

# NEWSLETTER

## CENTRE FOR INTERNATIONAL AND PUBLIC LAW



Father Frank Brennan at a recent NCIS–CIPL lecture: 'Confessions of an Erstwhile Land Rights Advocate.' June 2006

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This newsletter covers activities of the Centre and Centre members in the period January to August 2006.



Kim Rubenstein

## A NOTE FROM THE DIRECTOR

Thinking about my first message in the CIPL newsletter, having been CIPL's Director now for just over five months, I returned to notes I prepared for my presentation to the then faculty, now ANU College of Law, back in May 2005 when speaking about my vision for CIPL. As an outsider, conscious of CIPL's excellent standing, I looked at all the available CIPL reports since its inception and read a lot about its activities over the years. I identified some important themes:

1. Research core and foundation to the Centre
2. Commitment to community
3. The linking of international and public law
4. Community outreach

## Research core and foundation to the Centre

When CIPL was first established in 1990 with Professor Alston as its Director, its full formal title was the Centre for Advanced Legal Studies in International and Public Law. The words Advanced Legal Studies supply the fundamental starting point for a Centre such as CIPL. That is, it is part of the ANU College of Law which is part of a University – it is about advancing our understanding, from a legal, academic base, of international and public law. This is CIPL's real research centre and core.

This underlines what I believe to be one of the rich attractions of life in academia, and life in a Centre and institution such as this. It is the importance and value of collegiality and a collective commitment amongst its members to the advancement of the Centre and its disciplines. The Centre feeds and enhances the richness of academic life, enlivening us to our core interests. It's about the excitement generated within the ANU College of Law itself, through the desire to build upon and extend both our own and, the greater community's understanding of international and public law and the all-important links between them. It's about connecting and strengthening the links with ANU's various centres, notably RegNet, the Law Program in the Research School of Social Sciences, Institute of Advanced Studies, the National Institute for Social Sciences and Law and the National Centre for Indigenous Studies. It's also about connecting with other academics in enhancing the richness of CIPL's community.

## Commitment to community

Moving from that core base, my vision for CIPL builds upon its unique locale, the special position commanded by its Canberra home, geographically at the political apex of Australia – close to the High Court, close to DFAT and the Attorney General's Department, indeed close to all aspects of public law in action. I see that as being significant and valuable in both the development of the Centre's core research foundation and its extension into the world in which the research operates. It's a vision that is excited to develop linkages with the executive, judicial and legislative branches of government. This is no doubt a special attribute of CIPL compared to other like centres around the country.

## The linking of international and public law

I was very interested to read CIPL's five-year report prepared for the Committee for the Review of CIPL in 1995 and then the Committee's report itself regarding the linking of international and public law. I think the ANU was particularly prescient to set up a Centre linking these areas. As the five year review report stated, "the most remarkable developments of the past decade or so – and we can now say two decades, have been the "internationalisation" and "globalisation" of different dimensions

of Australian society, the Australian economy and the Australian legal system....The review stated that the Centre has sought to respond to these inexorable trends by adopting a genuinely integrated approach to its work in various fields of both public and international law." When addressing the question: "Should CIPL continue in its present form?", the review committee stated that the issue had been raised, in nothing more than a tentative way, whether CIPL might be split into separate centres for international and for public law." But the Committee considered "the growing importance of the interaction between international law and public law, and the intellectual coherence of their combination, justifies continuation of the Centre in its present form".

I think that is even more so, now, 10 years further down the track – and emphasises the further point made to the review committee and cited by it – that ANU was ahead of its time in establishing a centre that combines international and public law, "in short, if the Centre did not exist in the ANU, it would have to be invented and placed right where it is – in the principal university in the nation's capital". Professor Charlesworth, in her first annual report in 1998, further stated that one of her aims was to identify links between the areas of international and public law so that the Centre can contribute to an understanding of the relationship between them.

Given my interests in both public and international law, I am eager to continue with the very strong record of CIPL in both areas and, in particular, to extend upon this unique project of the centre, emphasising the links between international and public law. To that end, I am in the process of exploring with members of CIPL the establishment of an annual round-table symposium, modelled upon a symposium I participated in at Georgetown while visiting as a Fulbright Senior Scholar in 2002–2003. Professor Mark Tushnet, its organiser, focuses each year on a different aspect of constitutional law. My idea is to use this symposium approach to develop links between public and international law. Based on a selected topic, whether accountability, trade, environment etc,

each year specialist academics from both a public and international law focus would be invited to contribute their ideas aimed at gaining a broader appreciation of the Symposium's theme. The range of potential issues is of course immense – in the current climate, issues of immigration, terrorism and security, health, labour markets, come immediately to mind. My own research interests in citizenship and nationality would also fit. Such a round-table would be open to all members of CIPL but with invitations to those experts also to initiate and stimulate discussion.

## Community outreach

Finally, I identify strongly with the excellent standing CIPL has attained for community outreach. It's something I have always been committed to in my own work and research, both in the writing of opinion pieces, speaking to the media and contributing to other broader educational forums outside the University. I am delighted to continue that record in the context of the Centre's established reputation. This is fundamental to a broader notion of citizenship that I discuss in my own work – active citizenship – and also one that I am committed to as a member of the Australian and international community. I have always been guided by the profound message of an ancient Jewish scholar, Hillel – who said:

If I am not for myself, who will be for me, but if I am only for myself, what am I, and if not now, when?

This can be translated to the Centre. It must be true to itself, in its commitment to the academic pursuits that lie at its core and foundation. But it must also be for others, conscious of the values of its academic pursuits beyond the University and contributing to the broader community. Finally, Hillel's injunction "if not now, when" is a great reminder that we must always act and not leave for tomorrow things that can be done, importantly, today.

Kim Rubenstein

## Future of Hard Copy Newsletter

As many of you on email will have seen since my arrival, we have instituted an Email Bulletin, updating you on events that occur and providing you with links to various parts of our website. We are in the process of considering whether the newsletter should only be placed online where it can be downloaded and printed off by those who enjoy reading the hard copy. We would welcome your comments and shall be contacting you via email to get your feedback on this issue. If you are a reader who is not on email and would like to continue receiving the Newsletter in this format, please do contact the Centre Administrator Valerie Wayte, whose contact details are on the back of this newsletter.

## CONGRATULATIONS

Robin Creyke has been reappointed to the Administrative Review Council for a third term.

Penelope Mathew will be the Human Rights Legal and Policy Adviser in the ACT Human Rights Office, from 10 July 2006 to 10 January 2007.

Kent Anderson has been appointed as Professor of Japanese Studies in the College of Asia & the Pacific. Kent has been appointed as head of the Japan Centre. He will continue to teach and research as a fractional appointment to the ANU College of Law.

## FEATURE ARTICLES

### New CIPL Advisory Board Members

We welcome three new CIPL advisory board members in 2006 and thank out-going advisory board member Professor John Braithwaite for his outstanding service of ten years on the board.

Renee Leon is the Chief Executive of the ACT Department of Justice and Community Safety. The Department provides policy and legislative support to the ACT Attorney-General, across the gamut of legal and regulatory functions of government. Of particular interest is that the Department administers the ACT Human Rights Act, the first Australian legislation to enshrine the rights from the International Covenant on Civil and Political Rights into a legal framework. Under the Act, all ACT legislation is scrutinised by the Justice Department for compatibility with the Human Rights Act. In addition, courts are required to interpret existing laws consistently with the Act wherever possible and can make a declaration where it does not appear possible to apply a law in a way that is consistent with human rights.



Renee Leon

The Department also administers a range of public and administrative law and legal structures, including the courts and tribunals, ADJR, and Freedom of Information legislation.

Prior to taking up her appointment with the ACT, Renee was head of the Office of International Law in the Australian government, a position which gave her many opportunities to interact with the Centre for International and Public Law.



Chris Reus-Smit is the Convenor, Division of Politics and International Relations, and the Professor and Head, Department of International Relations at the Research School of Pacific and Asian Studies.

Professor Reus-Smit's research focuses on the politics of international ethics and institutions, and he has published widely on issues of global governance, multilateralism, human rights, and international relations theory. He has recently published *American Power and World Order* (Polity Press, 2004) and *The Politics of International Law* (Cambridge University Press, 2004), and is engaged

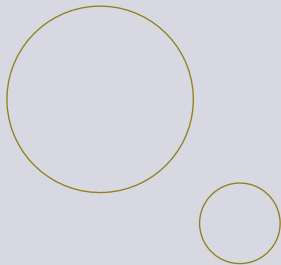
in a long-term project on the role of rights politics in the development of the modern international system, funded by the Australian Research Council.



Professor William Maley is the Foundation Director of the Asia-Pacific College of Diplomacy.

He taught for many years in the School of Politics, University College, University of New South Wales, Australian Defence Force Academy, and has served as a Visiting Professor at the Russian Diplomatic Academy, a Visiting Fellow at the Centre for the Study of Public Policy at the University of Strathclyde, and a Visiting Research Fellow in the Refugee Studies Programme at Oxford University.

He is also a Barrister of the High Court of Australia, a member of the Executive Committee of the Refugee Council of Australia, and a member of the Australian Committee of the Council for Security Cooperation in the Asia Pacific (CSCAP). In 2002, he was appointed a Member of the Order of Australia (AM).



## CIPL and the NCIS

The Centre for International and Public Law and the National Centre for Indigenous Studies, both housed in the ANU College of Law, have developed a partnership arrangement based on friendship and the promotion of international Indigenous peoples rights.

As a celebration of this partnership CIPL aims to increase Indigenous content in its newsletter and publications, increase its engagement with Indigenous academics, particularly those working in fields associated with international Indigenous peoples rights and public law and international law, as well as increase our efforts to ensure Indigenous issues are canvassed at our discussion forums and workshops.

Our first public gesture towards honouring our commitment is to promote the work of the National Centre for Indigenous Studies and in particular the work of its Director Professor Mick Dodson. On Friday 23 June CIPL supported the NCIS in hosting Father Frank Brennan who delivered the lecture "The Confessions of an Erstwhile Land Rights Advocate".

## The NCIS

The National Centre for Indigenous Studies promotes and initiates cross-disciplinary research and teaching in a wide range of areas of relevance to indigenous people both domestically and internationally.

NCIS aims to increase Indigenous participation in academic and policy debates, increase the numbers of Indigenous academics at the ANU, as well as to increase Indigenous content in all teaching areas across the ANU campus.

## Professor Dodson

Professor Mick Dodson is a member of the Yawuru peoples, the traditional Aboriginal owners of land and waters in the Broome area of the southern Kimberley region of Western Australia. He is currently Professor in Indigenous Studies at the Australian National University and Director of the ANU's National Centre for Indigenous Studies.

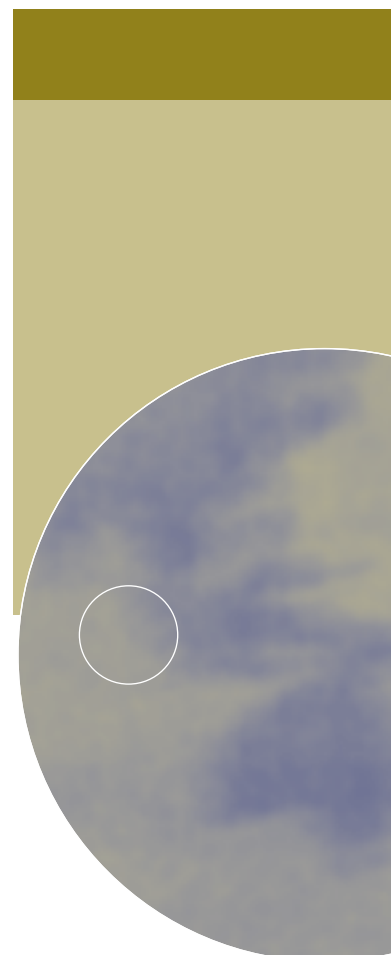


Father Frank Brennan, Kim Rubenstein, Aileen Blackburn and Mick Dodson.

Mick Dodson was Australia's first Aboriginal and Torres Strait Islander Social Justice Commissioner with the Human Rights and Equal Opportunity. He served as Commissioner from April 1993 to January 1998.

Born in the Northern Territory township of Katherine, Mick was educated in Katherine, Darwin and Victoria. He completed a Bachelor of Jurisprudence and a Bachelor of Laws at Monash University. He was awarded an honorary Doctor of Letters from the University of Technology Sydney in 1998. He also holds an honorary Doctor of Laws from the University of NSW. He worked with the Victorian Aboriginal Legal Service from 1976 to 1981, when he became a barrister at the Victorian Bar. He joined the Northern Land Council as Senior Legal Adviser in 1984 and became Director of the Council in 1990.

From August 1988 to October 1990 Mick was Counsel assisting the Royal Commission into Aboriginal Deaths in Custody. He has been a member of the Victorian Equal Opportunity Advisory Council and secretary of the North Australian Legal Aid Service.



He is a member and the current Chairman of the Australian Institute of Aboriginal and Torres Strait Islander Studies. He is the former Chairman of the National Aboriginal Youth Law Centre Advisory Board. He is a former member of the National Children's & Youth Centre Board and is a member of the Advisory panels of the Rob Riley and Koowarta Scholarships. Mick is also a member of the Publications Committee for the University of New South Wales *Indigenous Law Reporter*. He is also a member of the New South Wales Judicial Commission and a special commissioner with the Western Australian Law Reform Commission. He is also a board member of the Reconciliation Australia and Lingjari Foundations. He is the current chairman of the Australian Indigenous Leadership Centre.

Mick Dodson is a vigorous advocate of the rights and interests of the Indigenous Peoples of the world. He was the Co-Deputy Chair of the Technical Committee for the 1993 International Year of the World's Indigenous People. He is also chairman of the United Nations Advisory Group for the Voluntary Fund for the Decade of Indigenous Peoples. He served for 5 years as a member of the Board of Trustees of the United Nations Indigenous Voluntary Fund. In January 2005 Prof Dodson took up a 3 year appointment as a member of the United Nations Permanent Forum on Indigenous Issues.

Mick has for over a decade participated in the crafting of the text of the Draft Declaration on the Rights of Indigenous Peoples in the United Nation Working Group on Indigenous Populations and in its more recent consideration by the Working Group of the United Nations Commission on Human Rights.

## IPO

Recently the NCIS co-hosted the 'Indigenous Peoples Organisations' meeting convened by the Human Rights and Equal Opportunity Commission. This meeting aimed to assist in the coordination and preparation of indigenous representatives attending the May meeting of the UN's Permanent Forum on Indigenous Issues and develop plans for the preparation of delegates to other international fora of interest to Indigenous people (eg WIPO, WGIP, CERD, CBD).

The participants discussed and developed ideas and recommendations for the PFI to consider in relation to the Millennium Development Goals; Second Decade of Indigenous Peoples, in particular key themes related to education, health, human rights, culture, environment and development. The meeting was also briefed by Government representatives from the Office of Indigenous Policy Coordination and Department of Foreign Affairs and Trade on their planning and policy positions to be taken on issues especially concerning the Millennium Development Goals.

## Why Citizenship?

Kim Rubenstein

From May 26-28, 2006, I participated in an Authors' Workshop organised by the Cegla Center, Tel-Aviv University and the Faculty of Law, University of Toronto, at the University of Toronto, on the topic of "Why Citizenship", as part of a symposium that will be published in 2007 in the publication, *Theoretical Inquiries in Law* published through Tel-Aviv University.

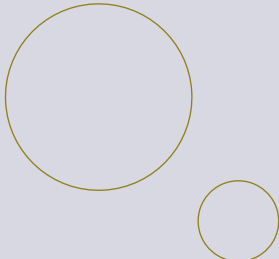
The workshop organisers, Professor Guy Mundlak from Tel-Aviv University and Professor Audrey Macklin from University of Toronto, invited 15 academics to join them in looking at theoretical understandings of citizenship. In inviting participants to attend they explained:

"The purpose of this conference is to critically survey the terrain that has been mapped by citizenship over the last decade. In particular, we want to initiate a conversation between the conception of citizenship-as-legal-status on the one side and conceptions of citizenship-as-social-practice and citizenship-as-political-discourse on the other. Although a relationship between legal citizenship and 'substantive citizenship' has been acknowledged in the literature (indeed, by some of the scholars we hope to attract to this workshop), there is still a need for a more reflexive and institutional account of the process in which multiple citizenship discourses are intertwined and used for social change."

There were 17 participants in the workshop and the papers fell into the following thematic groupings:

### Citizenship—Above and Below the Nation State

- Engin Isin (York University), Being Cosmopolitan: Citizenship Without Frontiers
- Yishai Blank (Tel-Aviv University), Spheres of Citizenship: Local, National, Global
- Linda Bosniak (Rutgers), Reflections on the Emerging Immigrant Rights Movement in the US: The Anti-Slavery Analogy



## Making Sense of Citizenship Across Borders

- Alexandra Dobrowolsky (St. Mary's Halifax), Security and Citizenship: Security, Immigration and Shrinking Citizenship Regimes
- Catherine Dauvergne (University of British Columbia), Globalizing Forces and the Resilience of Citizenship
- Ratna Kapur (Centre for Feminist Legal Research in New Delhi India), Transnational Subjects, Law and the Politics of Exclusion/Inclusion
- Audrey Macklin (University of Toronto), Citizenship's Other: Thinking About the Heft of Citizenship

## Second Class Citizenship

- Rainer Baubock (Institute of Advanced Studies, Vienna), The Value of Citizenship in Europe
- Yoav Peled (Tel-Aviv University), Demography vs. Democracy: Israel's Emerging Immigration and Citizenship Regime

## Citizenship and Culture

- Chaim Gans (Tel-Aviv University), Cultural Preservation Rights and Equal Citizenship
- Leti Volp (Berkeley), Citizenship versus Culture

## Citizenship and Rights

### Establishing the Rights of Citizenship

- Kim Rubenstein (ANU), Making Claims of Citizenship
- Adriana Kemp (Tel-Aviv University), Managing Migration, Reprioritizing National Citizenship: Undocumented Labor Migrants' Children and Policy Reforms in Israel

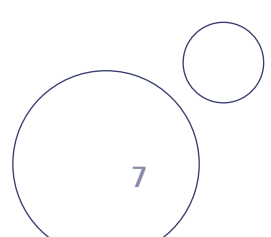
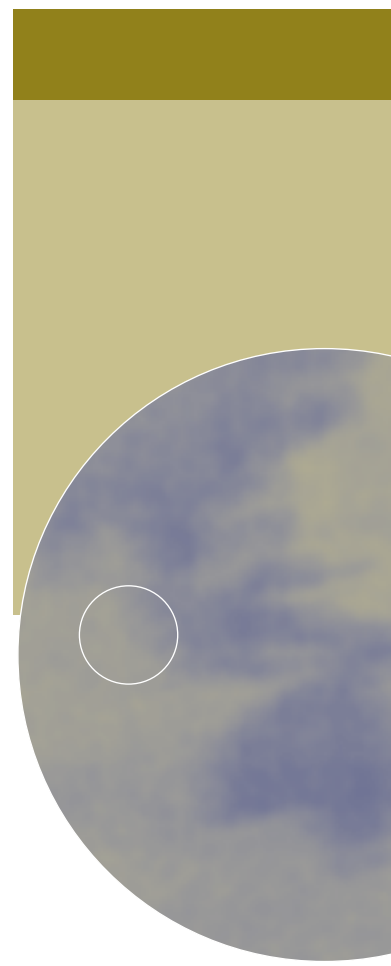
### Private rights and citizenship

- Ayelet Shachar & Ran Hirschl (University of Toronto), The "Worth" of Citizenship
- Karen Knop (University of Toronto), Private Membership

### Civil and Social Rights – The "Contribution" of Citizenship

- Guy Mundlak (Tel-Aviv University), Industrial citizenship, Social citizenship, Corporate citizenship: I Just Want a Fair Wage
- Ruth Lister (Loughborough University), Why Citizenship; Where, When and How Children?

My paper looks at the way in which claims of citizenship were made in three High Court cases: *Walsh v MIMIA* B41/2002, *Singh v Commonwealth of Australia* [2004] HCA 43 and *Ex parte Ame* [2005]. It examines how effective those claims were in the Court. It then considers the outcomes of the cases, both in the way in which the claims were consequently treated by the legislature and the executive and whether (or what) legal avenues are useful in advancing citizenship claims.



# CIPL to partner with Institute for Ethics, Governance and Law (IEGL)

As this newsletter goes to press, CIPL has become a partner of IEGL, a joint initiative of the United Nations University and Griffith University.

The United Nations University is a networked and distributed university with its headquarters in Tokyo but which does most of its work through centres around the globe – each of which covers a range of topics of interest to the agenda of the United Nations, its peoples, and Member States. There are now twenty two such centres around the world each with a different remit – twelve of them controlled directly by the UNU and ten in 'associated institutions' such as IEGL. Each is itself intended as the hub of an international network to make the UNU a 'network of networks.'

IEGL was established at the instigation of Professor Ramesh Thakur, Senior Vice Rector of the United Nations University (UNU) and an Assistant Secretary General of the United Nations. He proposed that the UNU 'adopt' the Key Centre for Ethics, Law, Justice and Governance at Griffith to fill the UNU's research gap in law, ethics and governance and a geographical gap in Australasia. However, IEGL was constructed to allow the inclusion of other partners who could, through IEGL, become a part of the UNU network. CIPL is the first centre to take up this opportunity.

The aim of the partnership is to look for opportunities for collaboration in research, teaching, seminars, conferences and workshops, public information, training and any other areas of mutual benefit – with an emphasis on research projects involving the UNU network and work with international bodies. CIPL will maintain its own identity, funding, decision-making processes, governance arrangements, and right to continue to operate and badge events under its own name.

To see more about IEGL go to <http://www.gu.edu.au/text/centre/iegl/>

## VISTING CIPL SCHOLARS

CIPL farewelled Associate Professor France Houle in May who is returning to Montreal, after a productive nine months at the ANU College of Law.

We look forward to welcoming another visiting scholar in September, Professor Bill Buss, from the College of Law, University of Iowa. Professor Buss has specialised in the fields of constitutional law and education law. He has written on the law of special education in England and Wales and, in 1982-83, taught a course on the Bill of Rights for the United Kingdom at Durham University in England. In 1994, he taught New Zealand Constitutional Law and Comparative Constitutional Law at Victoria University at Wellington in New Zealand. At Iowa, Professor Buss includes Comparative Constitutional Law among his teaching interests.

## PAST EVENTS

### 9 February 2006: Public Lecture

*UN Peacebuilding Commission and The State of Practice in International Peacebuilding*

Elizabeth Cousins and Bruce Jones

Jointly organised by CIPL and the Centre for International Governance and Justice, Dr Cousins, Vice President of the International Peace Academy, and Dr Jones, Co-Director of New York University's Center on International Cooperation and a senior adviser to the President of the UN General Assembly, gave their thoughts and experience with the United Nations Peacebuilding Commission and the current state of international peacebuilding.

To listen to the audio version of the lecture, please visit CIPL's website: <http://law.anu.edu.au/cipl/events.asp>

### 15 February 2006: Discussion Group

*Genocide and Justice in the 21st Century*

Efraim Zuroff

Director of the Simon Wiesenthal Centre's Israel Office and the Co-ordinator of the Centre's Nazi War Crimes Research Unit, Efraim Zuroff, discussed the efforts to bring Nazi war criminals to justice and how the results achieved during the past 60 years have influenced the response of the international community to more recent genocides such as Cambodia and Rwanda and cases of ethnic cleansing such as Bosnia and Darfur.

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



Professor Kim Rubenstein, Dr Elizabeth Cousins, Dr Bruce Jones and Professor Hilary Charlesworth.

### 2 March 2006: Public Lecture

*Developments in Customary International Humanitarian Law*  
Louise Doswald-Beck

Once again, a well-attended public lecture was organised by CIPL and the International Humanitarian Law Committee of the Australian Red Cross (ACT branch).

The speaker, Professor Louise Doswald-Beck, is the Director of the University Centre for International Humanitarian Law in Geneva. She served as Secretary-General of the International Commission of Jurists from 2001-2003. From 1987-2001, she was Head of the Legal Division of the International Committee of the Red Cross (ICRC), Geneva.

In 1995, the International Committee of the Red Cross, along with a range of renowned experts, embarked upon a major international study into State practice



Michael Carrel, Chair International Humanitarian Law Committee, Australian Red Cross (ACT branch), Professor Louise Doswald-Beck, Professor Kim Rubenstein

in order to identify customary rules of international humanitarian law applicable in international and non-international armed conflicts. This new and long-awaited study identifies a common core of rules protecting all victims of war. Doswald-Beck is co-author of the ICRC 'Customary International Humanitarian Law' study, published in 2005.

#### 4 April 2006: Discussion Group

*The Rule of Law in a Colonial Setting*  
Michael Taggart

Professor Michael Taggart, University of Auckland, led a lunchtime discussion of R.W. Kostal, *A Jurisprudence of Power: Victorian Empire and the Rule of Law*.

The controversy arising from the brutal suppression of a rebellion at Morant Bay, Jamaica in mid-October 1865 was one of the causes célèbres of the Victorian era. It has been much written about by historians because of the stark polarisation of opinion over the legality and morality of the events.

Rande Kostal's justification for entering this well-ploughed historical field is to move the law to the centre of the stage in the unfolding of the drama. Indeed, Kostal succeeds so well that at times one starts to believe that the law is not just centre stage but the entire stage. In the result, however, the law disappointed everyone. So this book is not just about the Rule of Law in the context of a fascinating episode in imperial history. It transcends time and place, and contains a morality tale about misplaced faith in law in times of crisis.

#### 4 April 2006: Discussion Group

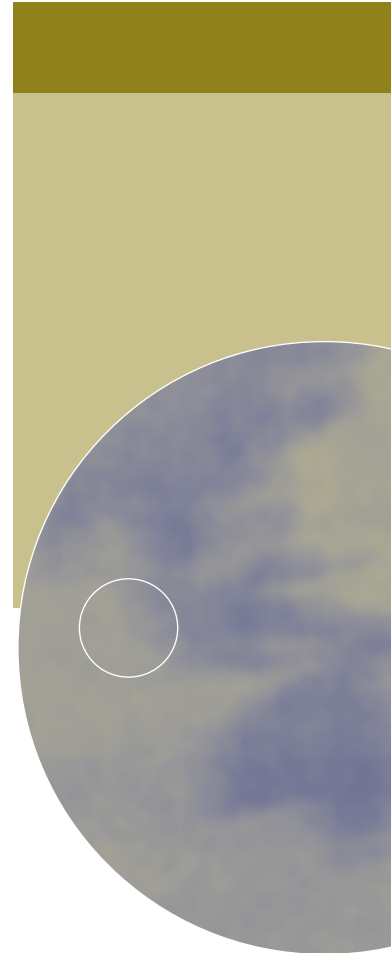
*Detention at Guantanamo Bay: Legal Black-hole?*  
Michael Smith

Dr Michael Smith's research interests as a Visiting Fellow at the ANU College of Law include the legal aspects of national security; the international regime for the use of force and conflict management; and aspects of international humanitarian law. He led a discussion focussed on the international and public law aspects of unlawful combatants under international law: legal characterisation and standards of treatment; legal proceedings in the Courts of the Coalition; and foreign detention and "reasonable expectations" of national assistance in alleged cases of transnational terrorism

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



Kim Rubenstein & Dr Michael Smith



## 5 April 2006: Expert Workshop

*International Tribunals Workshop*  
Workshop Director: Robin Creyke



John McMillan, The Honourable Philip Ruddock and Robin Creyke

The first International Tribunals Workshop in Australia took place in Canberra on 5 April 2006 at the ANU College of Law.

Organised by the Centre for International and Public Law and co-sponsored by the Australian Institute of Judicial Administration, the Commonwealth Administrative Appeals Tribunal, the Attorney-General's Department and the Commonwealth Ombudsman, this was a distinguished gathering of 35 invited participants from New Zealand, Canada, the United Kingdom, and Australia.

The Attorney-General, The Honourable Philip Ruddock MP, opened the workshop. Other speakers include Sir Robert Carnwath CVO, Hon. FRAM, Lord Justice of Appeal and Senior President of the UK Tribunals Service and the Commonwealth Ombudsman, Professor John McMillan. Also attending were 5 other Heads of National Tribunals and 9 Heads of Provincial or State Tribunals as well as senior academics working in the field.

Topics for discussion included an overview of the tribunal scene; tribunals and policy; natural justice and tribunals; how to achieve independence for tribunals; taking evidence and fact-finding in tribunals; and future directions for tribunals.

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

## 20-21 April 2006: Expert Workshop

*Ensuring accountability - terrorist challenges and state responses in a free society*

Organised by the National Europe Centre and supported by CIPL.

## 2 May 2006: Public Lecture

*Reviewing Social and Economic Impacts of Regulations: Are Judges up to the Task?*

France Houle

Commentator: Stephen Argument

Jointly organised by CIPL and the Australian Institute of Administrative Law, Professor France Houle (University of Montreal and Visiting Fellow at the ANU College of Law) presented the findings of her research work on the use of the Regulatory Impact Analysis Statement by Canadian judges to interpret the meaning and purpose of a regulation and the use of guidelines to remodel legislative schemes.

Stephen Argument works in the Canberra office of Phillips Fox, where he advises on a wide variety of public law issues. He is the Legal Adviser (Subordinate Legislation) to the ACT Legislative Assembly's Scrutiny of Bills and Subordinate Legislation Committee and is the co-author of the 3rd edition of Professor Dennis Pearce's text, *Delegated Legislation in Australia*.

Audio and papers available: <http://law.anu.edu.au/cipl/events.asp>

## 8 - 10 May 2006: Work Choices Seminars

Over 100 hundred people attended a "fringe" series of seminars organised by CIPL and the Australian Labour Law Association to accompany the High Court hearing of the states' constitutional challenge to the Work Choices legislation.

### 8 May 2006

*Legislative power and regulatory need*

Rosemary Owens (Reader in Law, The University of Adelaide) reflected on the High Court challenge to the Work Choices legislation, with particular attention to the nature of the Commonwealth's legislative power. A major feature of the Work Choices regime is the broad range of matters left to Ministerial regulation and the use of "flexible standards" where legislative minimum standards in employment are enshrined but contain in-built flexibility in application. She explored these approaches to regulation, discussing their suitability to achieve the sometimes seemingly opposite regulatory goals of standards and flexibility.

### 9 May 2006

*Hostile takeover or competitive federalism? The push for a "national" system of industrial regulation*

Professor Andrew Stewart (School of Law, Flinders University) discussed the federal government's Work

Choices reforms and the challenges they pose to the "federal balance" under Australia's Constitution. In particular, Professor Stewart focused on the use of the Constitutional power over corporations by the federal government to regulate the realm of industrial relations and questioned whether the presence of 'competing' industrial relations systems in state and federal regimes could produce healthier regulatory structures.

### 10 May 2006

The final seminar included a panel of speakers to address the impact of Work Choices legislation on different sectors of the community. Steve Ramsey from the Community & Public Sector Union discussed the public employment sector examining the ability of the public sector to remain robust, fearless and impartial in an era of 'principle' based collective agreements. Dr. Shae McCrystal (ANU College of Law) addressed the impact of the changes on community sector employers questioning the extent to which such employers can afford to remain reliant on awards to determine pay and conditions of employment. The National Tertiary Education Union's Derek Corrigan discussed its impact on universities, with particular attention to the higher education workplace relations reforms and Dr Beth Gaze from the University of Melbourne raised issues for women workers particularly pay and conditions.

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



Dr Shae McCrystal, Professor Kim Rubenstein with Professor Andrew Stewart

### 7 June 2006: Discussion Group *International Law and the Use of Force* Michael Smith

Michael Smith's second discussion group this year focussed on the present status and emerging trends in the norms governing the use of force under the United Nations Charter and customary international law. He paid particular regard to aspects of the UN Secretary General's Report "in Larger Freedom" of 2005, and future challenges to international conflict management.

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

### 13 June 2006: Public Lecture *War and Peace – from an Israeli perspective* Asher Maoz

Jointly sponsored by CIPL and the Israeli Embassy, Professor Maoz (Tel-Aviv University Law School) presented his work on the international legal implications of the practice of waging war in an age when the use of force in resolving international disputes has been prohibited. His work probed domestic Israeli law relevant to acts of war and argues that the state can only initiate an offensive war. He examined the constitutional relations between the army, the government, and parliament in the area of engaging in military actions, and the issue of civil supervision over the army. Finally, the legal definition of the confrontation between Israel and the Palestinians since the outbreak of armed hostilities in September 2000, was discussed and whether the situation might be regarded as an Armed Conflict Short of War, enabling the application of customary international laws of war to the conflict.

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



Kim Rubenstein & Professor Asher Maoz

## 1 August 2006: Discussion Group

*XYZ v The Commonwealth [2006] HCA 25 (13 June 2006)*

Held with the Australian Association of Constitutional Law, the discussion was led by Kim Rubenstein, Amelia Simpson, Fiona Wheeler and Leslie Zines.

## 2 August 2006: Public Lecture

*The interaction of constitutional and international law in nation-building: a view from the Constitutional Court of Bosnia and Herzegovina*

Professor David Feldman

Judge of the Constitutional Court of Bosnia and Herzegovina since 2002 and Rouse Ball Professor of English Law at the University of Cambridge, Professor Feldman's lecture looked beyond the nation state to consider the effect of international law and international relations on the drafting and development of constitutions in new or transitional states, focusing particularly on the successor states to former Yugoslavia. A reception followed the lecture, hosted by Professor Simon Bronitt, Director of the National Europe Centre.

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

# FORTHCOMING EVENTS

## 23 August 2006

*Making a New International Law: Hague Convention on Maintenance Obligations*

CIPL Seminar, 11am – 4pm, Sparke Helmore Lecture Theatre, ANU College of Law

Enquiries: [christine.debono@anu.edu.au](mailto:christine.debono@anu.edu.au) or T: 6125 2906

## 25 August 2006

*Sources and Trends in Post 9/11 Anti-Terrorism Laws*

CIPL Discussion Group, 1pm, Staff Library, ANU College of Law

Professor Kent Roach, University of Toronto

## 8–9 September 2006

*Hate Speech, Free Speech and Human Rights in Australia*

This workshop – supported by CIPL, Academy of Social Sciences in Australia, Law Program at RISS and the Freilich Foundation – is jointly convened by Dr Adrienne Stone (Law, RISS) and Katharine Gelber (Political Science, UNSW).

## 15 September 2006

*Reform of the Senate Committee System*

CIPL Seminar to be held jointly with ANU's Parliamentary Studies Centre

National Museum of Australia, 9.00am – 12.30pm

## 29–30 September 2006

Inaugural Australian Women Lawyers Conference, Sydney  
*Celebrating Excellence*  
Kim Rubenstein will be speaking on advancing citizenship claims in Australia.

## 21 October 2006

*Seminar: 20th Anniversary of the death of Lionel Murphy*

National Museum of Australia

Organised in conjunction with NISSL and the Lionel Murphy Foundation

## 2 November 2006

### Feminism and Federalism workshop

In 2003 Professor Kim Rubenstein initiated and has since been coordinating a network of academics currently pursuing research on feminism and constitutional law. The network aims to include scholars (both junior and senior) from around the globe and currently has participants based in Australia, Canada, the United States, the United Kingdom, Columbia and Spain. It is the aim of the network to include all academics with an interest in the area.

On 11 June 2004, 18 academics from Melbourne, Sydney, Canberra, the US and the UK participated in a workshop on Feminism and Federalism at the University of Melbourne Law School.

Professor Rubenstein is currently organising the next workshop which is scheduled for during the day on November 2, 2006 at ANU. This will coincide with Georgetown University Law Professor Vicki Jackson's visit to CIPL to present the Annual Geoffrey Sawer lecture that evening, and it will also coincide with Harvard University Professor Jane Mansbridge's visit to ANU.

The content of the workshop is currently being developed and will soon be available on the CIPL website. Any person interested in being involved should contact Professor Rubenstein at [Kim.Rubenstein@anu.edu.au](mailto:Kim.Rubenstein@anu.edu.au)

## 2 November 2006

*Geoffrey Sawer Lecture*

The Shine Dome, Canberra

Professor Vicki Jackson

Georgetown University, Washington DC, USA

*Transnational Challenges to Constitutional Interpretation*

## 3–4 November 2006

*Eleventh Public Law Weekend*

Perspectives on Accountability

Visions Theatre, National Museum of Australia

Further details on CIPL's 2006 upcoming events will appear in due course on our 'Events' section <http://law.anu.edu.au/cipl/events.asp>

# THE AUSTRALIAN YEAR BOOK OF INTERNATIONAL LAW

Volume 25 will be published in 2006.

## ARTICLES

### Greg Carne

Reconstituting 'human security' in a new security environment: One Australian, Two Canadians and Article 3 of the Universal Declaration of Human Rights

### Camille Goodman

Acta Sunt Servanda? A Regime for the Unilateral Acts of States at International Law

### Daniel Lovric

A Constitution Friendly to International Law: Germany and its Völkerrechtsfreundlichkeit

### Anthony M North and Joyce Chia

Towards Convergence in the Interpretation of the Refugee Convention: a Proposal for the Establishment of an International Judicial Commission for Refugees

### Anne O'Rourke and Chris Nyland

The Recent History of the Alien Tort Claims Act: Australia's Role in its (attempted) Downfall

### Ben Saul

Defending 'Terrorism': Justifications and Excuses for Terrorism in International Criminal Law

### Tim Stephens

Multiple International Courts and the 'Fragmentation' of International Environmental Law

### Matthew T Stubbs

Arbitrary Detention in Australia: Detention of Unlawful Non-Citizens under the Migration Act 1958 (Cth)

### Caroline Foster

Casenote: Japan - Measures Affecting the Importation of Apples: Rotten to the Core?

## ANZSIL

The 2006 Australian and New Zealand Society of International Law (ANZSIL) Annual Conference was held at the Victoria University of Wellington, NZ, under the able stewardship of ANZSIL's current President Professor Campbell McLachlan from 29 June to 1 July.

Members of CIPL attended the conference, with Dr Ann Kent presenting a paper on the implications of China's changing approach to international law, and Professor Hilary Charlesworth participating in the closing session. Professors Kent Anderson and Kim Rubenstein chaired sessions.

At the executive meeting of ANZSIL, of which CIPL's Director Kim Rubenstein is a newly co-opted member, it was agreed that the secretariat of ANZSIL, which is presently at the University of Sydney's Centre for International and Global Law will move back to CIPL. The dates for the 2007 ANZSIL conference have been set for 28-30 June and the conference will be held at the National Museum of Australia, Canberra.

- Book reviews: edited by Ryszard Piotrowicz
- Australian Cases before Australian Courts and Tribunals Involving Questions of Public International Law 2004: Jane McAdam, Deborah Roach and Donald R Rothwell
- Australian Legislation Concerning Matters of International Law 2004: Scobie Mackay and William Story
- Australian Practice in International Law 2004: edited by Jennifer Cavenagh and supervised by Justine Braithwaite
- Annual Survey of Recent Developments in Australian Private International Law, 2004: Kent Anderson and Jim Davis
- Australian Treaty Action 2004

# RECENT PUBLICATIONS BY CENTRE MEMBERS

## Kent Anderson

'Japanese Insolvency Law after a Decade of Reform', *Canadian Business Law Journal*, Vol 43, Issue 1, pp 2-27, 2006.

'The Next Generation: Mihaupt & West on Economic Organizations and Corporate Governance in Japan', *Michigan Journal of International Law*, Vol 27, Issue 3, 2006.

'Annual Survey of Recent Developments in Australian Private International Law 2000-2003', with Davis, J., *Australian Yearbook of International Law*, Canberra, Centre for International and Public Law, Vol 24, 2006.

'Cross-Border Legal Education: Results from a Pilot Japanese-Australian Video Negotiation Project at Australian National University and Aoyama Gakuin University', with Y. Eizumi, in *Journal of Japanese Law/Zeitschrift für Japanisches Recht*, Hamburg, Germany, German-Japanese Association of Jurists, Vol 10, 2005.

'Do We Really Need a Regional Insolvency Pact in Australasia?: A Reply to an Asian Development Bank Proposal', *LAWASIA Journal*, Brisbane, LAWASIA, Vol 1, 2005.

'Japan's Quasi-Jury (Saiban-in) Law: An Annotated Translation of the Act Concerning Participation of Lay Assessors in Criminal Trials', *Asian-Pacific Law and Policy Journal*, William S Richardson School of Law, University of Hawaii, Vol 6, 2005.

## Peter Bailey

'Interpretive Approaches of the Tribunals and Courts in Discrimination Law', with R. Callinan, and A. Dziedzic, in *Interpreting Statutes*, Suzanne Corcoran and Stephen Bottomley (eds), Sydney NSW, The Federation Press, 2005.

## Simon Bronitt

'Law in Context', with Stephen Bottomley, 3rd edition, The Federation Press, Leichhardt, 2006.

'Internationalisation, Criminalisation and a Fair Go: Reflections on the Corby Case', *Criminal Law Journal*, Australia, The Law Book Company, Vol 29, 2005.

## Hilary Charlesworth (RegNet)

'Australia's First Bill of Rights: The Australian Capital Territory's Human Rights Act' (with Gabrielle McKinnon), *Law & Policy Paper No. 27*, Federation Press, 2006

'No Country is an Island: Australia and International Law', with Madeleine Chiam, Devika Hovell and George Williams, UNSW Press, May 2006.

'Human Rights and Statutory Interpretation', in *Interpreting Statutes*, Suzanne Corcoran and Stephen Bottomley (eds), Sydney NSW, The Federation Press, 2005.

## Madeleine Chiam

'No Country is an Island: Australia and International Law', with Hilary Charlesworth, Devika Hovell and George Williams, UNSW Press, May 2006.

## Jennifer Clarke

'Academic notoriety, academic celebrity and social responsibility', *Online Opinion*, 25 August 2005

'Privatising' Aboriginal land is no panacea', *Online Opinion*, 15 April 2005

## Tony Connolly

'Conceiving of Tradition: Dynamics of Judicial Interpretation and Explanation in Native Title Law', in *Interpreting Statutes*, Suzanne Corcoran and Stephen Bottomley (eds), The Federation Press, 2005.

## Robin Creyke

'The Impact of Judicial Review on Tribunals', *Law and Policy Papers Series*, No. 28, The Federation Press, 2006.

## Alice Edwards (PhD student)

'Study on Alternatives to Detention of Asylum Seekers and Refugees', (co-written with Ophelia Field), *UNHCR Legal and Protection Series*, Geneva, 2005.

'The "feminising" of torture under international human rights law', 19(2) *Leiden J. Int'l L.* (forthcoming June 2006)

'Refugee Status Determination in Africa', *African J. Int'l & Comp. Law* (forthcoming Sept 2006)

Book review: K. Musalo, J. Moore & R.A. Boswell, *Refugee Law and Policy: A Comparative and International Approach* (2nd ed., 2002, Carolina Academic Press) (2006) *Int'l J. Ref. L.* (forthcoming)

'The right to work for refugees and asylum-seekers: A comparative view' (2006) *UNHCR Australia Discussion Paper* (to be published by UNHCR, along with papers by UNHCR and Australian Government's Department of Immigration and Multicultural Affairs, June/July 2006)

'Human Rights, Refugees and the Right to "Enjoy" Asylum', 17(2) *Int'l J. Ref. L.* 297-330, 2005.

'New Roma Rights in Bosnia and Herzegovina: Positive, Negative or Indifferent?', 9(4) *Int'l J. Hum. Rts* 465-478, 2005.

Book review: N. Steiner, M. Gibney, and G. Loescher, *Problems of Protection: The UNHCR, Refugees, and Human Rights*, 17(3) *Int'l J. Ref. L.* 651-653, 2005.

## Thomas Faunce

'Pilgrims in Medicine: Conscience, Legalism and Human Rights', Brill Academic Publishers, Leiden, The Netherlands, 2005.

'Global Intellectual Property Protection of 'Innovative' Pharmaceuticals', in *Globalization and Health: Challenges for health law and bioethics*, Belinda Bennett and George F Tomossy (eds), Netherlands, Springer, 2005.

'Health Legislation: Interpretation Coherent with Conscience and International Human Rights', in *Interpreting Statutes*, Suzanne Corcoran and Stephen Bottomley (eds), Sydney NSW, The Federation Press, 2005.

'Assessing the impact of the Australia–United States Free Trade Agreement on Australian and global medicines policy', with E. Doran, D. Henry, P. Drahos, P. Searles, B. Pekarsky and W. Neville, in *Globalization and Health*, online BioMed Central, 2005.

'Collaborative Research Trials: A Strategy for Fostering Mental Health Protections in Developing Nations', *International Journal of Law and Psychiatry*, UK, Pergamon Press, Vol 28, 2005.

'Nurturing Personal and Professional Conscience in an Age of Corporate Globalisation: Bill Viola's The Passions', *Medical Journal of Australia*, Sydney, Australasian Medical Association, Vol 183, 2005.

'Whistle-blowing Discussion: Coherence and healthcare whistle-blowing: A response to Parker', *Monash Bioethics Review*, Monash University, Melbourne, Vol 24, 2005.

'Will International Human Rights Subsume Medical Ethics? Intersections in the UNESCO Universal Bioethics Declaration', *Journal of Medical Ethics*, London, UK, British Medical Journal Publishing Group, Vol 31, 2005.

### Daniel Fitzpatrick

'Best Practice' Options for the Legal Recognition of Customary Tenure, in *Development and Change*, Oxford, UK, Blackwell Publishing Ltd, Vol 36, 2005.

'Waiting for Law: Land Custom and Legal Regulation in East Timor', *Development Bulletin*, Canberra, Australia, Development Studies Network Ltd, Australian National University, Vol 68, 2005.

### Don Greig

'Treaties: Some Final Reflections', in *Interrogating the Treaty. Essays in the Contemporary Law of Treaties*, M Craven and M Fitzmaurice (eds), The Netherlands, Wolf Legal Publishers, 2005.

### Laura Grenfell (RegNet PhD student)

'Legal Pluralism and the Rule of Law in Timor Leste', 19/2 *Leiden Journal of International Law*, 2006.

### Sue Harris–Rimmer (PhD student)

'The Role of the United Nations High Commissioner for Refugees', in *The Challenge of Conflict: International Law Responds*, Ustina Dolgopol and Judith Gardam (eds), Martinus Nijhoff Publishers, Leiden, pp 517–527, 2006.

'East Timorese Women and the Catholic Church' in *Mixed Blessing: Women, Religion and the Law in South East Asia*, Caroline Evan and Amanda Whiting (eds). Brill Press, May 2006.

### Ann Kent

'Influences on National Participation in International Institutions: Liberal v Non-liberal States', in *The Fluid State: International Law and National Legal Systems*, Hilary Charlesworth, Madelaine Chiam, Devika Hovell and George Williams (eds), Sydney, The Federation Press, 2005.

'China's Growth Treadmill: Globalization, Human Rights and International Relations', in *China as a Rising World Power and its Response to 'Globalization'*, Ronald C. Keith (ed), London, Routledge, 2005.

'Australia and international human rights' in *Australia in World Affairs, 2001–2005*, James Cotton and John Ravenhill (eds), Melbourne, Oxford University Press, forthcoming 2006.

'Culture, Power and Globalisation: China's Changing Approach to International Law' (in Chinese), in *Chinese Culture and the Rule of Law*, Chinese Academy of Social Sciences (ed), Beijing: CASS, forthcoming 2006.

### Shae McCrystal

'Shifting the Balance of Power in Collective Bargaining: Australian Law, Industrial Action and Work Choices', *Economic and Labour Relations Review*, Vol 16, Issue 2, pp 193–213, 2006.

'Industrial Law, Halsbury's Laws of Australia', LexisNexis Butterworths, Maryborough, Vol 14, 2006.

'Unfair Dismissal, Reinstatement and Garden Leave: *Blackadder v Ramsey Butchering Services Pty Ltd*' (2005) 33 *Federal Law Review* 555.

### Leighton McDonald

'Federal Judicial Review Jurisdiction After *Griffiths University v Tang*' (2006) 17 *Public Law Review* 22–48 (with Christos Mantziaris).

### James Prest

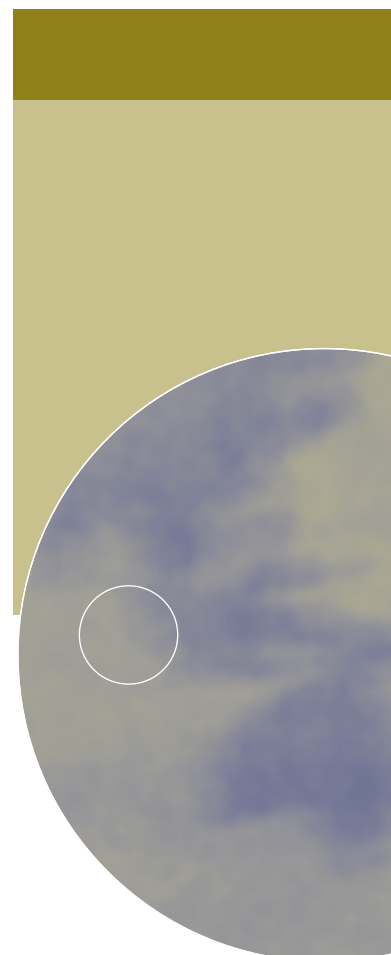
'Forestry Law' in Farrier, D. and Stein, P. (eds.) *The Environmental Law Handbook : NSW*, 4th edition, Redfern Legal Centre Publishing, Sydney, 2006.

### Kim Rubenstein

'The Lottery of Citizenship: The Changing Significance of Birthplace, Territory and Residence to the Australian Membership Prize', 22 (2) *Law in Context*, "Nationality, Refugee Status and State Protection: Explorations of the Gap between Man and Citizen", 2005.

'From this time forward...I pledge my loyalty to Australia: Loyalty, Citizenship and Constitutional Law in Australia', *Journal of Australian Studies*, "Loyalty", forthcoming 2006.

'Shifting Membership: Rethinking Nationality in International Humanitarian Law', in *The Challenge of Conflict: International Law Responds*, Ustina Dolgopol and Judith Gardam (eds), Martinus Nijhoff Publishers, Leiden, 2006.



## Amelia Simpson

'The Limited Protection Given to Free Speech' (2005) 17(3) *Legal date* 8

'Grounding the High Court's Modern Section 92 Jurisprudence: The Case for Improper Purpose as the Touchstone' (2005) 33(3) *Federal Law Review* 445.

Book Review: Eric Heinz, *The Logic of Equality*, (2005) 33(1) *Federal Law Review* 177.

## James Stellios

'Copyright and Freedom of Political Communication in Australia', in *Copyright and Free Speech: Comparative and International Analyses*, with R. Burrell, Jonathan Griffiths and Yuma Suthersanen (eds), New York, Oxford University Press, 2005.

'Choice of Law and the Australian Constitution: Locating the Debate', *Federal Law Review*, Canberra, Faculty of Law, Australian National University Vol 33, 2005.

'The Constitutional Jury: 'A Bulwark of Liberty'?', *Sydney Law Review*, Sydney, The Law Book Company, Vol 27, 2005.

## Daniel Stewart

'Griffith University v Tang, 'Under an Enactment' and Limiting Access to Judicial Review', *Federal Law Review*, Canberra, Faculty of Law, Australian National University, Vol 33, 2005.

'Non-Statutory Review of Private Decisions by Public Bodies', *AIAL Forum*, Canberra, Australian Institute of Administrative Law, 2005.

## Adrienne Stone (RSSS Law program)

'Protecting Rights without a Bill of Rights', Tom Campbell, Jeffrey Goldsworthy, Adrienne Stone (eds), in press, Ashgate/Dartmouth.

'Developments: Freedom of Speech and Insult in the High Court of Australia', forthcoming, *International Journal of Constitutional Law*, 2006.

'Defamation of Public Figure: North American Contrasts', 50 *New York Law School Law Review*, 101-124, 2005.

'Constitutional Text and Structure Revisited', 28 *University of New South Wales Law Journal*, 842-51, 2005.

'Australia's Constitutional Rights and the Problem of Interpretive Disagreement', 27 *Sydney Law Review* 29-48, 2005.

## Phillipa Weeks

"Employment Law - A Test Of Coherence Between Statute And Common Law", Suzanne Corcoran and Stephen Bottomley (eds), in *Interpreting Statutes*, Federation Press, Sydney, 2005.

## Fiona Wheeler

'BLF v Minister for Industrial Relations: The Limits of State Legislative and Judicial Power' in George Winterton (ed), *State Constitutional Landmarks* (Federation Press, 2006) (forthcoming)

'Family Law and the Constitution' (2006) *LegalDate* (forthcoming)

## Matthew Zagor

'Uncertainty And Exclusion: Detention Of Aliens And The High Court', *Federal Law Review*, June 2006

# RECENT PAPERS AND PRESENTATIONS AND OTHER ACTIVITIES BY CENTRE MEMBERS

## Robin Creyke

Workshop Director and Chair, International Tribunals Workshop, Australian National University, Canberra, 5 April 2006.

Chaired a session at the Australian Institute of Judicial Administration conference, 6 April 2006.

R Creyke (Member) and J Segal (ARC President), 'Directions for the Administrative Review Council in Protecting Individual and Community Interests', National Forum, Australian Institute of Administrative Law, Administrative Law: Protection of Individual and Community Interests, Queensland, 23 June 2006.

'Recent Developments in Administrative Law', Department of Health and Ageing, 6 July 2006.

Narelle Bedford, Robin Creyke, Elizabeth Southwood, "Unusually Persistent Litigants (UPLs) at the Federal Court of Australia: A Pilot Study", presented at Monash University, June 2006

'Recent Developments in the Veterans' Jurisdiction', paper presented to the Administrative Appeals Tribunal, Sydney, 14 June 2006.

'Update on Administrative Law', Canberra, 7 June 2006

Symposium to workshop chapters by authors for book on Administrative Law by M Groves, HP Lee (eds), *Australian Administrative Law: Fundamentals, Principles & Doctrines*, Monash University, 21-22 April 2006 (my chapter: Tribunals in Australia, 1-31)

'Administrative Justice - Towards Integrity in Government: The First to the Third Way', ESRC Seminar Series on Administrative Justice, University of Edinburgh, 27 March 2006, 1-28

External member, Professorial Appointments Committee, Law School, University of Auckland, New Zealand, 15-18 February 2006.

Chair, Full Day's Seminar, Government Lawyers: Your Role in Governance, Australian Corporate Lawyers Association, Canberra, 2 June 2006.

Training for staff of Office of Inspector-General of Intelligence and Security, 31 May 2006, 5 June 2006

## Alice Edwards (PhD student)

'Traffic in human beings: At the intersection of criminal justice, human rights, labour and migration/asylum', paper for Tenth Biennial Conference of the International Association for the Study of Forced Migration, 'Talking Across Borders: New Dialogues in Forced Migration Studies', Toronto, 18-22 June, 2006

'Gender violence and refugees: Progress, gaps and continuing challenges', paper for International Conference of the Canadian Council for Refugees, 'International Refugee Rights Conference', 17-19 June, 2006

## Sue Harris-Rimmer (PhD student)

Panellist, Asia Pacific Regional Migration Workshop, Australian National University Canberra, 1-2 December 2005.

## Ann Kent

'The Perils of Unilateralism: China and the US in International Institutions', at the June 2005 ANZSIL Conference.

Submission for two inquiries of the Senate Committee on Foreign Affairs, Defence and Trade, the 'Inquiry into Australia-China Relations', and the 'Inquiry into Matters Related to Protection Visas and Deportation'.

'Culture, Power and Globalisation: China's Changing Approach to International Law', at the International Symposium of the Chinese Society of Legal History in Kaifeng, 'Chinese Culture and the Rule of Law', the Chinese Academy of Social Sciences (CASS) and Henan University, 22-25 October 2005

'China and International Law', lecture to postgraduate students in international relations at Fudan University in Shanghai, 1 November 2005

'China and International Organisations', talk on forthcoming book on China and international organisations at the first meeting organised by Fudan University of international relations scholars from Shanghai's major universities, 6 November 2005.

## Penelope Mathew

'Black holes, white holes and worm holes: detention, deportation, diplomatic assurances and other subterfuges in the war on terror', paper for "Ensuring accountability - Terrorist challenges and State responses in a free society" Expert Workshop, ANU, 20-21 April 2006.

Submission to the Senate Legal and Constitutional Committee concerning The Migration Amendment (Designated Unauthorized Arrivals) Bill 2006.

Extracts of evidence to Senate Legal and Constitutional Committee broadcast on PM (ABC radio), "Unease over Government's Immigration Policy", 26 May, 2006.

Interviewed by Craig McMurtrie for ABC television news and Lateline regarding Papuan asylum-seekers, 11 April, 2006.

## Shae McCrystal

'Work Choices and Community Sector Employers', delivered at the Work Choices Fringe Event, Australian Labour Law Association and Centre for International and Public Law, ANU College of Law, May 10 2006.

'The Impact of Work Choices on Community Sector Employers' delivered at the ACTCOSS IR Forum, Canberra, 10 February 2006.

'Work Choice - What Choice? The Coalition Industrial Relations Changes and Poverty in the ACT' delivered at the Poverty and the Law Forum for National Poverty Week, Canberra, 21 October 2005.

'Another Day, Another Dollar: Workplace Relations Changes in 2005' delivered at 'Scaling New Heights', National Association of Community Legal Centres Conference, Canberra, 10 October 2005.

## Gabriele Porretto

Presented a paper at the Expert workshop on terrorism *Ensuring accountability - terrorist challenges and state responses in a free society*, Australian National University, 20-21 April 2006 (held in conjunction with the National Europe Centre).

Submission to the Standing Committee on Legal Affairs inquiry into the Exposure Draft of the Terrorism (Extraordinary Temporary Powers) Bill 2005 (ACT). (Together with Andrew Byrnes, Hilary Charlesworth and Gabrielle McKinnon)

## James Prest

"Loopholes, Exemptions, and Symbolic Environmental Laws: Submission to Environment ACT regarding the Draft Dragway Noise Environment Protection Policy", A Submission by the Environmental Defender's Office (ACT) Inc., 26pp.

"Perspective of an Environmental Lawyer on Negotiated Agreements", paper to Negotiated Agreements in Environmental Disputes, Joint workshop of Environment Institute of Australia and Australian Acoustical Society, Wed 21 June 2006, Australian Defence Force Academy, Canberra.

## Kim Rubenstein

Feminism and Federalism paper presented to the Gilbert and Tobin Centre of Public Law's 2006 annual conference on Constitutional Law, February 2006.

Submission to the Senate Legal and Constitutional Affairs, Legislation Reference Committee on its Inquiry into the provisions of the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitional and Consequential) Bill 2005. [http://www.aph.gov.au/senate/committee/legcon\\_ctte/citizenship/submissions/sub65.pdf](http://www.aph.gov.au/senate/committee/legcon_ctte/citizenship/submissions/sub65.pdf)

Attended invitation only round-table seminar organised by DFAT for experts and academics to meet with Professor Louise Doswald-Beck discussing her book on *Customary International Humanitarian Law*, March 2006.

Invited to participate in Australian round-table for the Global Dialogue on Federalism, on the theme of 'Foreign Relations in Federal Countries'. Parliament House, Canberra on 30 March 2006

Invited to attend the Joint Standing Committee on Treaties Seminar 30-31 March *Treaty Scrutiny: a ten year review*. Parliament House, Canberra

Presentation: *Developments in Citizenship Law: A Human Rights Perspective*, Human Rights and Equal Opportunity Commission seminar, Sydney, 7 April 2006.

Submission to the Attorney-General's Department, A New Extradition System: A review of Australia's extradition law and practice, April 2006.



ABC TV interview regarding the Parliamentary Secretary for Multicultural Affairs, Andrew Robb's proposal to introduce a compulsory "Citizenship Test" for migrants, 28 April 2006.

Presented a seminar on 'Transnational People Movement' to the Centre for Defence and Strategic Studies, Australian Defence College, ACT, 18 May 2006.

Participant in an international workshop organised by Tel Aviv Law School and the University of Toronto Law School, **Why Citizenship? Authors' Workshop**, Faculty of Law, University of Toronto, May 26-28, 2006. Presented the paper, *Advancing citizenship claims in the Australian legal context: a lesson on law's limits*. The paper will be included in a symposium publication in 2007. See further information about this workshop at page number 6.

Presented a paper to the ANU Post-Graduate conference "**Everyday I write the book**" on citizenship research, 8 June 2006

Presentation on dual citizenship at the *Cosmopolitan Citizenship: Legal Issues for the EU and Australia* Workshop. Organised by Professor Kim Rubenstein and Ass/Professor Stefan Markowski, National Europe Centre, 15 June 2006.

Chaired a session at the Australian Bills of Rights: ACT and Beyond conference, 21 June 2006.

### Amelia Simpson

'Indeterminacy, deference, and constitutional non-discrimination norms' presentation to Faculty Research Workshop, ANU College of Law, 9 March, 2006

'The High Court's conception of discrimination: origins, applications, and implications' presentation to Faculty Seminar, UNSW School of Law, 30 May, 2006.

### Adrienne Stone (RSSS law program)

'Free Speech, Hate Speech and Human Rights' paper presented at The End of Human Rights Symposium, Australian National University, 11 April 2006.

'Supranational Political Community: Substance? Conditions? Pitfalls?', invited paper presented at the Consortium on Democratic Constitutionalism (Demcon) conference, University of Victoria, British Columbia, October 2005.

'Justice McHugh and the Idea of a Judicial Conservative', paper presented at the ANU Public Law Weekend, November 2005.

'The Surprising Relevance of Sex and Gender to Australian Constitutional Law' paper presented at Sex, Gender and Rights Conference, Julius Stone Institute, University of Sydney, August 2005.

'The High Court's Recent Free Speech Cases: The Pernicious Effects of Lange', paper presented at the Constitutional Law Conference, Gilbert and Tobin Centre of Public Law, University of New South Wales, February 2005.

Co-convenor, Law, Religion and Social Change Conference, May 2006.

### Fiona Wheeler

Submission to the ACT Legislative Assembly, Standing Committee on Legal Affairs, Inquiry into Exposure Draft Terrorism (Extraordinary Temporary Powers) Bill 2005 (ACT), February 2006

### Matthew Zagor

Chaired a session at a conference 'Crossing the Boundaries: the place of human rights in contemporary scholarship' at the London School of Economics on 24 March 2006.

'Indefinite detention and common law rights: a comparative approach', paper presented at Centre for the Study of Human Rights, LSE, University of London, 6 June 2006.

'No mean feat to walk the line between refugees and criminals' Sydney Morning Herald 8 December 2005

To read recent newspaper articles by centre members, visit CIPL's 'Expert Opinion' section <http://law.anu.edu.au/cipl/expertopinion.asp>

## CIPL Student Internships

For the first time, CIPL is participating in the ANU Law Internship program which involves having ANU undergraduate law students work with CIPL as interns. The students will work with members of the Law School on projects of an applied nature, attend CIPL afternoon teas and meetings and assist with the major conferences CIPL runs. At the end of their internship, the students write a 6000 word essay which is marked and goes towards their final degree.

This semester, Nicola Jackson and Niamh Lenagh-Maguire have started with CIPL.



### Nicola Jackson

My time at CIPL will be my last semester at ANU. A Canberran born and bred, I am finishing off an Arts/Law degree and will be a CIPL intern whilst also undertaking an honours project in Administrative Law. I've been particularly interested in administrative and constitutional law while at ANU and spent my summer

on a clerkship at Blake Dawson Waldron. I'm a pretty keen reader and spend significant amounts of my time outside in the frosty Canberra mornings jogging. For my semester break I'm heading off to Europe in search of some much needed sunshine in France and Germany.

Nicola will be working on a project involving issues to do with Diplomatic Protection.



### Niamh Lenagh-Maguire

I am very pleased to be part of CIPL's first intake of student interns. I am a fourth year Arts/Law Student, with an interest in public law and policy and vague aspirations to undertake post-graduate study in this area. While at CIPL, I will pursue my interests in feminism, federalism and comparative constitutional

and citizenship law, while undertaking research on issues associated with feminism and constitutional law, relating to a CIPL Workshop to be held in November 2006. I also look forward to assisting with the Centre's outreach/public interest work relating to citizenship issues.

## CENTRE STAFF AND MEMBERS

Kim Rubenstein, Professor and Director  
Valerie Wayte, Interim Administrator  
Jennifer Braid, Assistant Editor, Australian Year Book of International Law

Kent Anderson, Senior Lecturer  
Don Anton, Senior Lecturer  
Peter Bailey, Adjunct Professor  
Kevin Boreham, Associate Lecturer  
Simon Bronitt, Professor  
Hilary Charlesworth, Professor  
Jennifer Clarke, Senior Lecturer  
Tony Connolly, Senior Lecturer  
Michael Coper, Professor and Dean  
Robin Creyke, Professor and Alumni Chair of Administrative Law  
Thomas Faunce, Senior Lecturer  
Jean-Pierre Fonteyne, Senior Lecturer  
Don Greig, Visiting Fellow  
Judith Jones, Lecturer  
Ann Kent, Visiting Fellow  
Shae McCrystal, Lecturer  
Leighton McDonald, Senior Lecturer  
Anne McNaughton, Lecturer  
Penelope Mathew, Reader  
Wayne Morgan, Senior Lecturer  
Dennis Pearce, Visiting Fellow  
James Prest, Lecturer  
Gabriele Porretto, Research Associate and Sparke Helmore Lecturer  
Tom Sherman, Visiting Fellow  
Amelia Simpson, Lecturer  
James Stellios, Senior Lecturer  
Daniel Stewart, Senior Lecturer  
Phillipa Weeks, Professor  
Fiona Wheeler, Reader  
Ben Wickham, Lecturer  
Matthew Zagor, Lecturer

For a list including PhD students and ANU academics not formally part of the ANU College of Law who are linked to the Centre please see <http://law.anu.edu.au/cipl/staff.asp>

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