DIRECTOR’S NOTE

Dear CIPL friends

I am delighted to report on the activities of the Centre for International and Public Law for 2016. In January, I commenced as Centre Director, taking over from Prof Kim Rubenstein who had been at the CIPL helm for a decade. Prof Rubenstein’s period as Director saw the Centre focus on the connections between international law and public law, with the publication of the acclaimed six-volume series by Cambridge University Press. Prof Rubenstein has not been lost to the ANU, remaining at the university as a professor of law and public policy fellow.

Since its establishment in 1990, CIPL has been advancing the understanding of international and public law. The Centre’s members are leading experts in their fields of international and public law, and their research has had considerable impact on public policy at the local, national and international levels. The Centre has built strong connections with government, and runs its Monthly Seminar series in collaboration with the Commonwealth Attorney-General’s Department and the Department of Foreign Affairs and Trade.

The 2016 academic program capitalised on these connections and research strengths. In addition to its Monthly Seminar series, the Centre hosted three major conferences; two annual public lectures; and a diverse range of lectures, seminars and workshops. The details of all events are set out in this newsletter. I mention in this note a few of the Centre’s major events.

> From 30 June to 2 July, the Centre hosted the 24th ANZSIL Conference on the topic of ‘International Law of the Everyday: Fieldwork, Friction and Fairness’. The conference was an enormous success with a record number of registrations. I would like to acknowledge the hard work of Professors Fleur Johns and Tim Stephens and the conference organising committee for putting together an outstanding program.

> On 30 June, Mr Justin Gleeson SC, the former Commonwealth Solicitor-General, delivered the Annual Kirby Lecture in International Law. Mr Gleeson provided an insightful contribution to the engaging topic of ‘Australia’s Increasing Enmeshment in International Law Dispute Resolution’. The lecture was also attended by the Hon Michael Kirby AC CMG who provided comments at the end of the lecture.

> The Centre hosted the Public Law Weekend on 28 October. The conference this year focused on core administrative law territory, with Federal Court Justice and proud graduate of the ANU, the Hon Justice John Griffiths, delivering the keynote address considering recent trends and developments in administrative law. Other speakers included Professor Cheryl Saunders, Dr Kristen Rundle, Dr Kristina Stern and the Hon Justice Chris Maxwell AC. The conference program concluded with a panel discussion on the legal implications of big data by Dr James Popple, Daniel Stewart, Associate Professor Lyria Bennett Moses and Peter Leonard. The dinner speaker was Acting NSW Ombudsman and former CIPL member, Professor John McMillan AO.

> On the evening before the Public Law Weekend, the Hon Dr Annabelle Bennett AO SC delivered the 19th Annual Geoffrey Sawyer Lecture on the provocative and stimulating topic of ‘Appellate decision making: based on evidence, judicial notice, or …?’; offering a wonderful addition to this lecture series.

The Centre’s members are leading experts in their fields of international and public law, and their research has had considerable impact on public policy at the local, national and international levels.
Finally, to close out the major events for 2016, on 2 December the Centre hosted a Conference in Honour of Professor Michael Coper: ‘New Ways Forward: Reform and Renewal in Constitutional Interpretation and Legal Education’. The conference brought together a stunning line-up of speakers to celebrate Professor Coper’s career as a scholar, teacher, law Dean and practitioner. Over 20 eminent speakers covered new and different ways of thinking about and doing law and legal education.

The lifeblood of the Centre is its members and visitors. Centre members continue to engage in a broad and diverse range of research activities. Continuing the long tradition of ANU legal scholars of the past, their research impacts in important ways on law reform, government, the profession and industry. The details of the research and engagement of CIPL members is set out in detail later in this newsletter.

Our CIPL community is enriched by our government visitor and visiting judges programs. In November, the Centre was very pleased to host his Honour Judge Matthew Myers, who delivered a lecture on ‘An Alternative to the Removal of Aboriginal Children into Care: The Work of the Federal Circuit Court’. The 2016 government visitor was Ms Robyn Frost from the Attorney-General’s Department. Robyn’s research topic was ‘Natural prolongation and its role in continental shelf delimitation’. We look forward to welcoming future visitors to the Centre. I am also delighted to welcome Prof Henry Burmester AO QC as a member of the Centre. After a long and distinguished career as a senior government counsel, Henry has been appointed an Honorary Professor at the ANU College of Law. Prof Akira Kurata also joins the Centre for 12 months as a Visiting Fellow. Akira is from Ritsumeikan University in Japan and will be looking at Australia’s compulsory voting system.
I would also like to recognise the achievements of current and former ANU students in areas of international and public law. We commenced the year with the great success of the ANU team in the Philip C Jessup International Law Moot Court Competition. The ANU team of James Barrett, Matilda Gillis, Tara Peramatukorn, Dan Trevanion and William Randles, was national champion and went on to compete in the international rounds in Washington DC. The team was coached by CIPL members, Ms Kate Ogg and Dr Imogen Saunders. In September, the ANU team of James Barrett, Prashant Kelshiker and Will Randles was crowned national champion in the prestigious Sir Harry Gibbs Constitutional Law Moot. Former ANU student, Selena Bateman, was awarded the Saunders Prize for Excellence in Scholarship in Constitutional Law for her article in the Public Law Review, ‘Constitutional Dimensions of State Executive Power’. (The prize was awarded jointly with an article by Dr Brendan Lim). Finally, Justine Poon, a CIPL PhD student, won the ANU College of Law Rounds for the Three Minute Thesis competition and represented the College at the ANU final. The CIPL community recognises these exceptional achievements and extends its warmest congratulations.

Finally, I would like to thank the CIPL events team for their very hard work in delivering the program throughout the year: Claire Atteia, Nicole Harman, Lisa O’Farrell and Alice Richardson.

As you will see from this newsletter, 2016 has been a busy and exciting year for the Centre and its members. We have started work on our 2017 program and look forward to connecting with you throughout the year.

Professor James Stellios
Director
CIPL Staff

CENTRE STAFF 2016
- Professor James Stellios, CIPL Director
- Alice Richardson, CIPL Administrator
- Lisa O’Farrell, CIPL Administrator

Advisory Board

Many thanks to the members of the CIPL Advisory Board for their contribution and guidance over the last twelve months. The direction and support of the Advisory Board has been invaluable in expanding our research engagement and in enhancing CIPL’s activities.

ADVISORY BOARD MEMBERS 2016
- Professor Stephen Bottomley, Chair
- Professor James Stellios, CIPL Director
- Ms Katrina Cooper, Senior Legal Adviser, DFAT
- Professor William Maley, ANU
- Mr Chris Moraitis, Secretary, Attorney General's Department
- Ms Vicky Parker, ACT Justice and Community Safety
- Justice Melissa Perry, Federal Court of Australia
- Justice Richard Refshauge, ACT Supreme Court
- Mr Richard Rowe, Honorary Professor, ANU College of Law

30 June – 2 July 2016

The 24th Annual Conference of the Australian and New Zealand Society of International Law was hosted by CIPL at the ANU. Conference sponsors included the Attorney-General’s Department, DFAT, New Zealand Foreign Affairs and Trade, ANU, Springer, Edward Elgar and Hart Publishing. The 19 person conference organising committee comprised international law experts from multiple universities and government agencies.

The Conference theme of ‘International Law of the Everyday: Fieldwork, Friction, and Fairness’ was chosen to explore international law’s rich and variegated present, and invited participants to reflect on what comprises the everyday of international law and how international law shapes the everyday. Key speakers and topics included:

> Sundhya Pahuja (University of Melbourne) – Letters from Bandung: Encounters with Another Inter-National Law

> Anthea Roberts (Australian National University) – Is International Law International?

> Marco Sassoli (University of Geneva) – International Law between Theory and Practice at its Vanishing Point: The Case of the Laws of War

> Richard A. Wilson (University of Connecticut) – Prosecuting International Speech Crimes

The conference also featured a postgraduate workshop. Congratulations to the conference organising committee, particularly Professors Fleur Johns and Tim Stephens, for putting together an outstanding conference program.
Public Law Weekend

28 October 2016

The Public Law Weekend is CIPL’s flagship public law event. In 2016, the conference program returned to core public law territory, primarily focusing on current issues in administrative law. The keynote address, considering recent developments in administrative law, was delivered by the Hon Justice John Griffiths, Federal Court of Australia and proud graduate of the ANU Law School. Other topics explored included: executive power in the 21st century (Professor Cheryl Saunders AO and Dr Kristen Rundle from the Melbourne Law School); current issues in judicial review (Dr Kristina Stern, NSW Bar and the Hon Justice Chris Maxwell AC, President of the Victorian Court of Appeal); and legal implications of big data (Peter Leonard (Gilbert & Tobin), Associate Professor Lyria Bennett Moses (UNSW Law), Dr James Popple (AAT), Daniel Stewart (ANU). Professor John McMillan AO, the Acting New South Wales Ombudsman and former CIPL member, delivered the conference dinner speech.

During the conference, the inaugural Saunders prize for excellence in constitutional law scholarship was awarded to former ANU student, Ms Selena Bateman, for research completed during her honours program at the ANU College of Law (the prize was awarded jointly with an article by Dr Brendan Lim). The conference also hosted the launch, by journalist and editor Jack Waterford, of Party Rules? Dilemmas of Party Regulation in Australia, published by ANU Press and edited by Associate Professor Anika Gauja and ANU’s Professor Marian Sawer.
Launch of Party Rules? Dilemmas of Party Regulation in Australia, published by ANU Press and edited by A/Prof Anika Gauja and Prof Marian Sawer
New Ways Forward – A conference in Honour of Professor Michael Coper

Friday 2 December 2016

Prof Michael Coper has had a distinguished career as a constitutional lawyer and educationalist, from influencing a dramatic change in the law on section 92 of the Constitution, to conceiving the pioneering *Oxford Companion to the High Court of Australia*, to urging law schools, nationally and internationally, to embrace a pervasive ethos of law reform, social justice and public service.

In the year of his 70th birthday, CIPL celebrated Michael's career by holding a conference with the general theme of reform and renewal in constitutional interpretation and legal education, using as a launch pad select aspects of Michael's contributions in these areas.

Over 20 eminent speakers ranged over new and different ways of thinking about and doing law and legal education: from the vagaries of legal doctrine, to the realities of the judicial process, to the insights we can draw from biography and imagery, to the purposes and values that underpin the role of law schools.

The conference included a glittering array of legal luminaries: Dr Andrew Bell SC, Prof Duncan Bentley, Prof Tony Blackshield, Prof Stephen Bottomley, Prof Hilary Charlesworth, Prof Richard Chisholm, Prof Rosalind Dixon, Prof Kim Economides, Prof Bill Ford, Justice Stephen Gageler, Justice Michelle Gordon, Dr Ryan Goss, Prof Helen Irving, Hon Michael Kirby, Prof Desmond Manderson, Sir Anthony Mason, Hon Keith Mason, Mr Russell Miller, Prof Brian Opeskin, Dr Heather Roberts, Prof Kim Rubenstein, A/Prof Amelia Simpson, Prof James Stellios, Prof Adrienne Stone, Mr Garry Sturgess, Prof John Williams, Prof George Williams and Dr Asmi Wood.
The Hon Justice Stephen Gageler, Hon Michael Kirby and Sir Anthony Mason

Prof Michael Dodson and Robyn Gibson

Dr Dominique Dalla-Pozza

The Hon Keith Mason and Prof Henry Burmester
2016 EVENTS

Lectures series

THE ANNUAL KIRBY LECTURE ON INTERNATIONAL LAW

30 June 2016

Australia’s increasing enmeshment in international law dispute resolution

Justin Gleeson SC, Solicitor-General of the Commonwealth of Australia

Justin Gleeson SC explored some of the ways in which Australia is increasingly being drawn into the public international law space via domestic and international dispute resolution, as well as the domestic consequences of such involvement.

Justin Gleeson SC was the Solicitor-General of the Commonwealth of Australia. He is a barrister practising at the NSW Bar and founding head of Banco Chambers in Sydney. He is an Australian member of the Permanent Court of Arbitration (PCA) in The Hague.

> The Speech transcript can be found here.

NINETEENTH GEOFFREY SAWER LECTURE 2016

27 October 2016

Appellate decision making: based on evidence, judicial notice, or . . . ?

The Hon Dr Annabelle Bennett, AO SC

Dr Bennett considered how appellate courts, particularly the High Court, deal with issues not raised by the parities and facts not found or agreed.

The Honourable Dr Annabelle Bennett AO SC is a retired Judge of the Federal Court of Australia, having previously practised as Senior Counsel specialising in intellectual property.
Monthly Seminars

The Centre for International and Public Law – in partnership with the Department of Foreign Affairs and Trade and the Attorney-General’s Department – held a very successful series of Monthly Seminars. Covering a range of contemporary and topical public and international law issues, the 2016 seminars featured speakers from the public sector and academia.

FEBRUARY (DFAT)

Corporations, Diplomats and Wikileaks

Professor Robert McCorquodale, Director of the British Institute of International and Comparative Law, London

The scope of international law has expanded to include non-State actors and aspects of State practice previously immune. This seminar looked at two of these areas: the development of business responsibility for human rights abuses; and the reduction in diplomatic immunity. Both of these developments have implications for both the practice and understanding of international law.

MARCH (AGs)

Redrawing the map of the Pacific

Robyn Frost, Attorney-General’s Department

At a time when the sustainability of their fisheries and marine biodiversity is under pressure, their maritime entitlements may be at risk due to sea-level rise, and exploitation of seabed mineral deposits is becoming a reality, the Pacific Island States are seeking to more effectively manage their ocean resources. Establishing their maritime jurisdiction consistently with the UN Convention on the Law of the Sea provides the foundation for this.

APRIL (ANU)

BREXIT: implications for the UK, the EU and Australia

James Cameron, ANU College of Arts and Social Sciences
Dr Annmarie Elijah, ANU Centre for European Studies
Dr Ryan Goss, ANU College of Law
Anne McNaughton, ANU College of Law and ANU Centre for European Studies

In association with the Australian Association of Constitutional Law, this panel considered the impending referendum on the United Kingdom’s European Union membership. The panel members considered the implications for the United Kingdom, the European Union and Australia.
MAY (DFAT)
The ways of war: New technologies and killer robots

Michael Bliss, DFAT
Anne Giles, DFAT
Associate Professor Rob McLaughlin, ANU College of Law

In the May Monthly Seminar, the panellists considered international developments for lethal autonomous weapons systems and the relationship with use of force and international humanitarian law.

JUNE (AG’s)
International law in Australian domestic law and vice-versa

Henry Burmester AO QC, Australian Government Solicitor
Associate Professor Anthea Roberts, Centre for International Governance and Justice, ANU
Stephanie Ierino, Attorney-General’s Department

The June Monthly Seminar involved a panel discussion on the consideration of international law in Australian domestic courts, and the incorporation of decisions of international courts and tribunals into domestic law and vice-versa. The panellists shared their expertise on recent cases and issues, and gave insights on the future direction of this relationship.

AUGUST (ANU)
The South China Sea maritime dispute: The ruling of the Annex VII tribunal and its implications

Bill Campbell QC, Attorney-General’s Department
Katrina Cooper, DFAT
Associate Professor David Letts, ANU College of Law
Professor Donald Rothwell, ANU College of Law

This panel considered the implications of the ruling of the Annex VII tribunal in the South China Sea maritime dispute.

SEPTEMBER (DFAT)
Consular law and diplomacy in the modern age

Jon Philp, DFAT
Dr Suzanne Akila, DFAT
Santiago Ballina García, Embassy of Mexico in Australia
Michael Bliss, DFAT

September’s Monthly Seminar focused on the intersection of consular diplomacy and the law from a State perspective, including the challenges of providing assistance to citizens abroad, coupled with the increased legalisation and politicisation of consular issues.
OCTOBER (AGs)

Manual on International law applicable to military uses of outer space (MILAMOS) project

Professor Steven Freeland, Western Sydney University
WCDR Duncan Blake, Royal Australian Air Force
Michael Johnson, Attorney-General’s Department

The October Monthly Seminar considered the Manual on International Law Applicable to Military Uses of Outer Space (MILAMOS) Project. Launched in May 2016, the Project aims to develop a widely-accepted manual clarifying the international law rules applicable to the military use of outer space.

NOVEMBER (DFAT)

Cyber and space: Can the law keep up with the technology?

Professor Steven Freeland, Western Sydney University
Dr William Boothby, RAF Legal (retired)
Mr Henry Fox, Director, DFAT

This panel considered the legal implications of cyber and space. Technological developments in the cyber and space arenas are progressing at a rapid rate. While there is broad agreement that international law applies to State conduct in cyberspace, there is not yet consensus on how it applies.
Other Lectures, Seminars and Workshops held throughout the Year

23 March 2016

Plaintiff M68/2015 v Minister for Immigration and Border Protection

Dilan Thampapillai, ANU College of Law
Professor Fiona Wheeler, ANU College of Law
Associate Professor Matthew Zagor, ANU College of Law

In association with the ANU Centre for Commercial Law and the Australian Association of Constitutional Law, CIPL held a seminar to consider the High Court’s decision in Plaintiff M68/2015 v Minister for Immigration and Border Protection [2016] HCA 1. The decision raises a number of important issues, including the scope of Commonwealth executive and judicial power, the agency aspects of Commonwealth contracting and the implications for Australia’s obligations under the Refugee Convention.

5 April 2016

American influences on the drafting of the Australian Constitution

Professor William G Buss, OK Patton Professor Emeritus, University of Iowa,

In April, a workshop was held to discuss Prof Buss’ book project on the American influences on the drafting of the Australian Constitution.

4 May 2016

Supervising social change: Managerial justice in comparative perspective

Professor Manuel José Cepeda Espinosa, President of the International Association of Constitutional Law

This lecture focused on the decisions of Colombia’s Constitutional Court which adopt structural remedies and judicial monitoring of their implementation. The lecture analysed the role of the Constitutional Court in enforcing fundamental rights and promoting social change as well as how the Court has addressed issues pertaining to the democratic legitimacy, judicial competence, and economic impact of its decisions.

13 May 2016

Inaugural Joint Australian National University and Korean Association of the Law of the Sea Workshop

Maritime Delimitation, Islands, Security and Dispute Settlement: Korean and Australian Perspectives on Contemporary Issues in the East China Sea and the South China Sea

This workshop, bringing together Australian and Korean experts on the Law of the Sea, was held in association with the Australian Centre for Military and Security Law.
17 May 2016

Public lecture
Joe Cannatac, UN Privacy Rapporteur

The human right to privacy raises global policy, legal and political challenges in the information age. Issues such as data retention, data breaches and the interaction between public security versus private autonomy, are all creating a diversity of public debates in Australia and around the world.

19 May 2016

Proportionality analysis as a constitutional criterion in political communication cases and its consequences
Sir Anthony Mason AC KBE GBM

In this lecture, Sir Anthony Mason considered the new formulation of the proportionality test developed over a series of High Court cases on the implied freedom of political communication. The development of this new formulation culminated in its adoption by a majority of the High Court in McCloy v New South Wales (2015) 325 ALR 15; [2015] HCA 34. Sir Anthony’s lecture considered the consequences and implications of the case.

20 June 2016

The Problems for International Criminal Law enforcement
The Hon Kevin Parker AC, former Vice-President and Trial Chamber President of the International Criminal Tribunal for the former Yugoslavia (ICTY)

In his presentation, the Hon Kevin Parker provided an insider’s view of International Criminal Courts and their problems from an Australian perspective. He discussed the problem of National Sovereignty and its influence on the selection of Judges. He also discussed the evidence and procedures used, and its consequences for the International Criminal Court and the enforcement of International Criminal Law.

Wednesday 27 July 2016

Iran’s nuclear program and international law
Professor Dan Joyner, Alabama Law School

The lecture provided background on the key legal questions that have been disputed among Iran, the West, and the International Atomic Energy Agency, concerning Iran’s nuclear program. Presented by CIPL and the Centre for Military & Security Law, Prof Joyner’s seminar provided an independent legal analysis of these questions and explained the historic diplomatic accord which was reached between the parties to this dispute in July 2015, leading to the agreement of the Joint Comprehensive Plan of Action (JCPOA).
4 August 2016

Hidden power: The strategic logic of organised crime

Dr James Cockayne, United Nations University

Dr Cockayne introduced his new book *Hidden Power: The Strategic Logic of Organised Crime* (Hurst/OUP, 2016), then Professor Rod Broadhurst of the College of Arts and Social Sciences and Professor Ramesh Thakur of the Crawford School of Public Policy played the role of discussants, sharing their views on the book.

24 August 2016

The Parliamentary control of public expenditure:
What’s wrong with *Williams v The Commonwealth*

Will Bateman, Cambridge

This presentation analysed the principle of parliamentary control. By situating the *Williams* cases within a stream of authority concerning the constitutional allocation of financial power, Will Bateman offered an explanation for the High Court’s decision.

11 October 2016

Gender equality among barristers before the High Court

Professor George Williams AO, UNSW Law

Professor Williams’ presentation examined the issue of gender equality among barristers before the High Court. High Court judges and other members of the profession have long raised questions about why so few women appear before the High Court of Australia, and why even fewer have speaking roles.

27 October 2016

Prosecuting conflict-related sexual violence: Reflections from the ICTY

Michelle Jarvis, Principal Legal Counsel and Deputy Prosecutor at the International Criminal Tribunal for the Former Yugoslavia (ICTY)

In a round table discussion hosted by DFAT, Michelle Jarvis discussed the prosecution of conflict-related sexual violence at the ICTY.

22 November 2016

Global protection challenges and the New York declaration

Volker Türk, Assistant High Commissioner (Protection), UNHCR

Volker Türk’s presentation was on the topic *Global protection challenges and the New York declaration*. This year, the UN General Assembly adopted the New York Declaration – the first of its kind in 65 years – which affirms the core principles of refugee protection and sets the stage for sharing responsibilities for protection more equitably and widely from the outset of refugee situations.
29 November 2016

An alternative to the removal of Aboriginal children into care: 
The work of the Federal Circuit Court

His Honour Judge Matthew Myers AM

In this seminar, his Honour Judge Myers considered the work of the Federal Circuit Court of Australia as an alternative to the removal of Aboriginal children into care. His Honour was appointed to the Federal Circuit Court in 2011 and is Australia's first and only Indigenous Commonwealth judicial officer.

6 December 2016

David and Goliath battle in the Timor Sea

Janelle Saffin

In this seminar, hosted in association with the International Law Association, Janelle Saffin considered various aspects of the dispute between Australia and Timor-Leste in the Timor Sea.

21 December 2016

Extremist violence risk assessment: Current developments – future challenges

John Flockton, Corrective Services NSW

In this final seminar for 2016, John Flockton considered the current developments and future challenges in relation to extremist violence risk assessment.
BOOK LAUNCHES

Friday, 28 October 2016

Party Rules? Dilemmas of Party Regulation in Australia
Edited by Anika Gauja and Marian Sawer

Launched by Mr Jack Waterford during the Public Law Weekend

Trust in political parties has never been lower, but we have more and more of them, to the point where voters need magnifying sheets to read ballot papers. *Party Rules? Dilemmas of Party Regulation in Australia*, edited by Anika Gauja and Marian Sawer is the first book on party regulation in Australia. It covers a wide range of issues, from party donations to candidate selection, from expectations of parties in a representative democracy to the reluctance to regulate and the role of the courts where legislators fear to tread.

Examining the regulation of political parties, this book enhances our understanding of the relationship between party regulation and the nature of our democracy. A key question of the book is: How is it that parties have been able to gather so many public resources yet with so little scrutiny of their affairs?

‘The regulation of political parties is one of the most important, but unexplored areas of Australian electoral policy. This important book fills that gap in providing a stimulating and insightful analysis of the pitfalls and potential solutions in this area.’
— Professor George Williams AO

30 June 2016

The Routledge Handbook of the Law of Armed Conflict
Edited by Rain Liivoja and Tim McCormack, University of Melbourne

Launched by Marco Sassòli, Professor of International Law and Director of the Department of International Law and International Organization, University of Geneva, Switzerland

‘The volume provides a real sense of the application of established principle to emerging issues and of the sharp clash between humanity and military necessity in the application and development of that law.’

—Sir Kenneth Keith, Former Judge of the International Court of Justice

The law of armed conflict is a key element of the global legal order yet it finds itself in a state of flux created by the changing nature of warfare and the influences of other branches of international law. The *Routledge Handbook of the Law of Armed Conflict* provides a fresh take on the contemporary laws of war. It provides a unique perspective on the field covering all the key aspects of the law as well as identifying developing and often contentious areas of interest.

The handbook features original pieces by international experts in the field, including academics, staff of relevant NGOs and (former) members of the armed forces. Throughout the book, attention is paid to non-international conflicts as well as international conflicts with acknowledgement of the differences. The contributors also consider the relationship between the law of armed conflict and human rights law, looking at how the various rules and principles of human rights law interact with specific rules and principles of international humanitarian law in particular circumstances.
CIPL VISITOR PROGRAMS

Judge-In-Residence program
The Judge-in-Residence Program provides an opportunity for judges to enjoy a research intensive period at the College. Judges-in-Residence have the opportunity to be part of the research community, benefitting from, and contributing to, the vibrancy of the College’s research culture.

On 29–30 November, CIPL hosted his Honour Judge Matthew Myers AM, Federal Circuit Court of Australia. His Honour was appointed to the Federal Circuit Court of Australia in 2011 and is Australia’s first and only Indigenous Commonwealth judicial officer. During his visit, his Honour met with a number of staff and presented a seminar on the work of the Federal Circuit Court as an alternative to the removal of Aboriginal children into care.

Government Visitor program – Robin Frost
The Centre offers the opportunity for a government officer to enjoy a research intensive period at the College. Government Visitors pursue a research project whilst at the College and draw from, and add to, the intellectual life of the College.

During August-September, the Centre was delighted to host Ms Robyn Frost from the Office of International Law in the Attorney-General’s Department as a CIPL government visitor. During her time at the Centre, Robyn researched the topic of the ‘Natural Prolongation and its Role in Continental Shelf Delimitation’.

Visiting Fellows
In April, Professor William G Buss from the University of Iowa returned to the ANU to meet with colleagues and discuss his latest book project on the American influences on the drafting of the Australian Constitution.

Professor Akira Kurata from Ritsumeikan University in Japan also joins the Centre for 12 months to look at Australia’s compulsory voting system.
PUBLICATIONS

Books

THE LAW OF DELIBERATIVE DEMOCRACY

by Ron Levy and Graeme Orr

Ron Levy and Graeme Orr’s insightful book on law and politics, *The Law of Deliberative Democracy* was published by Routledge in 2016. It presents a challenging critique of laws governing electoral politics in the English-speaking world. The book contends that the conflict between law and public deliberation is not inevitable: it results from judicial and legislative choices. Levy and Orr’s extended, original analysis demonstrates how lawyers and deliberativists can engage with each other to bridge their two solitudes, and considers prospects for reform.

Laws have colonised most of the corners of political practice, and now substantially determine the process and even the product of democracy. Yet analysis of these laws of politics has been hobbled by a limited set of theories about politics. Largely absent is the perspective of deliberative democracy – a rising theme in political studies that seeks a more rational, cooperative, informed, and truly democratic politics. Legal and political scholarship often view each other in reductive terms. This book breaks through such caricatures to provide the first full-length examination of whether and how the law of politics can match deliberative democratic ideals.

THE PUBLIC LAW OF GENDER: FROM THE LOCAL TO THE GLOBAL

by Kim Rubenstein and Katherine G. Young

With the worldwide sweep of gender-neutral, gender-equal or gender-sensitive public laws in international treaties, national constitutions and statutes, it is timely to document the raft of legal reform and to critically analyse its effectiveness. In demarcating the academic study of the public law of gender, this book brings together leading lawyers, political scientists, historians and philosophers to examine law’s structuring of politics, governing and gender in a new global frame. Of interest to constitutional and statutory designers, advocates, adjudicators and scholars, the contributions explore how concepts such as equality, accountability, representation, participation and rights, depend on, challenge or enlist gendered roles and/or categories. These enquiries suggest that the new public law of gender must confront the lapses in enforcement, sincerity and coverage that are common in both national and international law and governance, and critically and pluralistically recast the public/private distinction in family, community, religion, customary and market domains.

Published in mid 2016, *The Public Law of Gender: From the Local to the Global* is the Sixth Volume in the series *Connecting International Law with Public Law*, and is a key output from CIPL. The series flows from CIPL workshops bringing public and international lawyers and public and international policy makers together for interdisciplinary discussion on selected topics and themes.
The series broadens both public and international laws’ understanding of how these two areas intersect. Until recently, international and public law have mainly overlapped in discussions on how international law is implemented domestically. This series is unique in consciously bringing together public and international lawyers to consider and engage in each other’s scholarship.

AUSTRALIAN YEARBOOK OF INTERNATIONAL LAW

CIPL publishes the Australian Year Book of International Law which includes articles on a range of international law topics, discusses Australian practice in international law, includes a summary and analysis of Australian cases in which international law was an issue each year, and features a section of book reviews. The current editors are Professor Donald R Rothwell and Associate Professor Matthew Zagor.

Orders are being taken for Volume 34 which is now in production and due to be published in early-mid 2017.

Volume 33 is now available and can be ordered online: aybil.law.anu.edu.au. For back issues, bulk orders and general enquiries, please email aybil@anu.edu.au.

ANZSIL

During 2016, CIPL served as the Secretariat for the Australian and New Zealand Society of International Law. CIPL members are active supporters of ANZSIL’s activities including ANZSIL’s annual conference, the work of its three interest groups, and its publications, including Perspective, a series of short commentaries on international law matters of relevance to ANZSIL members. CIPL Director James Stellios serves on ANZSIL’s governing body, the ANZSIL Council. 2017 will mark ANZSIL’s 25th annual conference.
ANU College of Law graduate Selena Bateman (BA ‘14, LLB (Hons) ‘14) has been awarded the Australian Association for Constitutional Law (AACL) award (the Saunders Prize) jointly with Brendan Lim for her article in the *Public Law Review*, ‘Constitutional Dimensions of State Executive Power’. The prize was presented at the Public Law Weekend.

Selena began her studies at ANU in 2009, after taking a gap year. Selena’s prize-winning *Public Law Review* article was an earlier form of her undergraduate honours thesis. Selena praised her thesis supervisor, Professor James Stellios for his guidance and expert teaching. ‘His courses, and his exemplary teaching methodology, which made students think critically and engage with the course materials, were fundamental in inspiring my interest in public law,’ she said.

Working as a student editor on the *Federal Law Review* for the last half of her degree as well as on various research projects expanded her academic interests and enabled her to work with some keen thinkers.

‘Law is one mechanism through which you can achieve positive social change,’ said Selena. She continues to be particularly interested in public law, ‘as it fundamentally shapes the structures of our public institutions and the state’s interaction with its citizens. My hope is that I can be part of creating positive changes to them.’

Currently working as an Associate for the Hon. Justice Alan Robertson (BA (Hons) ’73, LLB (Hons) ’81) at the Federal Court of Australia in Sydney, 2017 will see Selena returning to Canberra as a lawyer at the Office of General Counsel within the Australian Government Solicitor, specialising in constitutional law.

The Saunders Prize is named in honour of Laureate Professor Cheryl Saunders AO, in recognition of her eminence in constitutional law and her leadership in the creation of the AACL.
Three Minute Thesis (3MT) Competition

Justine Poon, CIPL PhD student, won the ANU College of Law Rounds for the Three Minute Thesis Competition with an engaging presentation on refugee law. Justine went on to represent the College at the ANU-wide 3MT final, held on 14 September 2016. Her speech ‘How a Body Becomes a Boat’ examined how metaphors work in law to construct the legal subject of the asylum seeker.

Justine brought unique insight into the world of the refugee from the personal experiences of her family. ‘My grandparents were refugees in a very different context to the conflicts that are displacing people today,’ Justine said. ‘They went a relatively short distance from China to Hong Kong and lived in a shantytown for a couple of decades before comprehensive public housing was built. The stories my grandmother told me about the political and military turmoil of the time through the lens of family history and mixed in with folktales had a big impact on the way that I became interested in life’s complexity and its ability to un-home you.’ Justine explained ‘This was not in the forefront of my mind when deciding on my PhD topic but on reflection, these histories formed the ground for my ideas.’

I became interested in refugee law as a teenager watching the Australian political discourse darken and divide, and then as a law student studying the international and domestic law that applied. It seemed natural to want to engage with an area that was legally complicated and morally urgent.’

‘My undergraduate degrees in filmmaking and law also led me to interdisciplinary approaches to law that bring in fascinating ideas from the humanities. The reason I chose to study at ANU is because my supervisor is one of the best law and humanities scholars.’

I decided to do the Three Minute Thesis (3MT) because this is a good moment to be furthering the conversation about refugee policy and my research offers a different analysis on how law works in this area.’

The Three Minute Thesis is an international competition for higher degree research students to showcase their research. Students have to talk about what their research is and why it is important in plain language for three minutes, with only a single PowerPoint slide. 3MT provides the opportunity for candidates to develop presentation skills that are crucial for a successful career post PhD, inside and outside of academia.
The ANU College of Law Team won the Australian round of the prestigious Philip C. Jessup International Law Moot Court Competition, and went on to compete in the international rounds of the Jessup Moot in April 2016.

The ANU team – comprising students James Barrett, Dan Trevanion, Matilda Gillis, Tara Peramatukorn, and William Randles, and coached by Ms Kate Ogg and Dr Imogen Saunders – is the first from ANU to win the Australian round of the Jessup Moot in 35 years.

Dean of the ANU College of Law, Professor Stephen Bottomley, said the team’s success reflected an extraordinary level of preparation and commitment. ‘The Jessup Moot is the world’s largest and oldest moot competition dedicated to international law, and attracts the best and brightest law students from across Australia and around the world.’

‘For students and institutions alike, the Jessup Moot is long recognised as an opportunity to demonstrate skills and knowledge on an international level. The success of ANU reflects the knowledge and focus of our students’ said Professor Bottomley.
Sir Harry Gibbs Constitutional Law Moot

The Australian National University won the 2016 Sir Harry Gibbs International Law Moot. The high calibre competition brought together Australia’s best constitutional law mooters to compete in Melbourne.

The moot was organised by the Melbourne University Law Students’ Society (MULSS), in collaboration with the Australian Association of Constitutional Law (AAACL) and the Australian Government Solicitor (AGS). The competition was structured as a four moot round-robin, followed by three knockout finals rounds.

The Grand Final was held at the High Court in Melbourne, and presided over by the Hon William Gummow, the Hon Ian Callinan and the Hon Susan Crennan, all former justices of the High Court.

This year’s problem was written by the Hon Stephen Gageler, High Court Justice. The problem involved the validity of two hypothetical Commonwealth laws, both of which provided for the offshore detention of specific individuals. The judges highlighted the difficulty of the problem and praised the arguments on both sides.
The 2016 ACT Schools Constitutional Convention was co-hosted by the National Archives of Australia, The Museum of Australian Democracy and the Legislative Assembly for the Australian Capital Territory. Every year, CIPL’s constitutional law academics attend the Convention to lend their expertise and co-ordinate key sessions.

The Convention provided an opportunity for students in Year 11 to explore contemporary constitutional issues, become better informed about the Australian system of government, the Constitution and the traditions, processes and practices of government. Throughout the two day program, students discussed and debated a range of contemporary Australian political issues, listened to presentations, viewed historical documents, participated in role plays and discussion groups and participated in a referendum on constitutional change.

A key aspect of the Convention was to debate a hypothetical constitutional change at the ACT Legislative Assembly: the question of whether the Commonwealth Parliament should have broad powers to legislate for the environment? ANU law students attended the convention to assist and guide the Year 11 students in their consideration of this question.
RESEARCH BY CENTRE MEMBERS

The following is not a comprehensive list, but represents a significant range of contributions made by CIPL members in 2016.

Kevin Boreham

OPINION PIECES AND MEDIA
‘Australia’s war crimes amendments demand careful scrutiny’, The Conversation 1 October 2016

PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES
‘Gay Lesbian and Transgender Issues’, University of the Third Age, 29 June 2016

Lauren Butterly

PUBLICATIONS


PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES
L. Butterly, ‘At the intersection of rights and regulation: Indigenous governance of coastal marine areas in Australia’ (Paper presented at the Sixth Biennial Conference, ECPR Standing Group on Regulatory Governance, 7 July 2016, Tilburg University, The Netherlands)


L. Butterly, ‘Aboriginal heritage laws in the (wild) west: Legislative reform in an interconnected space’ (Paper presented at the National Environmental Law Association Colloquium, 3 February 2016, UNSW, Sydney)

OTHER
Co-organiser of the joint ANU/UTas multidisciplinary conference on Indigenous Marine and Water Governance with Professor Benjamin Richardson (UTas) (February 2016) and editor of an upcoming special edition of the Indigenous Law Bulletin emanating from this workshop

Moeen Cheema

PUBLICATIONS


CONFERENCES/WORKSHOPS
ASLI Workshop on “Transplantation of Foreign Public Law in Asia”, Faculty of Law, Thammasat University, 3-4 November 2016


Dominique Dalla Pozza

PUBLICATIONS
‘Refining the Australian Counter-Terrorism Legislative Framework: How Deliberative has Parliament Been?’ (2016) 27 Public Law Review 271

PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES
‘The Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015 (Cth)’, ANULSS Law and Technology Panel, ANU College of Law, Canberra, 20 September 2016

‘[How] Does the Australian Parliament contribute to the making of ‘well-balanced’ National Security Legislation? An Examination of the Enactment of the Australian Citizenship Amendment (Allegiance to Australia) Act

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Thomas Faunce

**PUBLICATIONS**

Faunce T, McKenna M, Rayner J, Hawes J, ‘Regulation of Medical Professionals and National Security: Lessons From Three Case Studies’ (2016) 23 (3) JLM 544-556

Caitlin Yazidjoglou and Thomas Faunce, ‘Corporatisation of Community Pharmacy and the Constitutional Prohibition of Civil Conscription for Medical Service Providers’ (2016) 24 JLM 41

TA Faunce and S. Parikh, ‘NuCoal Resources Ltd v New South Wales: The mining industry and potential health impacts of investor-state dispute settlement in Australia’ (2016) 23 JLM 801


**OPINION PIECES AND MEDIA**

TA Faunce interviewed Canberra Times Feb 2016

**PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES**


TA Faunce, Coordinated ‘Towards Global ARTificial Photosynthesis’ Workshop (ANU) and Satellite Symposium (Lord Howe Island) Sept 2016

TA Faunce, Progress to a Global Artificial Photosynthesis Project 2nd International Symposium on Renewable Energy Technologies UTS 1 Dec 2016

Anthony Hopkins

**PUBLICATIONS**


**OPINION PIECES AND MEDIA**

Radio 2XX: 17 October 2016, ‘Compassionate Justice’

**PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES**


Akira Kurata

**PUBLICATIONS**


OPINION PIECES AND MEDIA

Radio appearance, FM 79.7MHz NPO Kyoto Community Broadcasting 8 August 2016, 8:00pm (talking about the first national election after voting age was lowered to eighteen).

Interviewed by Naonori Nakamura, Asahi Shinbun 10 June 2016 evening edition (talking about Ritsumeikan President Emeritus Hiroshi Suekawa and academic freedom in his age).

David Letts

PUBLICATIONS


‘Call-Out Powers for the Australian Defence Force in an Age of Terrorism: Some Legal Implications’ (2016) 85 AIAL Forum 63

OPINION PIECES AND MEDIA

9 Jan 16: Australian Financial Review – quoted extensively in article published by Lisa Murray ‘An old idea helps Beijing assert a new territorial claim in the South China Sea’

26 Feb 16: The Drum (ABC News) ‘We must prepare for a new type of security threat’ Opinion Piece (with Rob McLaughlin and Hitoshi Nasu) which raises the need for careful consideration of the legality of the development/deployment by the ADF of any innovative capabilities that emerge from the Defence White Paper

29 Mar 16: The Australian ‘Path need to be cleared so Defence Force can respond to terror attacks’ Op-Ed (with Rob McLaughlin) which looks at adequacy of legal arrangements for the use of the ADF in response to terror attacks in Australia

29 Aug 16: ABC Radio The World Today – interviewed by Lexi Metherell regarding the planned review of Defence Act Part IIIAAA ‘Call-Out’ powers for using the ADF in response to terror threats

PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES

‘The RAN and the Law’, Centre for Military and Security Law & UNE School of Law, Law, War and Memory – Centenary of ANZAC Legal History Symposium, UNE Armidale, 10-11 November 2015

Co-convenor, session chair and provided closing remarks for Inaugural joint ANU (CMSL/CIPL)/Korean Association of the Law of the Sea workshop Maritime delimitation, islands, security and dispute settlement: Korean and Australian perspectives on contemporary issues in the East China Sea and the South China Sea, ANU College of Law, Canberra, 13 May 16

‘Call-out Powers for the ADF in an Age of Terrorism: Administrative Law and Other Legal Implications’ (with Rob McLaughlin), presented at the Australian Institute of Administrative Law lunch seminar on 17 May 2016


Panelist during a Staff Seminar at the University of Cape Town (with Rob McLaughlin and Hitoshi Nasu) on the Implications of the Philippines v China Arbitral Award, Cape Town, South Africa, 5 Aug 16

‘South China Sea Disputes: Maritime Security Issues’, paper delivered as a panelist at CMSL-CIPL seminar, Canberra, 17 August 2016

OTHER

27 Jul 16: ‘Iran’s nuclear program and international law’ CMSL-CIPL Public Seminar, ANU College of Law, Canberra


27 Oct 16: ‘Prosecuting conflict-related sexual violence: Reflections from the ICTY’, CMSL-CIPL/DFAT Public Seminar, DFAT offices, Canberra
Ron Levy

**PUBLICATIONS**

The Law of Deliberative Democracy (Routledge, 2016) (with Graeme Orr)


‘Deliberation at the Founding: Deliberative Democracy as an Original Constitutional Value’, (forthcoming) 28(1) Public Law Review (with Neoam Silva and Benjamin Saunders)


**FORTHCOMING**

Ron Levy, Jeff King, Hoi Kong and Graeme Orr (eds), Cambridge Handbook of Deliberative Constitutionalism (Cambridge University Press, forthcoming)

Mark Bruerton, Tracey Arklay, Robyn Hollander and Ron Levy (eds), A People’s Federation (Federation Press, forthcoming)


**OPINION PIECES AND MEDIA**

Advisor for Fairfax documentary 23 June 2016 on constitutional rules in case of a hung parliament

Ron Levy is the expert at the centre of the article ‘Liberals employ ‘mild’ light rail push polling ahead of federal election: expert, 29 June 2016 Christopher Knaus Canberra Times

Live in-studio interview on Sky News (‘PM Agenda’) re: constitutional background to hung parliaments, 4 July 2016

Advised Channel 10 ‘The Project’ on constitutional and statutory background to same-sex marriage plebiscite

**PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES**


‘Shotgun Referendums’, featured speaker, Melbourne Law School, Legal Theory Workshop, 16 Sept 2016

Seminar: advice to ARC project applicants, speaker, 20 July, 2016


‘The Right to Vote’, guest lecture, Human Rights Law, ANU College of Law, 1 May, 2016

‘Deliberative Constitutionalism’, co-organiser and opening conference presenter, McGill University Faculty of Law, 9-10 April 2016

**OTHER**

Concluded one of two recent ARC Discovery Grants: ‘Confronting the Devolution Paradox’ (DP140102682, 2014-2016, with AJ Brown, Robyn Hollander, Paul Klidea, Rodney Smith, Richard Cole and John Kincaid) on federalism and political culture.

Leighton McDonald

**CONFERENCE PAPER**


Anne McNaughton

**PUBLICATIONS**


Anne McNaughton and Jacqueline Lo, ‘Mutual Evaluation: a new policy tool for dealing with ‘behind the
borders’ barriers’ in D. Kenyon, K. Hussey and P. van der Eng (eds) Australia, the European Union and the New Trade Agenda (ANU Press, forthcoming)

Anne McNaughton, Annmarie Elijah and James Cameron, ‘Key legal implications of UK withdrawal from the EU’ (2016) 25 Law Society of NSW Journal 70

Nicholas Simoes da Silva, Anne McNaughton, Annmarie Elijah, James Cameron, ‘Understanding Brexit: Charting the Challenges’ (2016) 1 Centre for European Studies Policy Notes

Andrew Charles Willcocks and Anne McNaughton, ‘Preparatory Approaches to Overcoming Regulatory NTBs in an EU–Australia FTA’ (2016) 7(4) Centre for European Studies Briefing Paper Series

OPINION PIECES AND MEDIA

19 June 2016, Anne McNaughton joined Jonathon Green to discuss the consequences of Brexit on Radio National’s Sunday Extra

24 June 2016, Anne McNaughton interviewed on ABC24 about the outcome of the UK ‘Brexit’ Referendum

25 June 2016, Anne McNaughton, ‘What happens next for UK-EU relations?’ ABC Radio Overnights (after 2 hours 4 mins)

12 July 2016, Anne McNaughton speaking about Brexit and Theresa May

PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES

‘What will the Future EU27 do? Insights from the Bratislava ‘Summit’?’ presented at the EU Centre at RMIT, Melbourne, 19 October, 2016


‘Services Integration in the EU: mutual recognition, mutual evaluation and the Professional Qualifications Directive’ presented at the European Union Studies Association Asia Pacific Conference, Hong Kong, 29 June, 2016

Cameron Moore

PUBLICATIONS

Natural Resources Law (a compilation of readings) (Thomson Reuters, 2015)

‘Waterworld: Climate Change, Statehood and the Right to Self Determination’ in Climate Change and Human Rights: An International and Comparative Law Perspective (Routledge, 2015) edited by Ottavio Quirico and Mouloud Bhoumgar, 104


OPINION PIECES AND MEDIA

‘The War Powers Debate: The Governor-General as Commander in Chief’ The Strategist Australian Strategic Policy Institute, 29 August 2016

PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES

‘The Continuing Relevance of the Doctrine of Combat Immunity’ with Associate Professor Rob McLaughlin, ANU Centre for Military and Security Law Public Seminar

‘The Use of Force and Freedom of Navigation’ Roundtable: Can We Move Beyond Disputes in the South China Sea, University of New England

‘The Maritime Powers Act’ to the Victorian and Tasmanian Australian Defence Force Reserve Legal Panel

Designed and delivered, together with Dr Ingrid Elliott MBE, 4 day course on maritime crime to Indian Ocean Region judges and prosecutors for the UN Office of Drugs and Crime, Colombo, Sri Lanka

Organiser – ANZAC Legal History Conference, University of New England together with ANU Centre for Military and Security Law (November, 2015)


OTHER


Contributing author - Australia Defence Force Rules of Engagement Manual rewrite

Participant in maritime security talks in Bangkok between the Royal Thai Navy and the Australian National Centre for Ocean Resources and Security, University of Wollongong.
Mark Nolan

PUBLICATIONS


PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES

M Nolan and Charisse Smith, ‘Assessing Risk of Terrorist Recidivism and Evaluating Prison-Based Disengagement and/or Deradicalisation Treatment Programs: Are We Even Close to Being Ready For Continuing Detention Order Regimes For Terror Convicts?’ (Paper presented at the 36th ANZAPPL Annual Congress, The Perils of Belief: Contending With the Consequences of Cults, Conspiracy and Contagion, Auckland, New Zealand, 24 November 2016)

M Nolan, ‘To Prosecute or Not to Prosecute: Legal and Psychological Issues Relating to the Prosecution of Thai Women as Survivor/Perpetrators in Australia.’ (Paper presented at the ANU Thai Researchers Seminar Series, Hedley Bull Centre, 15 November 2016)


OTHER

Submission to the Parliamentary Joint Committee on Intelligence and Security Inquiry on the Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016 (Cth) (October 2016).

Citation of work and submission six times in oral hearings 14 October 2016 by submission writers from UWA Law (Dr Tulich and Dr Ananian-Welsh), by committee member Dr Mike Kelly, and committee member Mr Edgerton. Cited 17 times in the Advisory Report on the Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016

Molly Townes O’Brien

PUBLICATIONS


PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES

Chair, Criminal Law and Evidence Section, National Law Reform Conference, ANU College of Law, 14-15/4 2016

‘Getting Through the Crunch Times,’ Teaching and Learning Forum, ANU College of Law, 10/5

Kate Ogg

PUBLICATIONS


PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES


‘Undesirable and Unreturnable Refugees: The Post-Exclusion Dilemma’, International Association for the Study of Forced Migration Conference, Poland, July 2016
Simon Rice OAM

**PUBLICATIONS**

*Australian Clinical Legal Education*, ANU Press, Canberra, with Adrian Evans, Anna Cody, Anna Copeland, Jeff Giddings and Mary Anne Noone, forthcoming 2016


**OPINION PIECES AND MEDIA**

‘Donald Trump’s “new civil rights agenda” talk is just unhelpful noise’, *The Conversation*, September 29, 2016

‘George Brandis was never going to get what he wanted from his “freedoms’ inquiry”’, *The Conversation*, 9 March 2016

Heather Roberts

**PUBLICATIONS**


**PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES**

Heather Roberts (presenting a paper co-authored with Professor Margaret Thornton) ‘Women Judges, Private Lives: (In)visibilities in Fact and Fiction’ at Law and Culture Conference, St Mary’s University, London, 5-6 September 2016

Heather Roberts (with Dr Rachel Cahill O’Callaghan, University of Cardiff) ‘Values and Agreement in the High Court of Australia’ at Society of Legal Scholars, University of Oxford, September 2016

Heather Roberts ‘Law Through the Lens of Biography’ at New Ways Forward: Reform and Renewal in Constitutional Interpretation and Legal Education (Conference in Honour of Professor Michael Coper), The Australian National University, 2 December 2016

Donald Rothwell

**PUBLICATIONS**


‘Conciliation and Article 298 Dispute Resolution Procedures under the Law of the Sea Convention’ in Shicun Wu and Keyuan Zou (eds), *Arbitration Concerning the South China Sea: Philippines verses China* (Ashgate, Farnham (UK): 2016) 55-69


**OPINION PIECES AND MEDIA**

Discussing release of a letter from IWC Scientific Committee members asserting that NEWREP-A is not consistent with international law and IWC processes (21 January 2016):

> ABC Radio 666 ‘News’ – 6.30
> ABC Radio ‘AM’ – 8.20am
> ABC TV News (Canberra) – 7.15pm

Channel 7 News 4 February 2016, 6.30pm discussing diplomatic immunity as it applies to foreign diplomats in Australia

Discussing the situation of Julian Assange as he awaits a determination by the UN Working Group on Arbitrary Detention (4 February 2016):

> ABC Radio 702 Sydney ‘Drive’: 5.15pm
ABC Radio 666 Canberra ‘Drive’: 5.23pm
Discussing the situation of Julian Assange as he awaits a determination by the UN Working Group on Arbitrary Detention (5 February 2016):

ABC Radio Perth ‘Mornings’: 9.25am
National Public Affairs Radio ‘The Wire’ 8 February 2016 discussing the situation of Julian Assange and his response to the determination of the UN Working Group on Arbitrary Detention

ABC Radio Regional Victoria ‘Mornings’ 10 February 2016, 9.18am discussing the legal issues raised by the Julian Assange matter

ABC Radio 666 ‘Drive’ 16 February 2016, 3.45pm discussing Australia’s maritime boundaries with Timor-Leste and potential for dispute resolution

Daniel Flitton ‘Oil, spies and sea cucumbers’ The Sunday Age, 21 February 2016, p. 17 discussing Australia/Timor Leste maritime boundary and implications for Indonesia if adjustments were to be made

Daniel Flitton “Japan slaughters pregnant whales, Australia warns of legal action” The Age March 29, 2016 discussing Australia’s legal and diplomatic options following Japan’s conclusion of NEWREP-A for the 2015/16 season

Discussing the detention of Sally Faulker and a crew from 60 Minutes in Beruit following the abduction of two children from their family (11 April 2016):

ABC 666 Canberra: 7.10am
ABC 774 Melbourne: 8.40am

Discussing the legal issues associated with the detention of Sally Faulker and a crew from 60 Minutes in Beruit following the abduction of two children from their family (13 April 2016):

ABC 666 Canberra: 7.10am
3AW Breakfast: 8.10am
6PR Mornings: 10.10am
Newstalk ZB (New Zealand): 5.10pm
Rohan Smith “60 Minutes crew, Brisbane mother facing kidnapping charges in Lebanon ‘should grovel’ experts say” www.news.com.au

Elise Elliott “Risk Not Worth the Reward” Herald-Sun 14 April 2016, p. 25 discussing the abduction of two children by their Australian mother in Lebanon

Discussing the case of Sally Faulkner and the 60 Minutes Crew who have been detained in Lebanon: 14 April 2016

2CC ‘Breakfast’: 7.06am
Hit105 FM Brisbane: 7.35am
Radio New Zealand: 5.45pm

Discussing the case of Sally Faulkner and the 60 Minutes Crew who have been detained in Lebanon: 15 April 2016

ABC TV News Breakfast: 7.11am
ABC Radio Perth: 9.06am
SBS World News: 6.40pm

Discussing the case of Sally Faulkner and the 60 Minutes Crew who have been detained in Lebanon: 19 April 2016

Triple M Breakfast: 8.10am
Super Radio 2SM: 1.50pm
Channel Ten News: 5.15pm
Emma Reynolds “60 Minutes crew on tenterhooks to see how dad Ali Elamine will wield his power” www.news.com.au

Discussing the case of Sally Faulkner and the 60 Minutes Crew who have been detained in Lebanon: 20 April 2016

92.5 GOLD FM (Gold Coast)

Discussing the case of Sally Faulkner and the 60 Minutes Crew who have been detained in Lebanon: 21 April 2016

ABC Radio Gold Coast: 8.30am

Discussing the case of members of Child Abduction Recovery International (CARI) who remain detained in Lebanon: 22 April 2016

ABC 666 Canberra: 7.17am

John Lyons “Legal, ethical and travel problems still hand over staffers” The Weekend Australian 23 April 2016, p. 6 discussing the potential legal issues facing the 60 Minutes staff arising from ongoing legal proceedings in Lebanon

ABC666 Canberra ‘Drive’ 26 April 2016, 5.37pm discussing the decision of the PNG Supreme Court finding that the detention of persons at the Manus Island facility was unconstitutional

Discussing the decision of the PNG Supreme Court finding that the detention of persons at the Manus Island facility was unconstitutional (27 April 2016):

ABC Radio Gippsland 8.50pm
ABC Radio ‘The World Today’ 12.06pm
ABC TV ‘News 24’ 4.06pm
ABC Radio ‘PM’ 6.15pm
Discussing the decision of the government of Papua New Guinea to close the Manus Island detention facility (27 April 2017):

> ABC TV ‘News 24’ 4.12pm
> SKY News 4.20pm
> Channel Seven
> ABC Statewide South Australia 5.12pm
> Rob Taylor “Australia Ordered to Shut Papua New Guinea Immigration Compound” Wall Street Journal

David Crowe and Rosie Lewis “Turnbull facing his Tampa test” The Australian 28 April 2016, pp. 1-5 discussing the decision of the PNG government to close the offshore refugee processing facility at Manus Island, PNG

ABC NewsRadio 29 April 2016, 7.20am discussing the legal status of the asylum seekers held on Manus Island, PNG following the PNG Supreme Court decision

“Australia, asylum seekers and the PNG Supreme Court decision” The Strategist (2 May 2016) www.aspistrategist.org.au/australia-asylum-seekers-and-the-png-supreme-court-decision discussing the legal and policy issues arising from the PNG Supreme Court decision with respect to the detainees on Manus Island

ABC Radio ‘PM’ 2 May 2016, 6.25pm discussing the legal issues for the Australian government once it enters into caretaker mode and the resolution of matters with PNG regarding the Manus Island detainees

‘Newsday’ BBC World News (Singapore/London) 18 May 2016, 7.07am (Singapore) discussing revelations that Vietnam has been engaging in land reclamation in the South China Sea

ABC Local Radio SA ‘Evenings’ 25 May 2016 9.50pm discussing a decision of a Swedish Court upholding a Swedish Arrest Warrant issued for Julian Assange

ABC Radio 666 ‘Breakfast’ 2 June 2016 7.25am discussing the maritime law applying to the wreck of the Endeavour believed to have been located in Newport harbour, Newport, RI,

ABC Radio 91.7FM Gold Coast ‘Breakfast’ 1 July 2016, 8.35am discussing the kidnapping charges brought against Sally Faulkner in relation to her attempt to retrieve her children from Beirut

Discussing the findings of the Chilcot inquiry in the UK into the decision by the UK to commit military forces to the 2003 Iraq War and its implications for Australia (7 July 2016):

> ABC 666 ‘Breakfast’ 7.10am

> ABC News 24 12.35pm
> 6PR ‘Drive’ 5.07pm

Discussing the findings of the Chilcot inquiry in the UK into the decision by the UK to commit military forces to the 2003 Iraq War and its implications for Australia (8 July 2016):

> ABC Radio Adelaide ‘Mornings’ 9.07am

Brendan Nicholson “Judgment day for South China Sea” The Australian July 12, 2016, p. 4 discussing anticipated issues regarding the South China Sea Arbitration

Discussing the South China Sea Arbitration between Philippines and China (12 July 2016):

> ABC NewsRadio – 8.15am
> SKY News Agenda – 4.15pm
> ABC Radio ‘PM’ – 5.25pm

Discussing the Award of the Tribunal in the South China Sea Arbitration (13 July 2016):

> ABC News Breakfast – 7.10am
> SKY News – 7.33am
> ABC Radio Newcastle ‘Mornings’ – 9.17am
> 3AW ‘Drive’ – 4.10pm
> ABC 702 Sydney ‘Drive’ – 5.10pm
> ABC 720 Perth ‘Drive’ – 4.05pm

“South China Sea verdict explained” ABC Online ‘Analysis & Opinion (13 July 2016)


“South China Sea ruling could have knock-on effects for Pacific” Radio New Zealand International 27 July 2016 discussing the implications of the South China Sea Award

SBS TV World News – 29 July 2016, 6.40 & 10.20pm discussing the decision of the Turnbull government to not nominate Kevin Rudd for the position of UN Secretary-General
“Reassessing the UNCLOS-Defined South China Sea”
China-US Focus (August 11, 2016)

Ten News – 21 August 2016 – discussing the Australian Sara Conner detained in Bali, Indonesia, on murder charges

ABC Radio North Coast (NSW) – 23 August 2016 – 8.40am discussing the case of Australians subject to the Indonesian judicial system including Schapelle Corby, the Bali Nine, and Sara Conner

Daniel Flitton “Australia rejects jurisdiction of East Timor’s bid to broker maritime dispute” Sydney Morning Herald, August 29, 2016 at www.smh.com.au discussing Australia’s position regarding Timor-Leste commencing conciliation proceedings over the Timor Sea

ABC 666 Canberra ‘Breakfast’ 30 August 2016, 7.20am discussing the Australia-Timor Leste Timor Sea Conciliation

ABC Radio National ‘Law Report’ 30 August 2016, 5.33pm discussing the Australia-Timor Leste Timor Sea Conciliation and the maritime boundary arrangements between Australia and Timor-Leste in the Timor Sea

Sagara Kusuma “Experts find new solutions to South China Sea disputes” The Jakarta Post, September 6, 2016 reporting on a proposal made for the establishment of a South China

ABC Radio 666 ‘Breakfast’ 27 September 2016, 7.13am discussing the decision of a Conciliation Commission on competence to with respect to the maritime boundary dispute between Timor-Leste and Australia

Lisa Martin “Pedophile deported despite police inquiry” news.com.au September 30, 2016 discussing the potential for extradition of a suspected pedophile from Ireland to Australia

ABC Radio 666 ‘Breakfast’ 3 October 2016, 7.12am discussing the prospect of a Lockerbie-style prosecution of those responsible for the downing of MH17 as proposed by Foreign Minister Julie Bishop

ABC TV ‘News Breakfast’ 4 October 2016, 6.37am discussing the 25th anniversary of the adoption of the Madrid Protocol to the Antarctic Treaty

ABC TV ‘News Breakfast’ 4 October 2016, 6.39am discussing the arrest of 9 Australian’s in Malaysia following celebrations at the Malaysian Grand Prix where they stripped to Malaysian-flagged swim wear

Matthew Doran “What fate awaits the Aussies arrested for stripping down to their swimmers in Malaysia?” ABC News Online 4 October 2016 discussing the potential legal ramifications for the arrested Australians

SBS TV ‘World News’ 4 October 2016, 6.40pm discussing the arrest of 9 Australian’s in Malaysia following celebrations at the Malaysian Grand Prix where they stripped to Malaysian-flagged swim wear

> Also Ten News

Cindy Wockner “Brief Encounter” Daily Telegraph
8 October 2016, p 72 discussing the relationship between Australia and Malaysia following the release of the 9 Australians detained following the Malaysia Grand Prix

Also

> Geelong Advertiser
> The Gold Coast Bulletin
> The Cairns Post
> The Northern Territory News

ABC News Radio, 13 October 2016, 7.48am discussing war crimes allegations made by an Australian Commando arising from the death of a POW during the conflict in Afghanistan

ABC Radio 666 ‘Breakfast’ 18 October 2016, 7.12am discussing the detention of 3 Australian employees of Crown Resorts and Casino in China in relation to the promotion of gambling

Discussing the proposal of the Turnbull government to impose a lifetime ban on persons whose refugee claim has been processed offshore from entering Australia on a visa (31 October 2016):

> ABC NewsRadio – 8.16am
> ABC TV ‘7.30’ – 7.34pm

Channel Ten ‘The Project’ 16 November 2016, 7.15pm discussing Japan’s conduct of NEWREP-A and its consistency with international law

ABC Radio ‘Gold Coast’ 23 November 2016, 8.35am commenting on the detention in Bali of an 18 year old from Perth on suspicion of being on possession of drugs

Katherine Gillespie “What to do if You’re Busted With Drugs Overseas” VICE (online) (23 November 2016) discussing the approach that should be taken by Australians if detained overseas on changes relating to the possession of drugs
PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES

‘Current Status of Australia on Maritime Delimitation vis-à-vis Neighbouring States’ presented at Maritime Boundaries in the Timor Sea: Perspectives in International Law seminar, Monash University/Swinburne University of Technology, Melbourne, 15 February 2016


Panelist ‘Disputes over the South China Sea’ 24th Annual ANZSIL Conference, Canberra, 1 July 2016

‘Land and Maritime Disputes and UNCLOS’ presented at Public International Law Colloquium on Maritime Disputes Settlement, Hong Kong, 15-16 July 2016


‘South China Sea Award and Baselines’ presented at Baselines under the International Law of the Sea (ILA Committee meeting), International Law Association 77th Biennial International Conference, Johannesburg, South Africa, 8 August 2016

‘The South China Sea Award: Jurisdiction, Legitimacy and the Rule of Law’ presented at South China Sea Dispute, CIPL Seminar, ANU, 17 August 2016


Kim Rubenstein

PUBLICATIONS

Rubenstein, K and Young, K (eds) The Public Law of Gender: From the Local to the Global (Cambridge University Press, 2016)


PUBLIC LECTURES/ORATIONS

11 December 2016, Fanny Reading Human Rights Day Lecture, National Council of Jewish Women, Victoria

Amelia Simpson

PUBLICATIONS


PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES

Conference paper, ‘Parliaments’ at Oxford Handbook of the Australian Constitution Authors’ Conference, Melbourne University, 19 March 2016

Workshop paper, ‘Equality and Discrimination in the Australian Constitution’, Australian Constitutional Values Workshop, UNSW Law School, 10 June 2016

James Stellios

**PUBLICATIONS**


‘Marbury v Madison: Constitutional Limitations and Statutory Discretions’ (2016) 42 Australian Bar Review 324


**PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES**

‘Marbury v Madison and Statutory Discretions’, Professor Jack Richardson Memorial Oration, 8 September 2016.


**APPEARANCES AS JUNIOR COUNSEL**

- **Alqudsi v The Queen** [2016] HCA 24
- **National Road Transport Association Ltd v Road Safety Remuneration Tribunal** [2016] FCAFC 56
- **Australian Capital Territory v Lewis** [2016] ACTCA 34

Daniel Stewart

**PUBLICATIONS**

With Tony Connolly, ‘Public Law in an Age of Statutes’, in Tony Connolly and Daniel Stewart (eds), Public Law in an Age of Statutes: Essays in Honour of Dennis Pearce, Federation Press, 2015

‘Private Standards as Delegated Legislation’ in Tony Connolly and Daniel Stewart (Eds), Public Law in an

**Age of Statutes: Essays in Honour of Dennis Pearce, Federation Press, 2015**

**PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES**


‘Simplifying Openness and Transparency in Government’, ANU School of Law, April 2016.

**OTHER**


Peter Sutherland

**PUBLICATIONS**


**ELECTRONIC LIBRARIES**

Sutherland P 2016, Social Services Library, SoftLaw Community Projects Ltd, Canberra.


Margaret Thornton

**PUBLICATIONS**


**OPINION PIECES AND MEDIA**

Various: 2SER, 3CR, ABC, Radio National, Swedish Radio, Radio Adelaide, Radio NZ, 4ZZZ Brisbane,

**PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES**


‘First Feminist Law Professors’ at Gender and Careers in the Legal Academy, Int’l Working Group for the Comparative Studies of Legal Professions, Schönburg/Oberwesel, Germany, 8-11 May 2016

The Downside of Flexible Work for Women Lawyers in Private Law Firms’, University of Hamburg, Germany, 12 May 2016


‘Academic Careers’, Australasian Law & Society Conference, Griffith University, Queensland


**OTHER**


**Fiona Wheeler**

**PUBLICATIONS**


**PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES**

Speaker, ‘Plaintiff M68/2015 v Minister for Immigration and Border Protection’, seminar presented by Centre for International and Public Law, Centre for Commercial Law, and Australian Association of Constitutional Law, ANU College of Law, Canberra, 23 March 2016


**Ernst Willheim**

**PUBLICATIONS**

that the plaintiff’s claim to a traditional right to access sacred sites to conduct ceremony was not a property right for the purposes of Constitution, s 51(xxxi), an issue not resolved in the High Court’s decision).

OTHER

Submission (by invitation) to the Senate Standing Committee on Foreign Affairs, Defence and Trade to the Committee’s inquiry into the Civil Nuclear Transfers to India Bill 2016 (November 2016) (cited in the Committee’s report)

7 December: oral history interview relating to Ernst’s role on the Bland Committee (Committee on Administrative discretions) in 1973 and the establishment of the Ombudsman’s office (for the official history of the Ombudsman’s office)

9 December: oral history interview with Professors Kim Rubenstein and Ann Genovese in relation to transfer of responsibility for Federal Court administration from the executive to the Federal Court (part of the Court as Archive project)

OPINION PIECES AND MEDIA

Numerous live media interviews for ABC regional radio networks on a range of public law issues including constitutional recognition of indigenous people, legal implications of a treaty with indigenous people, refugee and human rights issues, native title issues, legal issues relating to coal seam gas exploration.

PRESENTATIONS/CONFERENCES/WORKSHOPS/LECTURES

Conference paper ‘Aspects of Citizen Access to Court Archives’ at CiPL’s ‘The Court as Archives Symposium’, 17 February 2016


Presentations to U3A Canberra on the operation of Constitution, s 44, the meaning of direct or indirect pecuniary interests, the validity of the elections of certain senators and the procedures for filling Senate casual vacancies and the consequences if candidates were not qualified and presentation on the role of the Solicitor-General and the reasons a Legal Services Direction relating to the role of the Solicitor-General was probably invalid.

OTHER

Submission (by invitation) to the Senate Standing Committee on Foreign Affairs, Defence and Trade to the Committee’s inquiry into the Civil Nuclear Transfers to India Bill 2016 (November 2016)

Matthew Zagor

PUBLICATIONS


PRESENTATIONS / CONFERENCES

‘Extraterritoriality and Australian Exceptionalism - the High Court’s perplexing approach to international law’ (September 2016), seminar paper on Plaintiff M68/2015 v Minister for Immigration and Border Protection (March 2016)


‘Europe’s Refugee ‘Crisis’ – the future of refugees in Europe: an international legal perspective’ at 2016: The Year Ahead in International Relations, ANU (March 2016)

‘Unpacking the Border Force – Securitizing and Internalising the Australian Border’, ANU, Refugee Action Committee Public Forum
CENTRE MEMBERS AND DOCTORAL STUDENTS

Members

Peter Bailey
Pauline Bomball
Kevin Boreham
Henry Burmester
Lauren Butterly
Peter Cane
Moeen Cheema
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Dominique Dalla Pozza
Lynn DuMoulin
Thomas Faunce
Jolyon Ford
Miriam Gani
Ryan Goss
Dorota Gozdecka
Don Greig
Kath Hall
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Linda Kirk
Wendy Kukulies-Smith
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Imogen Saunders
Amelia Simpson
James Stellios
Daniel Stewart
Peter Sutherland
Margaret Thornton
Fiona Wheeler
Ernst Willheim
Asmi Wood
Matthew Zagor

Doctoral students

Louise Baker
Naomi Carde
Camille Goodman
Szabina Hovarth
Shay Keinan
Carol Lawson
Katherine Lindsay
Justine Poon