PUBLIC LAW WEEKEND
CONSTITUTIONAL DELIBERATIONS

1–2 OCTOBER 2015

Venue: Auditorium, Australian Centre on China in the World
Building 188, Fellows Lane, The Australian National University, Canberra

ANU College of Law
## PUBLIC LAW WEEKEND PROGRAM

### THURSDAY 1 OCTOBER 2015

<table>
<thead>
<tr>
<th>Time</th>
<th>Session/Stream</th>
<th>Venue/Location</th>
<th>Topic/Discussants</th>
</tr>
</thead>
<tbody>
<tr>
<td>10–11.30 am</td>
<td>OPENING PLENARY</td>
<td>Auditorium, Australian Centre on China in the World</td>
<td>Deliberating the dismissal—40 years on Welcome and Introductions Kim Rubenstein and Ron Levy, The Australian National University Michelle Grattan, Chief Political Correspondent with The Conversation, Professorial Fellow at University of Canberra Brendan Lim, University of New South Wales and the NSW Bar Gareth Evans AC QC, Chancellor, The Australian National University</td>
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<td>11.30–11.45 am</td>
<td>Morning tea</td>
<td>Auditorium, Australian Centre on China in the World</td>
<td>Morning tea</td>
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<td>11.45 am–1.15 pm</td>
<td>SESSION 1 – STREAM A</td>
<td>Auditorium, Australian Centre on China in the World</td>
<td>Legislative deliberation and rights Discussant: Elizabeth Southwood, Australian Government Solicitor Gabrielle Appleby, University of New South Wales and Anna Olijnyk, University of Adelaide Laura Grenfell, University of Adelaide How does parliamentary/political rights review work in Australia?: a case study of anti-bikie and anti-terrorism legislation</td>
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<td>1.15–2 pm</td>
<td>Lunch</td>
<td>Auditorium, Australian Centre on China in the World</td>
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<td>2–3.30 pm</td>
<td>SESSION 2 – STREAM A</td>
<td>Auditorium, Australian Centre on China in the World</td>
<td>Federalism Discussant: James Stellios, The Australian National University Robyn Hollander and Haig Patapan, Griffith University Moral federalism: deliberation and moral innovation in US federalism Nicholas Aroney, University of Queensland Federalism and subsidiarity: reform of the Australian federation Jacob Deem and AJ Brown, Griffith University 2015 Australian constitutional values survey</td>
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<td>SESSION 1 – STREAM B</td>
<td>Fellows Road Law Theatre 2</td>
<td>Constitutional rights Discussant: Ryan Goss, The Australian National University Murray Wesson, University of Western Australia Deliberating the implied freedom of political communication Glenn Patmore, University of Melbourne Preaching, protest and the implied freedom of political communication in the High Court: can the implied freedom make a difference to popular deliberation? Eric Ghosh, University of New England Deliberative democracy, legislation and constitutional rights: a defence of mini-publics enjoying legislative power</td>
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<td>SESSION 2 – STREAM B</td>
<td>Fellows Road Law Theatre 2</td>
<td>Theoretical perspectives 1 Discussant: Ron Levy, The Australian National University Theunis Roux, University of New South Wales A sociological response to Waldron on judicial review David Williams and Sally Raudon, University of Auckland The role of the Crown in Australian constitutional deliberations John Dryzek, University of Canberra, Centre for Deliberative Democracy and Global Governance Deliberative democracy and constitutionalism: some sceptical thoughts</td>
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<td>3.30–3.45 pm</td>
<td>Afternoon tea <em>(Venue: Auditorium, Australian Centre on China in the World)</em></td>
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| 3.45–5.30 pm | **SESSION 3**<br>
**Venue: Auditorium, Australian Centre on China in the World**<br>
**National security**<br>
*Discussant: Andrew Lynch, University of New South Wales*<br>
**Dominique Dalla-Pozza, The Australian National University**<br>
  > Refining the Australian counter-terrorism legislative framework: how deliberative has Parliament been able to be (and why does it matter)?<br>
**Fergal Davis, University of New South Wales**<br>
  > The PJCHR and the counter-terrorism legislation amendment (foreign fighters) bill 2014 – a case study<br>
**Shawn Rajanayagam, Minter Ellison**<br>
  > The 2014 anti-terror reforms, the HRPS act and legislative rights deliberation<br>
**Shay Keinan, The Australian National University**<br>
  > Involving diasporas and Israel’s constitutional deliberations |
| 6.30–7.15 pm | **BOOK LAUNCH**<br>
**Venue: University House**<br>
*The Constitution of the Commonwealth of Australia*<br>
by Nicholas Aroney, Peter Gerangelos, Sarah Murray and James Stellios<br>
**Speaker: Chief Justice Robert French, High Court of Australia* |
| 7.15–9.30 pm | Dinner at University House |

**FRIDAY 2 OCTOBER 2015**

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| 9–9.30 am    | **OPENING PLENARY**<br>
**Venue: Auditorium, Australian Centre on China in the World**<br>
**Constitutional Deliberation in History**<br>
*Hon Justice Stephen Gageler, High Court of Australia*<br>
  > James Bryce: a perspective on the deliberations behind the Australian Constitution |
| 9.30–11 am   | **SESSION 1 – STREAM A**<br>
**Venue: Auditorium, Australian Centre on China in the World**<br>
**Constitutional reform**<br>
*Discussant: Graeme Orr, University of Queensland*<br>
**Paul Kildea, University of New South Wales**<br>
**Rodney Smith, University of Sydney**<br>
  > The challenge of informed voting in constitutional referendums<br>
**Sarah Sorial, University of Wollongong**<br>
  > Constitution reform and the problem of deliberation<br>
**Gay Morgan, University of Waikato**<br>
  > Constitutional custody is key to deliberation and to the appearance of deliberation reasons to keep the custody of the constitution directly with the people |
| 11–11.15 am  | Morning tea *(Venue: Auditorium, Australian Centre on China in the World)* |
| 9.30–11 am   | **SESSION 1 – STREAM B**<br>
**Venue: Hedley Bull Theatre 1**<br>
**Theoretical perspectives 2**<br>
*Discussant: Selen Ercan, University of Canberra, Centre for Deliberative Democracy and Global Governance*<br>
**John Parkinson, Griffith University**<br>
  > Ideas of constitutions and deliberative democracy and how they interact<br>
**Joel Colon-Rios, Victoria University of Wellington**<br>
  > Deliberative democracy and the doctrine of unconstitutional constitutional amendments<br>
**Ron Levy, The Australian National University**<br>
  > Deliberation, integrity, and law |
11.15 am – 1 pm

SESSION 2 – STREAM A
Venue: Auditorium, Australian Centre on China in the World

Courts and executive
Discussant: Dennis Pearce,
The Australian National University
Andrew Edgar, University of Sydney
> Deliberation-enhancing judicial review of regulatory decision-making: constitutional constraints and remedial flexibility
Jonathan Crowe, University of Queensland
> The role of snap judgments in constitutional deliberation
Raul Sanchez Urribarri, La Trobe University, Angelica Bernal, Amherst University and Martin Mendoza-Botelho, Eastern Connecticut
> Populist constitutionalism in Latin America

SESSION 2 – STREAM B
Venue: Hedley Bull Theatre 1

Indigenous constitutional recognition
Discussant: Justice Peter Gray
Asmi Wood, The Australian National University
> Constitutional recognition of Australia’s first peoples
Sean Brennan, University of New South Wales
> Constitutional recognition of Indigenous Australians
John Birrell, Columbia University
> The recognise campaign and constitutional relationships between Indigenous Peoples and the state

1–2 pm
CLOSING PLENARY (LUNCH)
Venue: Auditorium, Australian Centre on China in the World

Recognition redux
Discussants: Mark Dreyfus QC MP
Frank Brennan, Australian Catholic University
> Indigenous recognition
Megan Davis, University of New South Wales
> Legislative deliberation on constitutional design

This conference is generously funded in part by an Australian Research Council Discovery Project, ‘The Law of Deliberative Democracy: Theory and Reform’ (DP130100706) with CIs Graeme Orr and Ron Levy.