Welcome to the 44th edition of the Centre for Comparative Constitutional Studies newsletter, a guide to news and events at the Centre.

For the most up to date news, follow us on twitter or online

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- Scott Stephenson: @s_m_stephenson
- William Partlett: @WPartlett
- Jeremy Gans: @jeremy_gans
- Tom Gerald Daly: @DemocrayTalk
- Erika Arban: @e_arban
- Toerien van Wyk: @toerien

- Our website: law.unimelb.edu.au/centres/cccs
- Laureate Program in Comparative Constitutional Law website: law.unimelb.edu.au/laureate-programs/lpccl
- Centre members also blog at Opinions on High: blogs.unimelb.edu.au/opinionsonhigh/ and the IACL Blog: iacl-aide-blog.org/
- Centre Podcast: constitutional-cafe.org/
In the face of the ongoing challenges posed by the COVID-19 pandemic we are very pleased that CCCS has continued to provide an important sense of fellowship and community for its members and the large cohort of students, scholars, practitioners and others who interact with the Centre. Despite the challenges we all continue to face, intellectual thought, debate and discussion about the public law issues currently facing societies in Australia and abroad remains as vital as ever.

The Centre’s ‘Brown Bag’ seminar series has provided an important hub for our community to meet and interact, and keep the scholarly conversation going. We were delighted that for a period of time during the first semester we were able to meet consistently in person in the Law School, for the first time since the pandemic began in March 2020. And while, as we write, Melbourne is in lockdown, the Brown Bag series continues to march on virtually and to provide a forum for lively scholarly debate. Through the first half of the year, we were delighted to have speakers address a range of interesting topics, from ‘sports rorts’ to police entry to premises to the principle of legality (see the full schedule at p13). We are indebted to Julian Murphy for his work in convening the Brown Bag series for the first semester, and we are pleased that Phoebe Galbally will join Julian as co-convenor for the second semester.

Centre members have continued to make important contributions to, and have significant impact upon, public and law reform processes both domestically and internationally. The Centre’s written submission to the Senate Select Committee on Sports Grants, authored by Professors Cheryl Saunders and Michael Crommelin, was cited multiple times in the Committee’s final report, as was the oral evidence offered by both Professors Saunders and Crommelin. As reported in our previous newsletter, the Centre made written submissions to the Senate Committee on Scrutiny of Delegated Legislation’s inquiry into the exemption of delegated legislation from parliamentary oversight (see here and here). Those submissions proved heavily influential, being cited multiple times in the Committee’s final report, published in March 2021.

Professor Jason Varuhas has significantly contributed to the UK’s Government’s reforms of administrative law. The major report of the Independent Review of Administrative Law cites Professor Varuhas’s submission and scholarship multiple times, including in the Report’s conclusion. His work was cited in the Government’s subsequent consultation paper on judicial review reform, in speeches by the Lord Chancellor, and he was invited to participate in a series of roundtable discussions convened by the UK Ministry of Justice. The reform process culminated in the Judicial Review and Courts Bill 2021, which includes significant reforms to remedies; Professor Varuhas’s response to the Government consultation forms the basis for the statutory factors that are to govern remedial discretion in judicial review.

This year also saw the launch of a new podcast from CCCS academics, Constitutional Cafe, a joint initiative of CCCS and the Laureate Program in Comparative Constitutional Law. The podcast aims to bridge the distance between us and our overseas colleagues during COVID-19, with a series of informal but scholarly conversations about constitutional law. Dr Erika Arban, Associate Professor William Partlett, Dr Dinesha Samararatne, Dr Scott Stephenson and Professor Adrienne Stone have produced five episodes exploring diverse topics including Post-Soviet Eurasian Constitutionalism, Languages and Comparative Constitutional Method and the Global South in Comparative Constitutional Law, with academic guests drawn from all over the world. The first season of five episodes can be accessed at constitutional-cafe.org or through your preferred podcast platform and a second season is currently in preparation.

Centre members have also been involved in organising a number of important events. CCCS, in collaboration with the Centre for Asian Legal Studies at NUS, sponsored the Inaugural IACL Junior Scholars Forum. The Forum was convened by Dr Scott Stephenson and former CCCS/Laureate Program Fellow Dr Jaclyn Neo, who devised an imaginative program combining work-in-progress workshops with addresses from leading scholars, including Judge Raul Cano Pangalangan (International Criminal Court), Professor Kim Lane Scheppelle (Princeton), Professor Cheryl Saunders, and Professor Kevin Tan (NUS), and informal discussions of other topics relating to academic life including book publishing, academic blogging and academic freedom.

Dr Dinesha Samararatne and Dr Tom Daly (Melbourne School of Government), in collaboration with the Edinburgh Centre for Constitutional Law, organised a workshop on Constitutional Endurance: Comparing Uneven Pathways in Asia and Africa, which will give rise to an edited collection to be published by Oxford University Press. Professor Varuhas has been involved as co-convenor in organising the 2022 Public Law Conference, a major international conference to take place at University College Dublin in June 2022, which is a joint project of Melbourne Law School and UCD (see publiclawconference2022.ie).

The Centre hosted its biennial Constitutional Law Conference at the end of July, and we will have coverage of this important event in the CCCS calendar in our December newsletter. The Centre’s next major event will take place on 13 October 2021. CCCS, in collaboration with Melbourne Law School and the Alan Missen Trust, is delighted to host a public discussion on ‘The High Court of Australia and Civil Liberties’, featuring expert analysis of recent important High Court decisions on immigration, law enforcement and Indigenous rights, and reflection on the High Court’s role in protecting basic rights and liberties. The event will be held in person at the Law School (COVID restrictions permitting) and simultaneously live-streamed. We will circulate registration details soon via the CCCS email list.
In ‘people’ news, we are delighted to welcome new JD Associates to the CCCS: Julian Bagnara, Jennifer Ngo, Deyland Kilic-Aidani, Danielle Feng, Chris Navarro, Milan Kantor, Penelope Hollingdale, Tess Varney, Thomas Jilek, Wilson Lee. They join our existing Associates, James Gunn, Andrew Herrmann, Annie Jiang, and Joe Micallef. We are pleased to publish a feature compiled by Thomas Jilek and Chris Navarro who interviewed Professor Stone about her new book on academic freedom in universities, *Open Minds*, co-authored with former Dean of MLS and now Vice-Chancellor of Griffith University, Professor Carolyn Evans (see p8).

Congratulations to Dr Lulu Weis and Dr Paula O’Brien, who have both been promoted to Associate Professor. Well done to Dr Anjalee De Silva on the completion of her doctorate, entitled ‘Addressing the Vilification of Women: A Functional Theory of Harm and Implications for Law’. We welcome Dr Lynsey Blayden to the Centre community. Lynsey joins the Laureate Programme as a Post-Doctoral Fellow, having recently completed her PhD at UNSW. We wish farewell to Dr Dinesha Samararatne, who has been a Post-Doctoral Fellow in the Laureate Program. She has returned to her role as a Senior Lecturer at the University of Colombia. We are pleased that she will remain a Senior Research Associate of the Laureate Program and a member of ConTransNet.

Lastly, we are delighted that Professor Jason Varuhas has been appointed co-Director of the Centre, taking up the position in January 2021, and joining existing co-Director, Professor Adrienne Stone. He will bring his immense expertise across public law, private law, remedies and comparative public law to the role.

With very best wishes to the CCCS community,

Professor Adrienne Stone  Professor Jason Varuhas

A photo of the Brown Bag held on 4 May 2021, which was the first Brown Bag held in person at the Law School since the beginning of the pandemic. The seminar was given by Professor Michael Crommelin, discussing the Final Report of the Senate Select Committee on Sports Grants.
Adrienne Stone, Director

Books


Extracted in Campus Morning Mail

Extracted in Times Higher Education Supplement


Publications


Presentations

Book Panel, Hélène Landemore, Open Democracy, ICON-S Live

Book Panel, Ran Hirschl, City State, Global Public Law Book Series, Gilbert and Tobin Centre of Public Law, Friday 23 April 2021.


Podcast Launch

Constitutional Café: A new podcast on constitutions and constitutional law globally.

Media and Presentations for General Audiences


Interview, Freedom of Speech ABC Radio, Statewide Drive NSW, 8 February 2021.


Appointment

Advisory Board, *Australian Feminist Law Journal*

Jason Varuhas, Director

Articles


Book Chapters


Case notes


Consultation Submissions


Engagements

Participation in four roundtables held by the UK Ministry of Justice on Judicial Review Reform (April & August 2021 via Zoom)

Debate on Judicial Review Reform, Constitutional and Administrative Law Bar Association (ALBA) Summer Conference, with Anthony Speight QC, Professor Alison Young, and Vikram Sachdeva QC, chaired by Lord Dyson (July 2021 via Zoom)


Conference Organisation
Co-Convenor (with Adrienne Stone), CCCS Constitutional Law Conference (July 2021)

Teaching
JD Remedies – Course Convenor and teaching two streams (Semester 1)
MLM Private Law and Government (with Cheryl Saunders) (April 2021)

Cheryl Saunders AO, Foundation Director

Publications


Conferences and Presentations

Cheryl Saunders, ‘Understanding the use of subnational border closures during COVID-19: the case of Australia’, presentation to a webinar organised by the Australian Centre for Federalism and the Centre for International and Public Law, ANU, 23 February 2021.


Cheryl Saunders, Commentator, Conference on Foreign Judges in Domestic Courts, University of Hong Kong Law School, 7 May 2021.


Cheryl Saunders, ‘Constitutional Cultures’ to Drafting Workshops on Democratic Consolidation and Constitutional Endurance, 22 June 2021.


Other
Cheryl Saunders, in discussion with Kenneth Hayne in a video presentation on Statutory Interpretation, Melbourne Law School.

Cheryl Saunders, Interview with EMOL, Chile, about the forthcoming Constitutional Assembly, 5 June 2021.


MLM teaching
Private Law and Government, (with Jason Varuhas), 7-13 April 2021

Constitutions in Global Perspective, (with Adrienne Stone) first semester, 2021
Centre Members

Erika Arban

Book

Review Article
Erika Arban, “City, State: Reflecting on Cities in (Comparative) Constitutional Law” review article of City, State. Constitutionalism and the Megacity by Ran Hirschl, International Journal of Constitutional Law (published online on 29 April 2021)

Book Chapters

Blog Post

Conferences and Workshops

Discussant for the Global Public Law Book Seminar Series 2021 featuring Ran Hirschl’s City, State: Constitutionalism and the Megacity – G+T Centre of Public Law – University of New South Wales – Sydney (Australia), April 2021 (via Zoom)
Metropolitan cities in the Italian Constitution – Massey Cities Summit – Toronto (Canada), April 2021 (via Zoom)
Discussant at the panel Constitutional Landmarks in South America, Asia and the Commonwealth: Perspectives on a Definition – The Global Summit – The International Forum on the Future of Constitutionalism – University of Texas at Austin (USA), January 2021 (via Zoom)

Podcast
‘Languages and Comparative Constitutional Method’ episode of the Constitutional Café podcast of the Centre for Comparative Constitutional Studies, Melbourne Law School, 26 April 2021.

Guest Lecture
University of Milan, Milan (Italy) Guest lecture at the Faculty of Law: “Cities, federalism and constitutional law” seminar for the LEES doctoral course (June 2021)

Lynsey Blayden

Blog Post
‘Seeing the New Administrative Law in a “green light”’, AUSPUBLAW Blog, 16 April 2021

Tom Daly

Debate Article

Book Chapter
Policy Reports


Blog Post


COVID-DEM

Launched in April 2020, COVID-DEM charts the impact of the COVID-19 pandemic on democracy worldwide and provides a platform for sharing and developing knowledge. In June 2021 the Memorandum of Understanding (MoU) with International IDEA was renewed to continue the project until April 2022 and maintain COVID-DEM as a central part of International IDEA’s Global Monitor of COVID-19’s Impact on Democracy and Human Rights.

Workshop Series

Co-organiser, with Dr Dinesha Samararatne (Constitution Transformation Network) and Dr Asanga Welikala (Edinburgh Centre for Constitutional Law) of a six-part drafting workshop series, 15-25 June, for the forthcoming Oxford University Press book, Democratic Consolidation and Constitutional Endurance: Uneven Pathways in Asia and Africa.

Projects


Presentations

Academic events


Policy events


Alison Duxbury

Publications


Presentations

Beth Gaze

**Publications**

The Conversation Can the government get its workplace harassment laws right? Its bill is a missed opportunity (theconversation.com) 30 June 2021

Submission to Equal Rights Trust (UK) project on Protecting Minority Rights: A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation (with Prof Simon Rice, U. Sydney) 16 April 2021

**Presentations**


**Other**

Interview with Virginia Haussegger on the Sexual Harassment Amendment Bill 2021 (Cth) 6 July 2021

Participant in Round table consultation with AHRC on Positive Human Rights Reform 21 May 2021

Interviewed for and quoted in Caroline Kitchener ‘Sexual harassment laws in Australia don’t apply to politicians. Women protested — and won.’ The Lily 20 April 2021 (published by the Washington Post)

Quoted by Ben Westcott, CNN Australia’s Sex Discrimination Act will soon apply to politicians. Why didn’t it before? - CNN 9 April

Jeffrey Goldsworthy

**Publications**


Tarun Khaitan

**Publications**

Political Parties in Constitutional Theory (2020) 73(1) Current Legal Problems 89-125

A Case for Moderated Parliamentarism (2021) 7 Canadian Journal of Comparative and Contemporary Law 81-155

Focus of a forthcoming blog symposium on the IACL-AIDC Blog


**Blog Posts**

Who Should Attend the Democracy Summit (Balkinization, 05 April 2021)

What Moral Standards Should we Apply to Historical Figures? (PrawfsBlawg, 17 June 2020)

William Partlett

**Book Chapter**


**Articles**


**Blog Post**

By jailing Alexei Navalny, the Kremlin may turn him into an even more potent opposition symbol The Conversation (3 February 2021).
Podcast

Post-Soviet Eurasian Constitutionalism (part of the Constitutional Cafe series)

Kristen Rundle

Forthcoming publications

Kristen Rundle, ‘Orphaned responsibility: Contracting out the duties of government’, in Griffith Review 73, Hey, Utopia! (August 2021)


Presentations


Media

‘Hotel Inquiry Final Report has far-reaching implications’, The Age, Opinion, 22 December 2020 (print and online): Sydney Morning Herald (online)

Teaching

JD Administrative Law
Research Support Program (PhD and MPhil)

Recorded interviews (teaching)

‘Exemption of delegated legislation from parliamentary oversight’, interview with Dr Jayani Nadarajalingam (JD Principles of Public Law)

‘Fuller and Administrative Law’, interview with Associate Professor Kirsten Anker, McGill University Faculty of Law.

Dinesha Samararatne

Workshop Convened

Democratic Consolidation and Constitutional Endurance
15-25 June, via Zoom (with Tom Daly, Melbourne School of Government and and Asanga Weikala, Edinburgh Centre for Constitutional Law)

Presentations

‘Guaranteeing Guarantors in Sri Lanka: A Story of Four Amendments’ at the workshop on the Fourth Branch in South Asia, convened by the Niti Foundation of Nepal (8-9 June, virtual)

Speaker at Round Table on Environmental Law and Sustainable Development in South Asia at the conference themed, Crisis, Healing and Re-imagining, Law and Society Association 2021, Annual Meeting (virtual 30 May 2021)

Publications

‘Resilience through Synergy? The Legal Complex in Sri Lanka’s Constitutional Crisis’ accepted for publication by the Asian Journal of Law and Society

Co-authored with William Partlett, ‘Redeeming the National in Constitutional Argument’ accepted for publication by World Comparative Law/ VRU

Other

The Port City Bill: Legislative Carving Out from a Constitutional Democracy? Groundviews 4 April 2021

Episode on Constitutional Café podcast ‘The Global South in Comparative Constitutional Law’ (5 May 21)

With Asanga Weikala, Kalana Senaratne, Kumawavadivel Guruparan and Gehan Gunatilleke, A proposal for a new chapter on fundamental rights and freedoms in the Constitution, Daily FT 3 December 2020
Julian Sempill

Publications


Scott Stephenson

Forthcoming Publications


Podcast

Reinventing Yourself as a Scholar (part of the Constitutional Cafe series)

Lael K. Weis

Publication

Professor Adrienne Stone,

I accept that there are people who have this experience. That is a hard question. I have never myself ever felt your academic freedom was affected?

In your experience as an academic in Australia, have you ever felt your academic freedom was affected?

I think we're in a relatively good position in Australia, and that that usually only occurs at the margins and at the edges. But when it happens, it's really serious and we have to respond. That's one of the reasons why I've spoken out about the case of Peter Ridd, the James Cook University scientist whose employment was terminated for disagreeing, in a disrespectful way, with his scientific colleagues about climate change. My own colleagues have said to me, 'why are you interested in defending Peter Ridd, given that his views are just not tenable scientifically?' And my view is, since I'm not a scientist, I can't really judge if his views are tenable or not tenable (although as a personal matter, I do accept the scientific consensus about climate change). But we oughtn't to be limiting our defence of academic freedom to those views that we find acceptable or think are correct. If Peter Ridd is wrong, science will reveal that — it's not for university disciplinary processes to do it.

The dust jacket to Open Minds reads [r]ecently the alarm has been raised – basic freedoms are under attack in our universities. A generation of 'snowflake' students are shutting out ideas that challenge their views. Ideologically motivated academics are promoting propaganda at the expense of rigorous research and balanced teaching. Universities are caving in and denying platforms to 'problematic' public speakers'. And then asks, 'is this true, or is it panic and exaggeration?' So, we wanted to ask you: is this true, or is it panic and exaggeration?

Yes, I do think that there has been a lot of exaggeration. Of course, there are instances, some of which we detail in the book, where we think there has been insufficient protection for freedom of speech in Australian universities and it which students or others on campus have been excessively censorious or intolerant of opposing views. But the idea that this is a widespread and very significant problem is simply not substantiated. It has been promoted very widely, for example, by the right-wing think tank, the Institute of Public Affairs. But when you have a critical look at the evidence that it puts forward, you find that it's very, very thin. There are a few incidences that are constantly retold, and there's an appendix in Open Minds where we go through those in a lot of detail. Former Chief Justice Robert French, who undertook an independent review into free speech on campus, also found that there were relatively few incidences of this sort of behaviour. Now, that doesn't mean we shouldn't take them seriously when they occur. But we also need to get perspective on the problem.

With that in mind, are we mistakenly importing the United States' ongoing debate on speech in their universities?

You're absolutely right. A lot of what is under discussion in this country turns on an unthinking importation of a debate that is occurring in the United States. And it seems to me that we're losing sight of what's really happening on university campuses in Australia, where I think the greatest threats to free academic inquiry are not coming from a small band of intolerant left-wing students or a postmodern professoriate. In Australia, I think bigger problems come from a range of other influences. One
is the extent to which universities are subject to government regulation and to potential outside influences because of their needs to raise funds, to commercialise research and to attract fee paying students. I think there is also a problem when universities are subject to regulatory standards that are derived from other workplaces. The use of a Code of Conduct that requires ‘respect’ to fire Peter Ridd for criticising colleagues is particularly worrying.

How does Open Minds propose we resolve any conflicts between free speech values and academic freedom values, where they occur?

This is perhaps the most controversial part of the book. Our view is that in the rare instances, when there’s a conflict between free speech values and academic freedom, it is academic freedom that should prevail. We don’t think this happens very much. But we think that universities need to curate speech in ways that ensure that they can maintain the success of the research and teaching activities on campus. So, there may occasionally be speakers who would be acceptable in the public sphere, but who are not acceptable on university campuses.

Consider speakers who hold highly controversial views about some aspect of science who want to come on campus and who are not interested in engage in an academic debate or even a reasoned debate. Sometimes such speakers behave in a way that shows complete disregard for, and even contempt for, the pursuit of knowledge as academics understand.

So, imagine some absolutely extreme antivaxx group wants to speak on the University of Melbourne, and the way in which this group portray their ideas is not to question the science but to argue that science altogether is a conspiracy and to be ignored. Now, how should a university deal with them?

Well, I don’t necessarily think that a university should ban them from campus. But it would be reasonable to put conditions on such a group. For instance, it would be reasonable for a university to permit the use of its facilities by such a group but only if it also provides a platform for a reasoned response. We give some examples in the book of where such strategies have been used very successfully.

The central point is that it is reasonable for a university to take the view that ‘this is a university. You can’t come here and then claim the cover and prestige of the university and then act in a way just completely disregards what universities are about.’ That is the most important message of the book: universities have a special obligation to advance knowledge through teaching and research. Academic freedom is designed to protect that process. Freedom of speech, while important in a university, should also be shaped in a way that protects the core function of universities.
The Government Law program on the Melbourne Law Masters continues to prove incredibly popular. Those courses that have already taken place this year include Private Law and Government (Saunders and Varuhas); Constitutions in Global Perspective (Saunders and Stone); Corruption: A Global Approach (Kuhner); Regulatory Policy and Practice (Parker and Hardy).

The Government Law subjects running in semester 2 are:

- **Hot Topics in Public Law** (Semester 2) (Saunders and Varuhas)
- **Statutes in the 21st Century** (Semester 2) (Gordon and Hayne)
- **Law and Public Administration** (September Intensive) (Saunders and Varuhas)
- **Constitutional Rights and Freedoms** (October Intensive) (Stone and Kenny)
- **Comparative Human Rights Law** (November Intensive) (Butler)
- **Royal Commissions and Public Inquiries** (November Intensive) (Richards and Nichols)

Most of these courses are fully subscribed, but where this is the case we encourage those interested to join the waitlist for the subject as places do often become available closer to the commencement of the course.

We are currently finalising the Government Law Masters programme for 2022, and will include a full list of subjects in the CCCS December 2021 Newsletter. The subject offerings for next year include an exciting mix of established favourites, offered annually or biannually, and new courses. We look forward to announcing the full programme in due course.

Within the Masters programme subjects may be packaged in various ways, depending on interest. Most subjects are taken intensively over a five-day period, though some are offered over the course of a semester. Subjects may be taken singly or towards a Diploma, a Specialist Masters degree, or the LLM.

Anyone potentially interested in the program is welcome and encouraged to discuss subject selection with the Director of Studies, Professor Jason Varuhas.
The Constitution Transformation Network (CTN) brings together researchers and practitioners to explore the phenomenon of constitutional transformation. We have expertise in constitutional law, comparative constitutional law, international law, military and international humanitarian law and regional law. If you would like more information on our work, please check out our CTN website and subscribe to our quarterly newsletter.

Our Publications

CTN has been working with the Papua New Guinea (PNG) National Research Institute (NRI) since 2019 on a project NRI is implementing on “The Bougainville referendum and beyond: issues for transition”. In November 2019, the people of the Autonomous Region of Bougainville in PNG voted to pursue their independence from PNG. NRI commissioned CTN to prepare two studies to help inform the work of leaders in Bougainville and PNG on future governance arrangements for Bougainville. The first study was launched in mid-2019 and titled Greater Autonomy and Independence for Bougainville: Institutional Options and Issues for Transition. The second study was launched in early 2021 and is titled Institution Building in Post-Referendum Bougainville. The Report outlines the new institutions and governance arrangements which might be needed to implement self-determination for Bougainville, whatever form it takes. Institution-building is understood broadly and covers institutions for the internal governance of Bougainville as well as institutions to conduct relations with the rest of the world and PNG.

CTN has also been implementing another project since 2019, funded by the Folke Bernadotte Academy, which has explored whether, and if so how, the implementation of constitutional aspects of peace agreements is significant to sustainable peace and if so, in what ways and to what end. CTN produced a report in 2019 which developed an analytical framework for understanding the connections between Peace Agreements and Constitutions and tested the framework using Bougainville as a case-study. Since the first report was released, Bougainville held a referendum in late 2019, with voters overwhelmingly choosing independence. ConTransNet has now provided an Addendum to the Report on Constitutional Implementation for Sustainable Peace, which updates the case study to take into account events to the end of 2020. The paper revisits the conceptual problem of the relationship between peace agreements and constitutions. The study suggests that one reason for the relative success of constitutional implementation in Bougainville lay in carefully and explicitly managing the links between the Peace Agreement and the Constitutions of both PNG and Bougainville at the points of peace making and constitution making. Others may be able to learn from this experience.

CTN Convenor Dinesha Samararatne has published an article on Groundviews Sri Lanka titled, “The Port City Bill: Legislative Carving Out from a Constitutional Democracy?”. The article examines a new Bill being proposed in Sri Lanka which seeks to carve out the proposed Colombo Port City Economic Commission for differentiated treatment from other such bodies. She argues that the Bill’s approach is inconsistent with the Sri Lankan Constitution.

CTN Convenors Cheryl Saunders and Anna Dziedzic contributed a case study to the “Handbook on the Prevention and Resolution of Self-Determination Conflicts” launched in March 2021. The Handbook was produced by the Liechtenstein Institute on Self-Determination at Princeton University. Within the context of the principles of self-determination, the handbook explores ways that states can work with internal communities to resolve grievances in good faith before they develop into conflict and to resolve conflicts in ways that leads to lasting, sustainable peace. Cheryl and Anna’s chapter identified insights from the case study of the Autonomous Region of Bougainville in PNG.

Our Recent Activities

On 25 February 2021, Anna Dziedzic, one of CTN’s Convenors, was invited to present at the Constitutional and Rule of Law Webinar Series, jointly organised by LawAsia, the South Pacific Lawyers Association, the Commonwealth Lawyers Association and the Law Council of Australia. Anna presented comparative insights on the topic of no confidence votes, with a focus on developments in the Pacific, at the panel on ‘Loss of Majority in Parliament & Forming a New Government: The Guiding Constitutional Principles & Conventions’.

CTN conveners Cheryl, Anna, Tom and Jayani all participated in the ‘Hybridity and Legal Identity’ workshop, which took place online in mid-February 2021. The workshop was generously funded by the University of Melbourne’s Peter McMullin Centre on Statelessness and the Statelessness Hallmark Research Initiative. The project team consist of Cheryl, Jayani, Dr Anne Carter, Dr Zim Nwokora and Associate Professor Patrick Emerton. Professor Kevin Clements and Dr Volker Boege delivered a joint keynote on which Cheryl commented. Speakers included Dr Anna Dziedzic, Dr Sarah Phillips, Dr Alisa Arcioni, Dr Samantha Balaton-Chrimes, Dr Marika Sosnowski and Professor Ihsan Yilmaz.

CTN Convenor Tom Daly presented on court-packing as a case-study for analysing the democratic propriety of reforms at Masaryk University, Prague on 21 April 2021. His presentation was titled ‘What Makes a Reform Democratic? Court-Packing as a Case-Study?’ and was a contribution to a bigger conference on ‘Changing the Architecture of Separation of Powers without an Architect’.

Website: law.unimelb.edu.au/constitutional-transformations
Twitter: @ConTransNet
To join the ConTransNet mailing list
Email: law-CTNetwork@unimelb.edu.au
About the Laureate Program

The Laureate Program in Comparative Constitutional Law focuses on balancing diversity and social cohesion in democratic constitutions, a critical problem that becomes increasingly urgent as nations grapple with the challenges of highly diverse multi-cultural societies. The Laureate Program is funded by the Australian Research Council annually from 2016 – 2023.

Farewell & Welcome

In February, we bid farewell to our dear colleague Dr. Dinesha Samararatne as she departed the Laureate Program to return to her role as Senior Lecturer at the Department of Public & International Law at the Faculty of Law of the University of Colombo in Sri Lanka. Fortunately, Dinesha will remain connected to the Laureate Program as a Senior Research Associate. Dr. Lynsey Blayden joined us in May for a six-month post-doctoral fellowship, from the Gilbert + Tobin Centre of Public Law at the University of New South Wales.

Our Team

The program is led by Professor Adrienne Stone who directs the program. Professor Stone’s work on freedom of speech, judicial reasoning, constitutional institutions, and comparative method provide a framework for the project. Post-doctoral Fellows Dr Erika Arban and Dr Lynsey Blayden, round out the senior research team, and complemented by Associate Professor Stijn Smet, and Dr. Dinesha Samararatne as Senior Research Associates. Dr Arban’s work on federalism has a special focus on issues raised by socio-economic difference and Dr Blayden’s focus is on constitutional and institutional values. This year the team has been assisted by Alex Lee, Selena Bateman, and Joshua Forrest as Research Associates. The Program is managed by Gabrielle Dalsasso.

Our Students

In 2018, two PhD students joined the Laureate Program team. Darshan Datar is working with Professor Adrienne Stone and Associate Professor Farrah Ahmed on a project about judicial understandings of religion, and Toerien van Wyk is working with Professor Adrienne Stone and Professor Cheryl Saunders on a project pertaining to freedom of information.

Events

Due to COVID-19 we have either postponed or moved our planned events from in person meetings to virtual events. Although this change brought a new set of challenges, one of the silver linings was the opportunity to connect with many more friends and colleagues across the globe.

Three virtual reading groups convened in the last six months with selected chapters chosen from the following books. In February, Teresa Bejan’s, ‘Mere Civility: Disagreement and the Limits of Toleration’, in April/May, Nimer Sultany’s “Law and Revolution: Legitimacy and Constitutionalism after the Arab Spring, and in June David E. Pozner’s, The Perilous Public Square: Structural Threats to Free Expression Today.

From 15 – 25 June, a drafting workshop entitled Democratic Consolidation and Constitutional Endurance: Comparing Uneven Pathways in Asia and Africa was co-hosted by the Laureate Program, the Melbourne School of Government, and the Edinburgh Centre for Constitutional Law.

Kathleen Fitzpatrick Visiting Fellows

The Kathleen Fitzpatrick Visiting Fellowships supports female, early career researchers through the Kathleen Fitzpatrick Fellowship Scheme, and is funded by the Australian Research Council annually from 2016 – 2021. Each year, the Fellowship brings outstanding female researchers to join the Laureate Program, for up to two months to progress their research, and make valuable con”nection with other academic scholars. Unfortunately, due to international travel restrictions, we have had to postpone this year’s cohort visit and hope to be able to welcome them into Melbourne sometime later in 2021 or in 2022.

Keep in Touch

Twitter: twitter.com/LPCCL1
Web: laureate-programs/lpccl
Email: Laureate-Constitutions@unimelb.edu.au
2 March 2021
‘Global round-up of developments in constitutional law’
Cheryl Saunders, Kristen Rundle, Dinesha Samararatne (University of Colombo), Will Partlett, Jason Varuhas, Farrah Ahmed and Scott Stephenson

9 March 2021
‘Foreign judges on domestic courts’
Anna Dziedzic (University of Hong Kong)

16 March 2021
‘Advising on foreign and comparative law outside the academy’
Farrah Ahmed and Cheryl Saunders

23 March 2021
‘Hourglass federalism’
Iain Payne (Niti Foundation) and Michael Breen

30 March 2021
‘The principle of legality – Fundamental rights and necessary implication’
Dan Meagher (Deakin Law School)

20 April 2021
‘The UK report of the Independent Review of Administrative Law’
Cheryl Saunders and Jason Varuhas

27 April 2021
‘The South African Constitutional Court’s Decision in King NO v de Jager’
Matthew Harding (with Obligations Group)

4 May 2021
‘The Sports Rorts Parliamentary Inquiry’
Michael Crommelin

18 May 2021
‘Constitutional conforming interpretation in Australia’
Lulu Weis

25 May 2021
‘Constitutional Revolution – book review’
Dinesha Samararatne (University of Colombo) and Erika Arban

1 June 2021 (1pm)
‘Enabling Government: The Creep of Implied Limits on Basic Rights’
Professor Jason Varuhas

1 June 2021 (5pm)
‘Devolution in the United Kingdom’
Aileen McHarg (Durham Law School)

8 June 2021
“Good” Court-Packing? 
Associate Professor Tom Daly (Melbourne School of Government)

15 June 2021
‘Religion and the Indian Constitution’
Professor Jeff Redding
CCCS members are active researchers and teachers across a broad range of public law issues. Many are available to give presentations or to consult on public law projects, particularly contributing a comparative perspective to domestic issues. They are also interested in discussing potential projects with prospective research students.

Co-Directors
Professor Adrienne Stone
Professor Jason Varuhas

Research Centre Members
Laureate Professor Emeritus Cheryl Saunders AO, Foundation Director
Professor Farrah Ahmed
Professor Michael Crommelin AO
Professor Alison Duxbury
Professor Michelle Foster
Professor Jeremy Gans
Professor Beth Gaze
Professor Jeff Goldsworthy
Professor Kirsty Gover
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Associate Professor Tom Daly
Associate Professor Paula O’Brien
Associate Professor William Parlett
Associate Professor Glenn Patmore
Associate Professor Dale Smith
Associate Professor Lael ‘Lulu’ Weis
Dr Julian Sempill
Dr Scott Stephenson

Senior Research Fellows
Dr Dinesha Samararatne (University of Colombo)
Assistant Professor Stijn Smet (University of Hasselt)

Post-doctoral Research Fellows
Dr Erika Arban (Laureate Program in Comparative Constitutional Law)
Dr Lynsey Blayden (Laureate Program in Comparative Constitutitional Law)

PhD Students
Darshan Datar
Phoebe Galbally
Elizabeth Hicks
Julian Murphy
Joshua Smukal
Toerien Van Wyk

JD Research Associates
Julian Bagnara
Danielle Feng
James Gunn
Andrew Herrmann
Penelope Hollingdale
Annie Jiang
Thomas Jilie
Milan Kantor
Deylan Kilic Aidani
Wilson Lee
Joe Micaleff
Chris Navarro
Jennifer Ngo
Tess Varney

Constitution Transformation Network Coordinator
Charmaine Rodrigues

Program Manager (Laureate Program in Comparative Constitutional Law)
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Postal Address
Centre for Comparative Constitutional Studies
Melbourne Law School
The University of Melbourne
VIC 3010 Australia

General Enquiries
Telephone  +613 8344 1011
Facsimile  +613 8344 1013

law.unimelb.edu.au/centres/cccs