discussion Paper No. 2., for the International Association of Refugee Law Judges' Advanced Refugee Law Workshop, Auckland, New Zealand, 18-19 October 2002
- 'Interception - The Legal Issues' paper for the International Association of Refugee Law Judges conference, Wellington, New Zealand, 22-25 October 2002
- 'Revisionism and Refugee Realities: Europe, Australia and Beyond' paper for the Contemporary European Research Centre, 8 November 2002
- participated as panel member in the Deliberative Poll on an ACT Bill of Rights, 29-30 November 2002
- chaired the Hong Kong Experience session at the Centre's Comparative Perspectives on Bills of Rights conference, 18 December 2002
- participated as panel member in the Deliberative Poll on an ACT Bill of Rights, 29-30 November 2002
- 'Trends in Federal Judicial Review – 2002', presentation to public service seminar, Brisbane, 4 December 2002
- commentator for the Hong Kong Experience session at the Centre's Comparative Perspectives on Bills of Rights conference, 18 December 2002
- 'Quality of justice is not strained by "activism"' *The Australian*, 26 December 2002

Leighton McDonald

- 'Rights, "dialogue" and the democratic objection to judicial review', paper for the Centre's Bill of Rights seminar series, 27 November 2002
- 'The myth of legal merit and ability' *Canberra Times* 23 December 2002

John McMillan

- 'Judicial deference', address to the Australian Association of Constitutional Law, Perth, 10 July 2002
- 'Statements of Reasons in an Administrative Law Context', presentation to a seminar of complaints resolution officers, Canberra, 23 July 2002
- 'Parliamentary Control and Scrutiny of Executive Activity by the Commonwealth Parliament', presentation to the Standing Committee on Scrutiny and Constitutional Affairs of the Norwegian Parliament, Canberra, 11 September 2002
- 'The Judicial Review Project and External Review Project in Australia', (joint paper with R Creyke) for International Workshop on Judicial Review and Bureaucratic Impact, Tilburg University, the Netherlands, 7-8 November 2002

- participated as panel member in the Deliberative Poll on an ACT Bill of Rights, 29-30 November 2002
- 'Trends in Federal Judicial Review – 2002', presentation to public service seminar, Brisbane, 4 December 2002
- commentator for the Hong Kong Experience session at the Centre's Comparative Perspectives on Bills of Rights conference, 18 December 2002
- 'Quality of justice is not strained by "activism"' *The Australian*, 26 December 2002

Wayne Morgan and James Stellios

- briefed the Senate Foreign Affairs, Defence and Trade Committee on the General Agreement on Trade in Services, 14 November 2002

Dennis Pearce

- gave presentations to:
 - Department of Health and the Ageing legal branch, 17 October 2002
 - NSW Administrative Decisions Tribunal, Sydney, 8 November 2002
 - Integrity and Ethics course in Master of Public Policy programme, ANU, 28 November 2002
- appointed editor of the Australian Institute of Administrative Law Forum
- presided over the ACT Cricket Association Independent Tribunal hearing a disciplinary appeal

James Stellios

- (with JP Fonteyne and Anne McNaughton) worked on a forthcoming Australian supplement to DJ Harris *Cases and Materials on International Law*, 5th ed. Publication date late 2002/early 2003

Phillipa Weeks

- 'Regulating the Workplace Relationship' paper for the Centre for Commercial Law, ANU's Commercial Law - Private Business / Public Concern conference, 30 September 2002
- 'Workplace Change', presentation to the Attorney General's Department Women's Network, 18 October 2002

- 'Public Sector Employment', presentation to Phillips Fox Lawyers, Spring Seminar, 21 November 2002
- member of the review panels for review of the Law Schools at the University of Newcastle (September), and the University of New England (November)
- elected to the National Committee of the Australian Labour Law Association

Humanities Research Centre (HRC) Visiting Fellowships 2004 ANNOUNCEMENT OF HRC THEME 2004 – 'ASIA PACIFIC'

The Humanities Research Centre (HRC) aims to stimulate and advance research in the Humanities at the ANU and in Australia. Each year the HRC funds a number of short-term Visiting Fellows (of up to 3 months) to take up residence at the HRC. Scholars usually concentrate upon a particular theme of enquiry, although we also welcome non-thematic scholars. The theme in 2004 will focus on the 'Asia Pacific'.

We encourage applications from scholars with special interest in the year's theme. Preference will be given to Fellows whose interests coincide with the theme, but non-thematic applications will be considered. Fellows are expected to work at the HRC and interact with staff and students at the ANU. The HRC is especially keen to have scholars from Asian and Pacific universities and institutions.

Prospective applicants for Fellowships must obtain further particulars and application forms from the Humanities Research Centre, Australian National University, Canberra, ACT 0200, Australia. Phone: (+02) 6125 2700; Fax (+02) 6248 0054. Information about this program and application forms may be obtained from Leena.Messina@anu.edu.au or our web site; www.anu.edu.au/HRC/

The closing date for applications is **31 January 2003**.

Centre Staff and Members (December 2002)

Staff

Hilary Charlesworth, Professor and Director
Cathy Hutton, Administrator
Jennifer Braid, Assistant Editor, *Australian Yearbook of International Law*

ARC Australian Research Fellow

Ann Kent

Research Fellow

Madelaine Chiam

Academic Members

Peter Bailey, Adjunct Professor
Andrew Byrnes, Professor
Jennifer Clarke, Lecturer
Michael Coper, Professor and Dean
Robin Creyke, Professor
JP Fonteyne, Senior Lecturer
Judith Jones, Lecturer
Penelope Mathew, Senior Lecturer
Leighton McDonald, Senior Lecturer
John McMillan, Professor
Wayne Morgan, Senior Lecturer
James Stellios, Lecturer
Daniel Stewart, Lecturer
Phillipa Weeks, Professor
Fiona Wheeler, Reader

Visiting Fellows

Don Greig, Emeritus Professor
Dennis Pearce, Emeritus Professor
Tom Sherman AO

Summer Scholar

Frances Voon

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FEATURE ARTICLE

The ACT deliberates: An ACT Bill of Rights?

Madelaine Chiam and other Centre members participated in the ACT Deliberative Poll on 29 and 30 November 2002.

On November 29 and 30, in the hallowed rooms of Old Parliament House, approximately 250 'representative ACT residents' deliberated over whether the ACT should have a Bill of Rights. Commissioned by the ACT government and administered by Issues Deliberation Australia, the deliberative poll was the first held at state or territory level in Australia and is directly linked to the work of the Consultative Committee on an ACT Bill of Rights, chaired by Hilary Charlesworth.

Issues Deliberation Australia describes deliberative polling as an attempt to facilitate *informed* public opinion research through a defined process. First, a random, representative sample of people is surveyed on the particular issues. Participants in that survey are then invited to gather at a single place to discuss the issues. Carefully balanced briefing materials are sent to the participants and are made publicly available. Once gathered in a single place, the participants engage in dialogue with competing experts and political leaders based on questions they develop in small group discussions with trained moderators. After a weekend of deliberations, the participants are asked the same questions they answered in the original survey. The resulting changes in opinion represent the conclusions the public would reach, if people had the opportunity, time and resources to become more informed and more engaged by the issues.

In the Bill of Rights for the ACT poll, the "experts" included Hilary Charlesworth, Peter Bailey, Pene Mathew, Andrew Byrnes and John McMillan from CIPL, and the "political leaders" included Bill Stefaniak, Shadow ACT Attorney-General, and Robert McClelland, Shadow Federal Attorney-

General. The participants deliberated over three main questions: "Why have a Bill of Rights and what form should it take?", "What effect would the Bill have on the exercise of executive and judicial powers?" and "What rights should be protected by an ACT Bill of Rights?".

I was a Group Manager in the deliberative poll process, a role which essentially involved ensuring everyone in my group was in the right place at the right time and knew where the food and drink was. Happily, in addition, Group Managers were expected to attend all of the small group discussion sessions of their group. This meant that I was lucky enough to witness the machinations of my group's deliberations, without being considered to be "contaminating" the research process.

It was fascinating to watch the dynamics of a small group of 14 participants. They ranged in age from early 20s to late 60s; they included a student, two nursing mothers, a retired public servant and a number of professionals and small-business people; they represented a cross-section of the political spectrum and, perhaps in reflection of ethnic diversity in Canberra, included only one member of a visible minority. When asked why they had agreed to participate in this aspect of the deliberative poll, almost all cited a desire to be part of the democratic process.

The tenor and quality of the group's discussions developed markedly over the duration of the poll. The first discussion, on whether or not to have a Bill of Rights, featured under-informed opinions; incomplete understandings of aspects of the legal process, in particular of the role of international law in Australian law; and a deep distrust of politicians, lawyers and authority-figures in general. Participants were anxious that any Bill of Rights, were it to be implemented, represented "what the citizens want, not just what the politicians interpret the citizens as wanting". By the third discussion, however, on the question of what rights should be included in a Bill of Rights, opinions were much better informed, as was the group's understanding of the legal system, and their distrust of authority

had been replaced by a keenness to ensure the ongoing public accountability of politicians and others in positions of authority.

This evolution in the collective knowledge of the group seemed to have two sources. First, group members learned much from the question and answer sessions with the expert panels. The answers given by panel members were incorporated, both explicitly and implicitly, in group discussions that followed panel sessions. Second, it was apparent in my group that the sharing of knowledge and debating of issues between members also played a significant role in developing the group's knowledge and understanding. It was notable, for example, that the group's discussions of the legal system improved substantially when a few, more knowledgeable, members of the group began contributing regularly to group discussions and correcting others' misunderstandings. Similarly, the attitudes of some of the group members towards minority rights were influenced by the contributions of the group's only visible minority member. In a reasonably heated but controlled debate, many of the group members' assumptions about Australian society and the position of minorities within that society were challenged, and it was apparent that some members found the discussion quite confronting. Despite the disagreements, however, it was also clear that all members of the group had found the discussion instructive.

The most notable limitation in the deliberative poll process was the group members' lack of knowledge, especially about some aspects of the legal system, which occasionally meant that discussions proceeded on an incorrect premise. This was especially frustrating since, most of the time, the misunderstandings could have been corrected by either the facilitator or me. Any such interference was prohibited, however, as a contaminating influence on the process. It may be that the technical legal aspects of some of the Bill of Rights discussion meant that this issue lent itself particularly to this criticism. My informal discussions with facilitators who had participated in the other deliberative polls

held in Australia, on the republic and reconciliation respectively, suggest that this was not as great a problem in those polls.

As for the substantive question itself, at the beginning of their first discussion, a straw poll of the members of my group revealed a narrow majority against a Bill of Rights for the ACT, with three members undecided. At the end of their final discussion, a re-taking of the poll saw a shift to a narrow majority in favour of a Bill of Rights for the ACT, with all the undecided members having formed an opinion over the course of the deliberations. Significantly, by the end of the deliberative poll, group members were able to give far more informed and nuanced justifications for their positions than they had in the beginning.

The detailed analysis of the results of the deliberative poll is due to be delivered to the Consultative Committee by the end of December 2002. (www.act.gov.au/rights) Whatever the result, it seems that the mere fact of having undertaken the deliberative poll process on the question of a Bill of Rights for the ACT has been to the advantage of its instigators. Not only has it created a well-informed sector of the ACT community, it signals a willingness to involve ACT residents directly in the democratic process. From my observations, it was this opportunity to participate in "democracy in action" that meant the most to the representative ACT residents.