

NEWSLETTER

CENTRE FOR INTERNATIONAL AND PUBLIC LAW

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This newsletter covers activities of the Centre and Centre members in the period January to July 2005, and gives notice of some of our other events for 2005.



Kim Rubenstein

CIPL DIRECTOR – KIM RUBENSTEIN

ANU is delighted to announce that Kim Rubenstein has accepted the position of Professor and Director of CIPL.

Kim is a graduate of the University of Melbourne and Harvard Law School. Her graduate work at Harvard was supported by the Sir Robert Menzies Scholarship to Harvard, a Fulbright postgraduate award, and a Queen Elizabeth Jubilee Trust award. She has spent the last 12 and a half years at the University of Melbourne developing her academic career.

Kim is at the cutting edge of the intersection between public and international law. Over the past 11 years she has analysed the legal status of 'citizen', and considered the differences between that formal notion and the broader normative understanding of citizenship as membership of a community. She began by concentrating on Australia, and her book, *Australian Citizenship Law in Context* (Lawbook, 2002) represents much of that core work, looking at the disjuncture between the exclusive legal notion and the more inclusive normative understanding of citizenship. She then began developing this interest in the international law context, looking at the status of nationality. In 2002-2003 she was based at Georgetown University Law Center, having won the prestigious Fulbright Senior Scholar award for this work.

Kim's current research projects therefore draw from both aspects of the centres title – international and public law. Her public law work spans constitutional and administrative law, and also includes her expertise in citizenship law. Recently Kim initiated an international research network on feminism and constitutional law and last year ran a workshop looking at issues of feminism and federalism with participants from the US, Canada and Australia. Her international law research continues with the work she was developing at Georgetown and she has been invited to various international workshops and conferences to present on this work. She has a keen and strong interest in the way public law and international law operate and interconnect.

Kim's interests also encompass teaching (where she has co-authored a book on Feedback) and the broader field of education, particularly women's education. She is currently completing a biography of Joan Montgomery OBE, former Principal of Presbyterian Ladies College Melbourne, and an influential educator.

In addition to her scholarly work, Kim has made a significant contribution to the greater community. She has done so through media work and public community education. In the practical legal sphere, Kim has made significant contributions to the jurisprudence in citizenship. She has now appeared three times in the High Court of Australia on citizenship matters and her work was cited in the judgment of *Singh v Commonwealth* (2004).

In presenting to Faculty, Kim canvassed many ideas for her future at CIPL which she will no doubt share with the ANU community when she arrives in Canberra early in 2006, with her husband Garry Sturgess and their children, Cohava and Eliezer Rubenstein- Sturgess.

INTERIM DIRECTORS

Since Hilary's departure to the ANU Research School of Social Sciences both Professor Andrew Byrnes and Professor Robin Creyke have been interim directors of CIPL. Andrew was the interim director of CIPL from August to December 2004 prior to his move to UNSW. Robin is currently the interim director of CIPL.

INTERIM ASSOCIATE DIRECTORS

Dr Penelope Mathew and Dr Fiona Wheeler have been also appointed as Associate Directors of CIPL until the end of the year. Pene is in charge of International Law while Fiona takes care of Public Law.

Amelia Simpson is currently on leave from the ANU Law Faculty and is in the United States progressing her doctoral research. Amelia is a JSD candidate at Columbia University, where her research explores conceptions of discrimination within the High Court's constitutional jurisprudence. In October 2005 Amelia will be a visitor at Queens Law School in Canada where she will present part of her research.



Cathy Hutton

FAREWELL TO CATHY HUTTON

'E avanti a Cathy, tremava tutta Carlton'
by Michael Coper

'Despite missing her, we are pleased to hear that Cathy, celebrated for her competence in the face of all catastrophes, and now closeted with her cohort of cats close to Carlton cafes, is quite content'
by Ann Kent

18 January marked the end of an era at CIPL. Cathy Hutton, Centre Administrator for seven years, left to take up a position at the University of Melbourne. Cathy performed the role of administrator with great aplomb and efficiency. All CIPL events ran smoothly, the accounts were kept scrupulously, and the CIPL newsletter churned out on time, packed with wonderful CIPL events.

Every so often, Cathy would depart for Italy where she spent weeks indulging in great coffee, art and culture. She would return to CIPL bearing gifts. CIPL members are very sad to see Cathy go, but we know that she'll be enjoying the Italian flavour of Carlton to the full.

Currently Kavitha Robinson is the Centre Administrator of CIPL.

FEATURE ARTICLES

The Centre also welcomes its two new members
Dr Gabriele Porretto and Mr Ben Wickham.
The feature articles in this newsletter are on
Gabriele and Ben.

BEN WICKHAM

In January of this year, I joined the Faculty of Law at the ANU after having worked as a researcher and then Registrar at the High Court (where I continue to work part-time in that capacity), and previously, as a senior investigator with the Commonwealth Ombudsman. I have been asked to reflect on the differences between working in the sphere of public law, and what might once have been seen as the more cerebral milieu of academia. In relation to the latter, I feel something of a fraud in that my teaching this year has been confined to private law subjects such as torts and litigation. However, with a few exceptions, my vocational experience has demonstrated to me that any dichotomy between the practice of law and academic law is not that great.

It is self-evident that much of the public law focus in recent times, at least at the appellate level, has been on Australia's immigration laws. My work with both the Court and the Ombudsman has reflected this. In response to the privative clause in the Migration Act, at least until the decision in *S157/2002 v Commonwealth of Australia* [2003] HCA 2, the High Court was inundated with applications brought within the original jurisdiction of the Court under

s 75(v) of the Constitution. Such applications are generally fairly rare and historically were confined to industrial orders nisi. As such, the Court was not really equipped for the massive influx of litigation in its original jurisdiction. Typically (at least until the adoption of new Rules in January of this year), an application for a constitutional writ was heard by a single Justice in Chambers who had to decide whether an order to show cause should be made returnable before the Full Court or whether a question of law or case stated should be made to the Full Court.

These sorts of Chambers matters typically involve some judicial reliance on Registrars to provide a précis of the history of the proceedings, which is often difficult in the context of a poorly pleaded *ex parte* application. As a Registrar, this meant having to manage an enormous volume of applications of a pro-forma nature where asylum seekers would specify that they sought writs of certiorari or mandamus, without any grounds being articulated. It also meant that one had to have a reasonably well-developed understanding of the grounds of judicial review. In this sense, any divide between an academic interest in public law and in its practice was not that great. Ordinarily such applications would be rejected at the point of filing on the ground that on their face they were frivolous, vexatious or an abuse of process in that they did not disclose any basis for relief. Fortunately, the Court did not take this view and ultimately, many of these writs were able to be remitted to the Federal Court, and have since made their way back to the High Court via the ordinary appellate process. In this process, it became abundantly clear to me that the capacity to seek writs against officers of the Commonwealth under s 75(v) of the Constitution is potentially an avenue through which to pursue human rights claims in a political environment that remains decidedly unsympathetic to judicial oversight of refugee claims and in a constitutional framework notoriously silent on human rights. These more intellectual musings are of course one of the great advantages of academic life.

It is a trite observation that practising law and researching and teaching law can sometimes appear to be different disciplines. Much of my work at the Commonwealth Ombudsman centred around people held in immigration detention centres. Much of my energy was devoted to investigating the conditions which prevailed in the detention facilities. No particular legal skill was involved in this. Indeed, the trait which was of most assistance was dogged persistence in the face of an often intractable Department. This is not to say that a legal background was entirely without benefit. For example, the distinction between administrative and punitive detention articulated in *Lim v Minister for Immigration, Local Government and Ethnic Affairs* (1992) 176 CLR 1 was sometimes a bargaining chip of sorts in negotiating with the Department in relation to some of the more egregious aspects of the detention regime. Similarly, for a brief period between Merkel J's decision in *Al-Masri v Minister for Immigration and Multicultural and Indigenous Affairs* [2002] FCA 1099 and the High Court's acceptance of the possibility

of indefinite detention without judicial sanction in *Al-Kateb v Godwin* [2004] HCA 37, the Department was forced to grapple with the prospect of releasing a number of detainees where it could not demonstrate any reasonable prospect of removal in the foreseeable future. This reinforced for me the important leverage that is gained through a rigorous understanding of law, though in this instance such leverage was relatively short-lived.

One noticeable tension between my work at the Court and what might be characterised as an academic perspective has been in relation to access to justice, in particular, access by unrepresented litigants. The academic and political part of my brain tells me that access to justice for the disenfranchised is of cardinal importance and that in the absence of a comprehensive system of legal aid, courts must adapt their procedures to accommodate the increasing proportion of litigants unable (or unwilling) to secure representation. However, my experience at the High Court has, for better or worse, left me increasingly unsympathetic to the plight of self-represented litigants – though these comments are confined to self-represented litigants at the final appeal level and different considerations clearly apply to lower courts. I should also qualify this by saying that most unrepresented applicants in criminal and refugee matters are clearly disadvantaged and Registrars of the Court often go to great lengths trying to find pro-bono counsel for such people. However, much Court time is devoted to the querulous and vexatious litigant, typically with grandiose notions of victimisation and entitlement and who bombard the Court with frivolous applications. The Court itself has shown a great reluctance to declare litigants to be vexatious – I can think of only three instances in the history of the Court, though there may be more. The Court has

adopted new Rules in its appellate jurisdiction whereby self-represented litigants are presumptively confined to written argument unless the Court otherwise directs. In the relative quietude of my office at the ANU I would probably regard this as a curious and perhaps somewhat disturbing development. In my office at the Court, I regard it as entirely sensible.



Ben Wickham

GABRIELE PORRETTO

Since the 3rd March of this year, I have been part of the Law Faculty as Research Associate and Sparke Helmore Lecturer and I have the honour of being on the list of the academic members of the CIPL until February 2008.

Before joining CIPL, I was Research Fellow at the Centre for International Humanitarian Law of the University of Geneva (2002-2003) and, subsequently, Research and Teaching Assistant at the International Law section of the Graduate Institute of International Studies (Geneva) (2003-2004) and at the Law Faculty of the University of Lausanne (2003-2005).

My postgraduate specialisation in international law began when, having completed my honours Degree at the University of Florence, I spent the academic year 1997-1998 as a Research Fellow at the Department of International Law and International Organisations of the Law



Gabrielle Porretto

Faculty of the University of Geneva. Since then, and until February 2005, Geneva was the place that I called home, with the exception of 1999 and a few other short periods in 2000 and 2002, which I spent in Italy due to my PhD program in International Law at the University of Rome "La Sapienza".

My current position at the ANU Law Faculty is a combination of a two-thirds appointment on research activities and a one-third appointment on teaching. In particular, I am a new member of the Research Team currently working on the ARC Grant on "Terrorism and the non-State actor after September 11: the role of law in the search for security", whose original members are: Andrew Byrnes (UNSW), Simon Bronitt, Miriam Gani, Russell Hogg (UNE), Mark Nolan and Pene Mathew. Within this extremely skilful and thought-provoking team, I will concentrate my study essentially on the international law aspects of the research project, dealing most notably with the role that international criminal law and international humanitarian law play or should play in the struggle against international terrorism.

As to the teaching, the Law Faculty has kindly tailor-made my workload to my needs, taking into account both my primary research duties and my academic background and interests. Therefore, in the current academic year I have the pleasure to co-teach with senior colleagues the courses on public international law for both the undergraduate and the graduate students. Once I (hopefully) have developed my lecturing skills in an English-speaking and common law context, I will also be in a position to take sole responsibility for semester courses in specialised branches of international law.

After my first three months at CIPL and the Law Faculty, I feel that the expectations that motivated me last year to apply for this position and to accept the Faculty's offer of appointment have been well met. Resolving to pack up more than five years of my life in Switzerland and to move to the antipodes, to what was still to me "Terra australis incognita", was clearly not an easy choice. However, the outstanding human and professional richness of the Faculty's staff – which I had already perceived through the selection and appointment procedures – has overwhelmed me since my arrival in Canberra and I really want to convey my thanks to those who have contributed to make my relocation to the ANU smooth and pleasant.

I am mostly indebted to many colleagues of both CIPL and the research team. It is difficult to describe the patience and the warmth with which they have been assisting me, every day since my arrival, in settling in my new position and more generally in my new life in Canberra. I have already benefited from their cooperation in my everyday work and I look forward to contributing to the activities of CIPL and to the research.

2005 PAST EVENTS

7 March 2005

Mock International Criminal Court Trial

Over 300 people attended an Australian Red Cross Mock International Criminal Court Trial held on Monday 7 March 2005 at University House, ANU. CIPL provided support through sponsorship and through the involvement of member Madelaine Chiam and doctoral student Joanne Lee in the organization of the event. The Mock Trial aimed to highlight the suffering of women and children in war by enacting the trial of a fictitious army commander. The commander was charged with the crime against humanity of rape, and the key question was his responsibility for the acts of subordinates. Participants in the Mock Trial included Justice Kirby of the High Court, Justice Higgins of the ACT Supreme Court, Professor Hilary Charlesworth, ABC newsreader Virginia Haussegger, ACT lawyers Richard Refshauge and Jennifer Saunders and local actors and directors. The event was a great success, both as a fundraiser for Australian Red Cross, and as a means of disseminating information about the important work of the International Criminal Court.

8 March 2005: Public Lecture

2005 Commonwealth Lecture International Human Rights Law in the Legal Systems of the Commonwealth of Nations Justice Michael Kirby AC CMG



Justice Michael Kirby, Professor Anthony Low & Robin Creyke at the Commonwealth Lecture

The 2005 Commonwealth Lecture which took place on 8 March 2005 was the first event organised by CIPL for 2005. Justice Michael Kirby AC CMG delivered the lecture on "International Human Rights Law in the Legal Systems of the Commonwealth of Nations". In this lecture, which preceded the celebration of Commonwealth Day on 14

March, Justice Kirby reflected on the very important recent developments in the legal systems of the Commonwealth of Nations, particularly the impact of international human rights law, and described the adoption of the Bangalore Principles on the Domestic Application of International Human Rights Norms (1988).

The lecture was supported by the National Institute of Social Sciences & Law and The Commonwealth Roundtable in Australia. Professor Anthony Low, President of the Commonwealth Roundtable in Australia, suggested that the lecture take place. Professor Low was the Vice-Chancellor of the ANU from 1975-1982.

CIPL hopes to make the Commonwealth Lecture an annual lecture series like the Sawyer lecture. To listen to the audio version of the lecture, please visit CIPL's website <http://law.anu.edu.au/cipl/events.asp>

5 April 2005: International Law Discussion Group

UNHCR's Role with Respect to Internally Displaced Persons Mr Neill Wright

The first meeting of the International Law Discussion Group for 2005 occurred on 5 April. Mr Neill Wright, regional representative of the United Nations High Commissioner for Refugees, spoke on the topic of internally displaced persons. Mr Wright has had extensive experience in this area: almost immediately upon taking up his post in Australia late last year, Mr Wright had to return to Sri Lanka, his previous posting, in order to help with the Tsunami relief effort. After some observations concerning the recent fall in the number of refugees world-wide and the relationship between the declining number of refugees and increasing numbers of internally displaced persons, Mr Wright talked about the content and uses of the Guiding Principles on Internal Displacement, drawing on his experiences in the field. Mr Wright's office has provided internships for many ANU law students and we look forward to continuing the good relationships between his office and CIPL. The seminar was a very engaging start to the year.

3 May 2005: Public Law Discussion Group

National Commerce Powers: federal intentions but centralist outcomes in the United States and Australia and vice versa in Canada – why so? Professor Geoffrey Lindell

On Tuesday 3 May, Professor Geoffrey Lindell addressed the CIPL Public Law Discussion Group on the topic 'National Commerce Powers: Federal Intentions but Centralist Outcomes in the United States and Australia and Vice-versa in Canada – Why So?' The topic was a timely one given the increasing focus of late on the scope of Commonwealth power to regulate commercial activity in Australia. Professor Lindell's authoritative analysis of the comparative experience of the three federations highlighted the legal and political forces that have shaped (and continued to shape) federal outcomes. Professor Lindell has a long association with the ANU Faculty of Law and we are delighted that that association continues through his valued role as both an Adjunct Professor and regular visitor to the Faculty. We look forward to Professor Lindell returning to ANU for future visits.

10 May 2005: Public Lecture

Judicial Review of Statutory Authorities

Mr Michael Will, Mr Graeme Hill & Mr Daniel Stewart

This lecture was hosted by CIPL and the Australian Institute of Administrative Law. 'Judicial Review of Statutory Authorities' considered the recent High Court decision of Griffith University v Tang [2005] HCA 7. It provided the opportunity for speakers from diverse areas of the legal profession to come together to discuss the case and its implications. Michael Will, partner at Sparke Helmore Solicitors, opened the discussion with a description of the case, its departure from previous decisions that have considered the meaning of 'under an enactment' in the Administrative Decisions (Judicial Review) Act 1977 (Cth), and the implications for university governance in general.

Daniel Stewart, from CIPL and the ANU Faculty of Law, compared the position in other common law countries including UK decisions, before concluding with some remarks about the public/private division in Administrative Law. Graeme Hill, senior lawyer at the Australian Government Solicitor, continued the public/private theme contrasting Tang with the recent decision of Neat Domestic Trading v AWB Ltd (2003) 216 CLR 277, and discussed the links with constitutional jurisprudence.

The seminar was well attended, with over 60 people enjoying the new teaching space of the Sparke Helmore Lecture Theatres (annexed to the Law Faculty Building). To listen to the audio version of the lecture, please visit CIPL's website <http://law.anu.edu.au/cipl/events.asp>

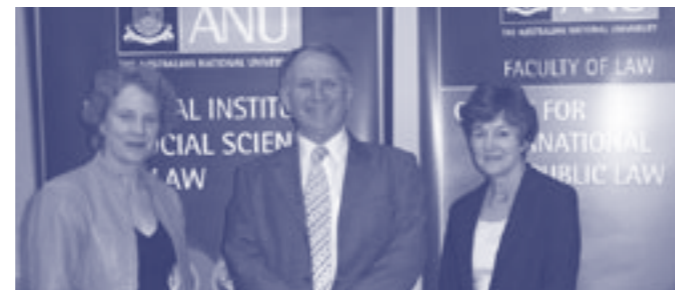
20 May 2005: Public Law Workshop

Auditing for Accuracy: New Frontier for Administrative Law Accountability?

CIPL and the Office of the Commonwealth Ombudsman jointly sponsored a workshop entitled Auditing for Accuracy: New Frontier for Administrative Law Accountability? on 20 May 2005. This seminar was chaired by Professor Robin Creyke and Professor John McMillan. Invitation was extended to agencies who are likely to conduct auditing of administrative decision-making or be subject to auditing and therefore to have experience in its methodologies. Key representatives from the ACT Auditor-General's Office, the ACT Independent Competition and Regulatory Commission, the Administrative Review Council, the Australian National Audit Office, the Australian Taxation Office, the Centrelink, the Commonwealth Ombudsman Office, the Department of Veterans' Affairs, the Australian National Centre for Audit and Assurance Research, the NSW Ombudsman's Office and the ANU Law Faculty attended the workshop. The purpose of the seminar was to explore the potential for auditing to be used as an accountability tool in administrative law. The workshop more than fulfilled the hopes of its organisers and has identified significant issues warranting exploration. The organisers will apply for a Linkages Grant in October 2005 to explore the utility and the limits of auditing to be used as an accountability tool in assessing the accuracy of decisions.

23 May 2005: Public Lecture

United Nations Lecture: Letter from the United Nations
Ambassador John Dauth LVO



Pene Mathew, Ambassador John Dauth LVO & Robin Creyke at the 2005 UN Lecture.



Pene Mathew with Ambassador John Dauth LVO.

On 23 May, CIPL was delighted to host the third annual "letter from New York" lecture by His Excellency, Ambassador John Dauth LVO, Australia's permanent representative at the United Nations. Ambassador Dauth is one of ten ambassadors working with the President of the General Assembly on the preparation of the Outcomes document for the upcoming General Assembly summit. The ambassador gave a very frank assessment of the problems facing the UN and the obstacles and possible pathways to reform. He offered his personal views concerning the six areas where specific outcomes were required.

1. "[C]onvincing language on the security/development nexus ... underpinned by new, concrete commitments to development;"
2. Change in the make-up and methods of the Security Council.
3. Progress relating to terrorism and weapons of mass destruction, particularly the work towards a Comprehensive Convention on Terrorism and an effort to bolster the non-proliferation regimes.
4. An overhaul of the UN machinery on human rights.
5. Agreement on the "shape and function" of the Peace-Building Commission suggested by the Secretary-General; and
6. Reforms to ensure "accountability in the Secretariat and related organs" in the wake of the Oil for Food scandal.

He then answered questions from the floor of a packed lecture theatre at the ANU. The United Nations lecture was jointly organised with the National Institute of Social Sciences & Law.

For a transcript of the lecture, go to <http://law.anu.edu.au/cipl/events.asp>

31 May 2005: Public Law Discussion Group

Ms Carolyn Adams

Australian Law Reform Commission Inquiry into Sentencing of Federal Offenders: Federalism and Criminal Law in Australia

The second meeting of the Public Law Discussion Group for 2005 took place on 31 May in the Faculty of Law Staff Library. Ms Carolyn Adams from the Australian Law Reform Commission spoke on 'Sentencing of Federal Offenders: Federalism and Criminal Law in Australia'. Carolyn discussed the Commission's current inquiry into this topic, with a particular focus on the issue of consistency in federal sentencing practice. The presentation ranged across several discipline areas including constitutional and criminal law. The various reform options canvassed by Carolyn generated lively discussion – the Discussion Group really got discussing! CIPL is grateful to Carolyn and the ALRC for participating in the Discussion Group series and for such an excellent and stimulating presentation.

15 June 2005: ANZSIL Postgraduate Workshop

ANZSIL held its fourth annual Postgraduate Student Workshop on 16 June 2005. Participants in the workshop were selected from applicants throughout Australia and New Zealand and presented papers on their thesis research. The standard of presentations was very high. The workshop is aimed at providing senior research students with the opportunity to present and discuss ideas in a conference environment that is not threatening, and provides a valuable opportunity for young academics and practitioners. Past experience has shown that a good number of workshop participants have gone on to practise or teach in international law, with a number also publishing their papers in internationally refereed journals. ANZSIL covered event costs and waived ANZSIL conference fees for participants. New Zealand Universities have established a fund from which New Zealand participants could draw for travel assistance. CIPL kindly provided the venue for the workshop, with Kavitha Robinson and Madelaine Chiam helping to organise the event.

16-18 June 2005: Thirteenth Annual ANZSIL Conference

International Institutions in a Uni-Polar World



Panel members of the closing panel of the conference "The Empire Strikes Back"

The Centre's annual international law conference, held jointly with the Australian and New Zealand Society of International Law (ANZSIL) took place 16-18 June 2005 at University House. Over 155 participants attended the conference. Key speakers included Philippe Sands, Justice Tony North and Martine Letts. Nearly a fifth of the speakers were from CIPL and these speakers included Thomas Faunce, Kent Anderson, James Stellios, Jim Davis, Madelaine Chiam, Ann Kent, Alice Edwards (PhD student), Mr Andrew Serdy (DFAT, but also a PhD student at ANU), Penelope Mathew, and Hilary Charlesworth. CIPL Director, Professor Robin Creyke welcomed the conference attendees and invited the Attorney-General, Mr Ruddock, to open the conference.

Another highlight of the conference was the reception, where Volume 24 of the Australian Yearbook of International Law was launched by The Hon Alexander Downer, Minister for Foreign Affairs. Volume 24 honours Professor Ivan Shearer AM RFD and his contributions to international law in Australia. Ivan Shearer has been both a contributor to and member of the Editorial Board of the Australian Year Book of International Law.

To order a copy of Volume 24 or the previous volumes of the year book, please complete and forward the order form to CIPL. Order form can be found at <http://law.anu.edu.au/cipl/publications.asp> For further enquiries regarding the year book, contact Jennifer Braid on T: 02-6125 3090 or E: cipl@law.anu.edu.au.



The Hon Alexander Downer MP, Minister for Foreign Affairs with Emeritus Professor Ivan Shearer AM RFD at the launch of Australian Yearbook of International Law, held in conjunction with the conference

29 June 2005: Conference

Assessing the first year of the ACT Human Rights Act

CIPL, RegNet (RSSS), NISSL and the Gilbert & Tobin Centre of Public Law at UNSW collaborated to organise a very successful conference on the First Year of the ACT's Human Rights Act on 29 June. The conference attracted over a hundred participants from all Australian jurisdictions: attendees were government officials, non-government organisations, academics, students and the interested public. The conference was opened by the ACT's Chief Minister, Jon Stanhope MLA, alumnus of the ANU Law Faculty. His speech chronicled the human rights problems currently facing Australia and cautioned against complacency. Other sessions examined the way the HRA has worked in practice. Speakers included Richard Refshauge SC, Helen Watchirs and George Williams. Papers, PowerPoint presentations and audio streaming are available on <http://cijj.anu.edu.au/events/ACTBill05.php>

19 July 2005: International Law Discussion Group

Others' Rights

Karen Knop

12.30pm, Staff Library, Faculty of Law, The ANU

21 July 2005: Public & International Law Discussion Group

*Globalisation, State Sovereignty and Domestic Law
Time for a New Approach to the Relationship between
International Law and Domestic law?*

Ernst Wilhelm

5.30pm, Staff Library, Faculty of Law, The ANU

CIPL and NISSL: a great combination

For the past three years the National Institute of Social Sciences and Law (NISSL) has been helping to promote the strengths of the ANU in the very broad areas of the social sciences and law. As part of its networking and outreach agenda, NISSL works closely with other ANU centres and institutions, in particular to encourage cross-disciplinary collaboration in both research and in seeking to advance public debate on current issues.

Over the past few years NISSL has built a very productive relationship with CIPL, and has co-hosted a range of activities, from public lectures and seminars to workshops and conferences. Some of these activities were used to lay the groundwork to apply for external funding for research projects.

by Christine Debono
Executive Officer, NISSL

UPCOMING 2005 EVENTS

CIPL is delighted to announce that Professor Richard Falk will be delivering the Sawer Lecture this year.

2 August 2005: Sawer Lecture

Towards Global Democracy

Professor Richard Falk

6pm, Law Theatre, Faculty of Law, ANU

13 August 2005: Conference

UN 60th Anniversary Conference

The United Nations – 60 Years on: What is the Future?

Law Theatre, Faculty of Law, ANU

11-12 Nov 2005: Conference

Tenth Annual Public Law Weekend
Constitutional Law Conference

A Working Constitution?

- The Contribution of Justice McHugh

- Opening the Archives on the

Whitlam Government

- Work and the Constitution and
Other Current Issues

National Museum of Australia, Canberra

For more information about the above events, please go to:

<http://law.anu.edu.au/cipl/events.asp>

RECENT PUBLICATIONS BY CENTRE MEMBERS

Kent Anderson

Do We Really Need a Regional Insolvency Pact in Australasia?: A Reply to an Asian Development Bank Proposal 2005
LAWASIA Journal

Recent Developments in Private International Law 2000-2003, 39 *Australian Year Book International Law* 443, 2005 (with Jim Davis)

Don Anton, Penelope Mathew and Wayne Morgan

International Law: Cases and Materials,
Oxford University Press, 2005

Michael Coper

"The High Court and the Parliament: Partners in Law-making, or Hostile Combatants?",
Papers on Parliament, Vol 42, Issue December, pp 13-31,

Hilary Charlesworth

"Current Trends in International Legal Theory" in *Public International Law: An Australian Perspective*, S. Blay, R. Piotrowicz & M. Tsamenyi (eds) second edition, Oxford University Press, 2005, pp 402 - 411

CONGRATULATIONS

Kent Anderson received:-

- Australian Research Council Discovery Grant, 'Traction' and 'Turbulence' in Japanese Commercial Regulation in the 1990s (joint), 2004-2006
- Japan Ministry of Education Grant, Doing Cross-Border Business with Japan (joint), 2005-2010
- ANU Law Faculty Research Grant Scheme, The Slow Birth of Japan's Quasi-Jury System, 2005
- ANU Asian Studies Faculty Grant, Accessing Japanese Law, 2005

Leighton McDonald received a teaching relief grant from the ANU Law Faculty which will allow him to work on a manuscript on Administrative law in Australia.

"Whose Rule? Women and the International Rule of Law" in *Globalisation and the Rule of Law*, S Zifcak ed., Routledge, London, 2005, pp 83-95

"The United Nations' human rights system" in *The Challenge of United Nations Reform* (Keynotes), Department of International Relations, ANU, 2004, pp 11-17

"The Sex Discrimination Act and International Law" (2004) 27 *University of New South Wales Law Journal* 858-865 (with Sara Charlesworth)

"Saddam Hussein: My Part in his Downfall" (forthcoming) *Wisconsin Journal of International Law* (republished in 1 (2) *Jurnal Hukum Internasional Jurisdictionary* (2005) 1-14)

"Not Waving but Drowning: Gender Mainstreaming and Human Rights" (2005) 18 *Harvard Human Rights Journal* 1-18

Robin Creyke

Robin (together with Narelle Bedford, Executive Officer, Migration Review Tribunal and Refugee Review Tribunal, Melbourne) is currently completing research commissioned by the Australian Institute of Judicial Administration. The project involves an analysis of what it means, in an Australian tribunal context, for a tribunal to be characterised as 'inquisitorial' rather than 'adversarial'

Robin is the co-ordinating author for the sixth edition of *Laying Down the Law (LDL)*, the premier foundation law text which was published in June 2005. The work is co-authored with Catriona Cook, Kings College, London, Associate Professor Harry Geddes, Law Faculty, University of New England, and a new author, Dr David Hamer, also at the Law Faculty, University of New England. The latest edition of LDL will be used for teaching in second semester, 2005, including at the ANU.

Robin (together with Professor John McMillan, currently Commonwealth Ombudsman) has published their first edition of *Control of Government Action*, a text, cases and materials book for administrative law. The work was published in April 2005 and will be in use for teaching in second semester, 2005

Robin (together with Mr Peter Sutherland) is completing the second edition of *Veterans' Entitlements Law for Federation Press*, to be published later in 2005 or early in 2006

Ann Kent

"China's Growth Treadmill: Globalization, Human Rights and International Relations", in *China as a Rising World Power and its Response to Globalisation*, R. Keith, Routledge (ed.) Taylor & Francis Group, 2005, pp 18-38.

Penelope Mathew

Human Rights in *Public International Law: an Australian Perspective*, S.K.N. Blay, R. Piotrowicz, & M. Tsamenyi (ed.) second edition, Oxford University Press, 2005, pp 258-286

Dennis Pearce

44 AIAL Forum (editor)

45 AIAL Forum (editor)

AIAL National Lecture Series (delivered by Spigelman CJ) (editor)

Amelia Simpson

"State Immunity from Commonwealth Laws: Austin v Commonwealth and Dilemmas of Doctrinal Design" (2004) 32(1) *University of Western Australia Law Review*, 44-62

"Public Confidence in Judicial Institutions: Are We A Player Short?" *A Review of The Australian Judiciary* by E. Campbell and H P Lee (2004) 7(2) *Legal Ethics*, 289-300

"Book Review: Eric Heinze, *The Logic of Equality*" (2005) 33(1) *Federal Law Review*, 177-179

James Stellios

"The Constitutional Jury: 'A Bulwark of Liberty?'" (2005) 27 *Sydney Law Review*, 113

"Choice of Law and the Australian Constitution: Locating the Debate" (2005) 33 *Federal Law Review*, 7

"Copyright and Political Communication in Australia", in J Griffiths and U Suthersanen (eds) *Copyright and Free Speech*, Oxford University Press, 2005, 257 (with Robert Burrell)

John Williams

The Australian Constitution: A Documentary History, Melbourne University Press, 2005

The editors are now considering submissions for publication in the next volume of the Australian Year Book of International Law. Submissions should be sent by **30 September 2005** to:

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RECENT PRESENTATIONS, PAPERS & OTHER ACTIVITIES BY CENTRE MEMBERS

Kent Anderson

Do We Really Need a Regional Insolvency Pact in Australasia?: A Reply to an Asian Development Bank Proposal, ANZSIL Conference, Canberra, 17 June 2005

Don Anton

In June 2005, Don provided pro bono expert evidence for the plaintiffs in a case before the Mahkamah Konstitusi, the Constitutional Court of Indonesia. The plaintiffs in the case challenge the Constitutional validity of a Presidential Decree (Perpu) suspending the application of Forestry Law (No. 41) in favour of foreign mining interests.

Hilary Charlesworth

Gender Mainstreaming in the UN, ANZSIL Conference, Canberra, 16 June 2005

Madelaine Chiam

The Fluid State: International Law and National Legal Systems, ANZSIL Conference, Canberra, 17 June 2005

Robin Creyke

Gave a video presentation on 'Conducting tribunal proceedings' to the newly appointed members of the Western Australian State Administrative Tribunal (SAT) on 19 January 2005.

Presented a paper on 'Inquisitorial Processes' to the annual conference of members of the Motor Vehicle Assessment Service, Sydney on 12 March 2005.

Presented a paper to Commonwealth Administrative Justice Conference, Cape Town, South Africa, 'Administrative Justice: Beyond the Courtroom Door' on 21 March 2005. Professor Cheryl Saunders summed up the conference and Caron-Beaton-Wells (Melbourne Bar) were the other Australians present.

On 30 March, Robin (together with Narelle Bedford, Executive Officer, Migration Review Tribunal and Refugee Review Tribunal, Melbourne) interviewed Senior Member Dwyer as final interview for the project on inquisitorial versus adversarial processes in tribunals, funded by the Australian Institute of Judicial Administration

On 10 June she presented a paper on 'The Practice of 'Inquisitorial' in Australian Tribunals' for the AIJA Tribunals Conference, 9-10 June 2005 in Sydney

On 18 June she presented a paper on timelines and natural justice for the NSW Workers Compensation Commission annual conference of national representatives from Australasian workers' compensation bodies

Robin also gave the after dinner speech on 21 June 2005 on 'Auditing and Administrative Law' to the course for investigators with representatives from the NSW and Commonwealth Ombudsman Offices, Commonwealth Attorney-General's Department, and from the Australian investigation agencies

On 1 July Robin presented a 'Future Directions' paper on behalf of the Administrative Review Council at the National Forum of the Australian Institute of Administrative Law, Canberra

Tom Faunce

The Hegemonic Influence of the US on Global Public Health: Multilateral and Bilateral Trade Efforts regarding Pharmaceutical Intellectual Property, ANZSIL Conference, Canberra, 16 June 2005

Ann Kent

On the panel for *The Empire Strikes Back*, ANZSIL Conference, Canberra, 18 June 2005

OTHER NEWS FROM THE NATIONAL INSTITUTE OF SOCIAL SCIENCES & LAW

Through Thomas Faunce, the National Institute of Social Sciences & Law (NISSL) organised a public lecture on *Who Will Pay the Rent? Evaluating the Impact of the AUSFTA on Availability and Cost of Prescription Drugs* on 26 May 2005. This lecture was delivered by Professor David Henry, Clinical Pharmacology from the School of Medical Practice & Population Health at the University of Newcastle and was organised jointly with RegNet. Audio version of the lecture is available on NISSL's website <http://ni.anu.edu.au/nissl>

Thomas Faunce will speak at a Public Seminar on *International Humanitarian Law & Access to Essential Medicines* on Wednesday 20 July 2005. This seminar is organised by IHL Committee, Australian Red Cross ACT and supported by the ANU Centre for Knowledge & Development, Regnet and National Institute of Social Sciences & Law.

NISSL has funded a Pilot Project, '*Peacebuilding and Responsive Governance*' to be carried out this year, run by Professor Hilary Charlesworth and Professor John Braithwaite, RegNet.

The project aims to develop a theory of governance of peacebuilding in societies emerging from conflict from a series of case studies. It has an ambitious scope, covering all the major cases of peacebuilding in which the United Nations has been involved over the past 50 years (the project is expected run for at least 10 years). NISSL funding has been granted to carry out a pilot project to test the methodology developed for interviewing people involved in peacebuilding (including military, police, United Nations personnel, diplomats, non-governmental organisations, and political leaders). It is intended that further large-scale external funding will be sought to carry out the long-term project.

Penelope Mathew

In her capacity as a member of the Canberra branch of the National Committee for Human Rights Education, Penelope attended a debriefing at the Department of Foreign Affairs and Trade on the last session of the UN Commission on Human Rights

Anti-terrorist = rights-resistant? The Work of the Counter-Terrorism Committee, ANZSIL Conference, Canberra, 16 June 2005

Amelia Simpson and James Stellios

Amelia and James delivered a morning training session at the Office of Parliamentary Counsel in August 2004, providing an update on constitutional developments relevant to the Office's work. The Office is the Commonwealth statutory authority responsible for drafting Commonwealth legislation, work that requires a keen awareness of constitutional issues.

James Stellios

"Standards of Review in High Court Free Speech Jurisprudence", Free Speech Symposium, Australian National University, December 2004

"The Detention of Unlawful Entrants in Australia: National and International Perspectives on Human Rights Breaches", Faculty Colloquium, University of Alabama Law School, January 2005

The Constitutionalisation of Intra-national Choice of Law Emeritus, ANZSIL Conference, Canberra, 17 June 2005

Daniel Stewart

"Erecting barriers between Public and Private through the reach of Judicial Review", University of Tasmania, 9 June 2005

To read recent newspaper articles by centre members, visit CIP's 'Expert Opinion' section

<http://law.anu.edu.au/cipl/expertopinion.asp>

CENTRE STAFF AND MEMBERS

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Penelope Mathew, Reader and Interim Associate Director
Fiona Wheeler, Reader and Interim Associate Director
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