

# December 2024 Newsletter #51



THE UNIVERSITY OF  
MELBOURNE

Centre for Comparative  
Constitutional Studies

—  
Melbourne Law School



**Welcome to the 51st 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

CCCS: @cccsmelbourne

Adrienne Stone: @stone\_adrienne

Cheryl Saunders: @cherylsaunders1

Scott Stephenson: @s\_m\_stephenson

William Partlett: @WPartlett

Jeremy Gans: @jeremy\_gans

Tom Gerald Daly: @DemocracyTalk

Erika Arban: @e\_arban

Our website: [law.unimelb.edu.au/centres/cccs](http://law.unimelb.edu.au/centres/cccs)

Centre Podcast: [constitutional-cafe.org/](http://constitutional-cafe.org/)



# Contents

- 4. Director's Report
- 6. Centre Update
- 12. CCCS Special Feature  
Interview with Irene Parra Prieto - Visiting Scholar
- 11. Melbourne Law Masters
- 14. Constitutional Transformation Network
- 16. Research Symposium and Seminars
- 20. CCCS Brown Bag Seminar Series
- 22. Centre People

# Directors' Report



The Centre had a remarkably active and productive second half to the year. Academic freedom was a major theme of activities over this time. At the beginning of Semester 2 in August, we welcomed Professor David Rabban from the University of Texas. He presented his new book entitled *Academic Freedom: From Professional Norm to First Amendment Right* with commentaries from Professor Adrienne Stone and from the Chair of American Studies at the University of Melbourne, Professor Timothy Lynch. The book explores academic freedom and its relation to freedom of speech under the First Amendment developing a robust theory of academic freedom as a distinctive subset of First Amendment law.

While Professor Rabban was in Melbourne, we also held a CCCS Global Seminar that explored questions of '[University Governance, Academic Freedom and Freedom of Speech](#)'. At the seminar, Professor Rabban, Professor Stone, and Associate Professor Partlett discussed questions of university governance and academic freedom. In August, we also welcomed Andrew Young, the former Clerk of the Victorian Legislative Council to present on codes of conduct and the idea of Parliament as a workplace.

In late August, we welcomed the Hon Amul Thapur, a current Judge of the United States Sixth Circuit Court of Appeals. He spoke on a panel with Professor Cheryl Saunders and the Hon. Kenneth Hayne AC KC about the United States Supreme Court's recent decision overturning 'Chevron deference' for administrative agency interpretations of federal statutes (in *Loper Bright Enterprises v Raimondo*). We also hosted the Hon. Duro Sessa, a Judge on the Supreme Court of Croatia and the President of the International Association of Judges who gave a lecture entitled "Judicial Independence: Challenges and Prospects".

Towards the end of the semester, we marked a significant event in the life of CCCS - the tenth anniversary of our lunchtime seminar series. 'The Brown Bag', as it is affectionately known, is the centre

of academic life at CCCS and has provided a lively a forum for forum for discussion of research papers, recent events, cases, and other legal developments as well as a chance to socialise over coffee. We celebrated this milestone with a look to the future, with two of the emerging scholars in our community, Dr Liz Hicks and Dr Anjalee de Silva, presenting on their research agenda.

The year ended with the Melbourne Institute of Comparative Constitutional Law, convened by Centre Co-Director Professor Adrienne Stone. Scholars from around the world gathered for three days of discussions of works in progress, and new research directions. It began with a series of papers on constitutional referendums that will be part of a special issue of the journal *Comparative Constitutional Studies*, edited by Professor Adrienne Stone and Associate Professor Lulu Weis. The Special Issue "After the Referendum" will examine recent failed referendums in Australia, Ireland, Taiwan, Chile all of which have failed and explore the many dimensions of the issues and challenges they reveal.

The second day featured discussion on constitutional and domestic legal orders as part of a research project arising from Cheryl Saunders' Tang Prize. On the final day, participants gathered for an intensive workshop on [Shamshad Parsalay's](#) forthcoming book *Incomplete Constitutions in Deeply Divided Societies*. Finally, on 10 December, we also co-hosted a discussion with the Centre for Public Integrity that involved a moderated discussion between Professor Lisa Hill of the University of Adelaide and Associate Professor Partlett on how Australia can help to preserve its democracy.

The year saw great success among our CCCS research students. We warmly congratulate Dr Toerien Van Wyk and Dr Phoebe Galbally for their PhD graduations. We are also immensely proud of our former PhD student, Dr Julian Murphy, for the award of the [Holt Prize](#) for his PhD thesis *Constitutionally Protective Statutory Interpretation*

(following in the footsteps of CCCS alumnus Dr Dylan Lino who won the prize for his thesis in 2017): In addition, congratulations to CCCS JD Research Associates James Cafferky, Max Douglass, Fiona Xia for reaching the quarter finals of the Sir Harry Gibbs moot and also to Max Douglass awarded “Best Speaker” in the preliminary rounds. It is worth noting that the Sir Harry Gibbs moot, which is now an important fixture on the public law calendar in Australia, has been held at Melbourne Law School for a decade. We congratulate the Melbourne Law Students Association for their organisation over this period, and Centre member Scott Stephenson who, as Secretary/ Treasurer of the Australian Association of Constitutional Law, has overseen the moot and ensured its successful operation. Finally, we are pleased to congratulate Dr Liz Hicks and Dr Jayani Nadarajalingam for their success in achieving a grant from the Manchester – Melbourne – Toronto Grant fund for a project for a project entitled “Ensuring Constitutional Accountability in the UK, Australia and Canada”. We are looking forward to a series of workshops on these themes to be held by each of the participating law schools.

Looking forward to 2025, we are eagerly awaiting the CCCS Constitutional Law Conference which will be held at Melbourne Law School on **Thursday 24th and Friday 25th July 2025**. The conference will commence on Thursday 24th July with the second Michael Crommelin Lecture which, we are pleased to announce, will be delivered by the **Honourable Catherine Holmes AC SC, former Chief Justice of Queensland**. On Friday 25th July, four panels will explore key themes in public law, and address significant developments, including ‘Property, Native Title and the Constitution: ‘Commonwealth v Yunupingu’, ‘Human Rights Acts in Australasia’ and ‘NZYQ and its Sequels: Liberty and the Constitution’. The conference will close with a panel reflecting on Australian constitutionalism 50 years after the crisis of 1975. Confirmed speakers include Professor Elisa Arcioni (U Syd), Dr Ashleigh Barnes (UNSW), Kylie Evans SC (Victorian Bar), Tim Goodwin (Victorian Bar), Associate Professor Ryan Goss (ANU), Graeme Hill SC

(Victorian Bar), Dr Brendan Lim (NSW Bar), Dr Julian Murphy (Victorian Bar), Associate Professor William Partlett (Uni. Melbourne), Associate Professor Scott Stephenson (Uni. Melbourne), Professor Jason Varuhas (Senior Crown Counsel New Zealand, Uni. Melbourne), Associate Professor Lulu Weis (Uni. Melbourne) and Tom Wood (Victorian Bar). We do hope you will join us at Melbourne Law School for this significant conference. Registrations will open in March 2025.

*Professor Adrienne Stone and Associate Professor Will Partlett*



*10th Anniversary of the CCCS Brown Bag Seminar Series*



## Co-Directors

### Adrienne Stone

#### Publications

'[Freedom of Expression and the Constitutional Canon](#)' in S Choudhry, M Hailbronner and M Kumm (eds), *Global Canons in an Age of Uncertainty: Debating Foundational Texts of Constitutional Democracy and Human Rights*, Oxford University Press (2024)

'Academic Freedom in Australia' (with Anjalee Da Silva and Katharine Gelber) in A Scott-Baumann, J Holmwood and H Pandor, H (eds), *How to Develop Free Speech on Campus: Talking to Others*, Edward Elgar (forthcoming 2024)

#### Appointment

Legal Research Foundation Visiting Scholar, Auckland Law School

#### Plenaries and Public Lectures

ICON S – Australian New Zealand Conference, Plenary Panel, 'In Praise of Doctrinal Scholarship', 28 August, Sydney

New Zealand Legal Research Foundation Public Lecture, 'Thinking Constitutionally about the University', 1 October, Auckland

#### Presentations

Scholarly Activism and the Nature of Legal Research, University of Bordeaux, 12 December

Commentary, 'Academic Freedom in a hybrid illiberal regime: Global lessons from Hungary', Sigmund Freud University, Vienna, online, 21 November

'On the Importance of Legal Research', New Zealand Legal Profession address, Auckland 30 September

'Constitutional Theory in a Comparative Context', Auckland Law School Staff Seminar, 30 September

Panellist, Positive Constitutionalism, University of New South Wales, 9 September

Commentator, Principle of Legality, University of Sydney, 16 August

CCCS Book Panel: David M. Rabban, *Academic Freedom: From Professional Norm to First Amendment Right* (2024), 15 August

CCCS Global Seminar Series 'University Governance, Academic Freedom and Freedom of Speech', 12 August, online

ICON – S Annual Conference: The Future of Public Law, Madrid: Panel: Constitutional Theory and Comparison, 8th July also presented at ICON-S Australia New Zealand 30 August

ICON – S Annual Conference: The Future of Public Law, Madrid: Panel: Academic Freedom and Freedom of Speech, Panel, 10th July

Activism and Research: Legal Scholactivism in Debate Wednesday 12 June, ICON- S Benelux Chapter Young Scholars Research Forum, Online

## Media

Interview, ABC NewsRadio Drive, *YBFZ v Minister for Immigration*, 7 November 2024

## William Partlett

### Book

*Why the Russian Constitution Matters: The Constitutional Dark Arts*, Hart Publishing (2024)

### Presentations

Book presentations in Berlin (Zentrum Liberale Moderne), Montreal (University of Montreal Law School), Melbourne (Australian Institute for International Affairs), and Sydney (UNSW Comparative Constitutional Roundtable)

### Media

'[Why Strongman Leaders Look to the Russian Constitution](#),' ABC, Late Night Live (with David Marr)

### Online pieces

'[Donald Trump insists a 'strongman' leader will help America. My new book explains why he's wrong](#),' *The Conversation*, 19 September 2024

'[In failing to probe Robodebt, Australia's anti-corruption body fell at the first hurdle. It now has a second chance](#),' *The Conversation*, 30 October 2024

## Cheryl Saunders AO, Foundation Director

### Appointment

Member, Makaratta Working Group, Law Council of Australia

### Publications

[External Support to Constitution Building Processes](#), A report for the Swedish Expert Group for Aid Studies, (with Andy Carl, Anna Dziedzic and Samantha Smith), 2024

'Towards Deeper Dialogue: Constitutional and International Law' in M Khosla and V Jackson (eds), [Refining Comparative Constitutional Law: Essays for Mark Tushnet](#) Oxford University Press (2024)

### Presentations

Panellist, 'Constitutional Change: Lessons from the Voice', Victorian Society of Labor Lawyers' Conference, 15 June 2024

Chair, 'Values and Judicial Reasoning', plenary session, Victorian Society of Labor Lawyer's Conference, 15 June 2024

Presentation of draft article, 'After the Voice', Melbourne Institute for Comparative Constitutional Law', 27 November 2024

Overview, 'Interface between Domestic Constitutional and External Legal Orders', Melbourne Institute for Comparative Constitutional Law, 28 November 2024

Panellist, Manuscript Workshop, Shamshad Pasarlay, Incomplete Constitutions and Coordination in Deeply Divided Societies, Melbourne Institute for Comparative Constitutional Law, 29 November 2024

Keynote presentation, 'Cresting the (seventh) wave of Constitution making', Asian Constitutional Law Forum, Hong Kong, 9 December 2024

Panellist, Book Panel on Cora Chan, Deference in Human Rights Adjudication, Asian Constitutional Law Forum, Hong Kong, 10 December 2024

### MLM teaching

Executive Power, August 2024 (with Kenneth Hayne)

Constitutional Litigation and Comparative Law, October 2024 (with Chief Justice Debra Mortimer)

## Centre Members

### Farrah Ahmed

#### Articles

'Arbitrary Power: Caricature and Concept' (2024) *Law and Philosophy* (advance access)

#### Book Chapter

'The Sting of Toleration' in T Adams, K Greasley and D Reaume (eds), *The Morality in Law*, Oxford University Press (forthcoming)

### Erika Arban

#### Publication

'Judicial Review and Elections in Australia' in C Fasone, E Mostacci and G Romeo (eds), *Judicial Review and Electoral Law in a Global Perspective*, Hart Publishing (2024) 327 (with Julian Murphy)

## Tomás Daly

### Publications

'Constitutional Repair: A Comparative Theory' has been accepted for publication by the *American Journal of Comparative Law*

'Parties versus Democracy: Addressing Today's Political Party Threats to Democratic Rule' in T Ginsburg, A Huq and T Khaitan (eds), [\*The Entrenchment of Democracy: The Comparative Constitutional Design of Elections, Parties and Voting\*](#), Cambridge University Press (2024)

'Book Review: Constitutional Foundings in South Asia' (2023) 24(2) *Australian Journal of Asian Law* 133-135

### Presentations

'From Constitutional Repair to Institutional Resilience', conference, 'Building Institutional Resilience' conference, Chicago, 26-27 September 2024

Keynote panel speaker, conference, 'A Playbook for Reinstating the Rule of Law', Freiburg, Germany, 20-21 June 2024

'Constitutional Repair: A Comparative Theory', Taipei Comparative Constitutional Law Roundtable 2024, Taiwan, 23-24 May 2024.

## Julian Murphy

### Publications

'Laboratory Federalism and Voluntary Assisted Dying in Australia' (2024) *Public Law Review* (forthcoming, with James Cameron)

'Judicial Review and Elections in Australia' in C Fasone, E Mostacci and G Romeo (eds), *Judicial Review and Electoral Law in a Global Perspective*, Hart Publishing (2024) 327 (with Erika Arban)

## Conference paper

'Tilting the Law in Favour of Indigenous Interests: A Legacy of the "Protective" Colonial Crown', paper at the National Indigenous Legal Conference, 5 December 2024, Melbourne (with Thomas Clelland)

## Kristen Rundle

### Publication

'On Politics, Polemics and Performance: Allan Hutchison's *Hart, Fuller and Everything After: The Politics of Legal Theory*' (Review Essay) (2024) 15(4) *Jurisprudence* 1-10

### Presentations

'On Legal Subjectivity'

- Keynote Address, Australasian Society of Legal Philosophy and Keynote Address Deakin University Centre for Law as Protection, 19 July 2024
- Legal Theory Workshop, Melbourne Law School, 9 August 2024
- Columbia Law & Philosophy Program, Columbia Law School, 20 November 2021

'The Democratisation of the Australian Landscape', Panel Discussion (With Marian Sawer, Graeme Orr, Anika Gauga), 2024 Whitlam Symposium, Whitlam Institute, Old Parliament House, Canberra, 6 August 2024

'Fuller, Nazi Law and Legal Process', Panel discussion (with Noah Rosenblum and Jeremy Waldron), New York University Law School, 15 November 2024

## Teaching (as Hauser Global Visiting Professor, New York University)

The Executive Branch in Theory and Practice

Problems in Jurisprudence

## Scott Stephenson

### Publications

'Unwritten Constitutionalism' in J Neo and Y Roznai (eds), *Edward Elgar Research Handbook on Constitutionalism and Legal Theory* (2025)

'Legal Risk and Referendum Campaigns' in M Davis and G Appleby (eds), *The Failure of the Voice Referendum and the Future of Australian Democracy* (2025)

'Constitutional Shoehorning' (2025) 46(4) *Sydney Law Review*

'[The Constitutional Lessons from Australia's COVID-19 International Border Closure](#)' (2024) 49(3) *Monash University Law Review* (forthcoming)

## Lael K Weis

### Publications

'Greening Democratic Constitutionalism' in T Daly and A Dziedzic (eds), *Research Handbook on Constitutions and Democracies*, Edward Elgar Publishing (in press)

'How does the Australian Constitution value "property"? Reflections on *Commonwealth v Yunupingu*' (commentary) 35(4) *Public Law Review* (in press)

'[Native title, s 51\(xxix\) and conceptual carve-outs: why "inherent defeasibility" is inherently unworkable](#)' on AUSPUBLAW (31 October 2024)

'[Rethinking "On Just Terms": Commonwealth v Yunupingu](#)' (2024) 46(3) *Sydney Law Review* (advance) (with Rosalind Dixon)

'Constitutional Theory in a Comparative Context' in G Jacobsohn and M Schor (eds), *Comparative Constitutional Theory* 2nd ed, Edward Elgar Publishing (in press) (with Adrienne Stone)

'Directive Principles', in S Choudhry, K O'Regan and C Bernal (eds), *Research Handbook on Constitutional Interpretation*, Edward Elgar Publishing (in press)

## Presentations

Comparative Constitutional Law Roundtable, Gilbert + Tobin Centre of Public Law, University of New South Wales – 4 December 2024. 'Does Nature Need Rights?'

CCCS Seminar, Melbourne Law School – 8 October 2024  
'Commonwealth v Yunupingu – Native title, s 51(xxi) and conceptual carve-outs: why 'inherent defeasibility' is inherently unworkable'

Workshop on Non-Anthropocentric Constitutionalism, Centre for Animal Rights Law, Cambridge University, UK – 20 September 2024.  
'Does Nature Need Rights?'

ICON-S AUS-NZ Chapter Conference, University of New South Wales, Sydney – 29 August 2024. 'Constitutional Theory in a Comparative Context' (with Adrienne Stone)

MLS Faculty Research Seminar Series, Melbourne Law School – 19 August 2024. 'Constitutional Theory in a Comparative Context' (with Adrienne Stone)

Gilbert + Tobin Centre of Public Law Seminar, Native Title and the Constitution: Past and Future Prospects, University of New South Wales, Sydney – 14 August 2024. 'Commonwealth v Yunupingu – Native title, s 51(xxi) and conceptual carve-outs: why 'inherent defeasibility' is inherently unworkable.'

Legal Philosophy Workshop, Julius Stone Institute of Jurisprudence, University of Sydney – 2 August 2024. 'Does Nature Need Rights?' (with Robert Mullins)  
Australasian Society of Legal Philosophy Annual Conference, Deakin University, Melbourne – 19 July 2024. 'Does Nature Need Rights?' (with Robert Mullins)

Public Law Conference, University of Ottawa – 4 July 2024. 'Does Nature Need Rights?'



# Melbourne Law Masters 2025

We are delighted to announce the fantastic line-up of courses scheduled for 2025 on the Government Law Programme of the Melbourne Law Masters. The subject offerings include an exciting mix of established favourites and new courses. The courses are taught by leading jurists drawn from the academy, judiciary and legal practice. The Government Law Programme is extremely popular so we advise enrolling as early as possible to avoid disappointment.

Course No.	Subject	Format	Delivery Mode	Start Date
LAWS90013	Constitutional Rights in Australia	Intensive	On Campus	February 2025
LAWS90303	Constitutional Law and Climate Change	Intensive	On Campus	March 2025
LAWS90218	Constitutions in Global Perspective	Intensive	On Campus	April 2025
LAWS90277	Designing Effective Legislation	Intensive	On Campus	May 2025
LAWS70424	Separation of Powers in Australia	Intensive	On Campus	July 2025
LAWS90255	Constitutionalism and the Global South	Intensive	On Campus	August 2025
LAWS90217	Hot Topics in Public Law	Intensive	On Campus	September 2025
LAWS90119	Law and Public Administration	Intensive	On Campus	October 2025
LAWS90322	Australian Constitutional Cultures	Intensive	On Campus	October 2025
LAWS70397	Latin American Constitutionalisms	Intensive	On Campus	November 2025

Anyone potentially interested in the program is welcome and encouraged to discuss subject selection with the Director of Studies, Professor Adrienne Stone: [a.stone@unimelb.edu.au](mailto:a.stone@unimelb.edu.au)

# CCCS

## Special Feature



### Interview with Irene Parra Prieto - Visiting Scholar

*Irene Parra Prieto is an L.L.M. Candidate at Instituto Autonomo de México (ITAM), where she also completed her B.A. with honors. Previously, she worked as an internal legal researcher at Global Freedom of Expression at the University of Columbia. She is currently part of the Communications Team for the International Society of Public Law (ICON-S).*

#### **Could you please tell us about how you became associated with the Centre for Comparative Constitutional Studies?**

My connection with the Centre for Comparative Constitutional Studies began through an invitation from Professor Adrienne Stone following the 2023 Constitutional Roundtable at the University of New South Wales. During the event, I presented my research project on the interplay between national constitutional interpretations of freedom of expression in Latin America and broader regional trends. Professor Stone's insightful feedback and our subsequent discussion led to a deeper engagement and in a testament to her generosity and commitment to supporting emerging scholars, she invited me to visit the Centre.

#### **What were the highlights of your time at the CCCS?**

The most rewarding aspect of my time at the CCCS was the opportunity to engage with its members and immerse myself in its academic activities. Both personally and professionally, I am deeply grateful for the warm welcome I received and was truly impressed by the collegial and constructive environment fostered by the center and its members. Interacting directly with scholars whose work had influenced my thinking long before my visit was both insightful and rewarding.

My discussions with Adrienne Stone were particularly impactful; her thoughtful feedback and guidance refined my project's methodology,

strengthened its theoretical framework, and provided incredibly valuable advice for my professional development. Similarly, I deeply valued the opportunity to exchange ideas with other center members, including Will Partlett, Elizabeth Hicks, and Tomás Daly. Their insights into my work, thoughtful career guidance, and our engaging conversations on topics such as balancing empirical analysis with theoretical rigor, addressing the challenges of identifying patterns across jurisdictions beyond the usual subjects of analysis, conducting research during evolving events that reshape constitutional understandings, and exploring diverse methodological approaches to tackle complex questions were immensely enriching.

Participating in the CCCS Brown Bag seminars and faculty research events was another key highlight, offering the chance to engage with a diverse range of projects and scholars from both the center and beyond. Additionally, joining the center's reading group sparked dynamic and comparative discussions that challenged me to critically examine the relationship between theoretical frameworks and the complexities of applying them to different jurisdictional contexts.

Lastly, I had the opportunity to observe Elizabeth Hicks's seminar on environmental law. This experience was both thought-provoking and highly instructive, offering valuable insights into effective strategies for structuring discussions, fostering critical thinking, and encouraging students to approach issues from multiple perspectives.

#### **How has your experience with the CCCS influenced your work since?**

Overall, my time at the CCCS was truly transformative. It provided me with new insights, strengthened my academic foundations, and will undoubtedly continue to shape and inspire my research and professional development. It introduced me to new literature, perspectives, and collaborative approaches that enhanced my ability to address complex constitutional questions with greater depth and precision.

A tangible outcome of this experience is my collaboration with Tomás Daly on the DEM-DEC project, which focuses on the ongoing democratic backsliding in Mexico. Through Tomás Daly's initiative and kind invitation, along with the collaboration of another colleague, we have developed a tool designed to document the ongoing constitutional challenges in Mexico, aiming to raise international awareness of democratic erosion and support academic efforts to counter these trends.

***What's next on your research agenda?***

My next step is to pursue a PhD in Public Law, focusing on “soft censorship” as a tactic of democratic erosion. My research will explore how ostensibly democratic regimes manipulate regulatory frameworks to subtly undermine freedom of expression while maintaining the appearance of constitutional integrity. I aim to shed light on how these frameworks are weaponized—designed to stifle dissent and silence independent media—and, over time, pave the way for more overt attacks on democratic governance by eroding institutional and societal resistance to authoritarian encroachments. Using Mexico as a primary case study, I will examine how sub-constitutional regulations—such as broadcast allocation and government advertising practices—have contributed to the gradual consolidation of authoritarian power. Through a comparative lens, my work will identify patterns in how these tactics are employed across jurisdictions, contributing to the global discourse on democratic resilience.

***What recent developments or trends inspire you in your work, going into the future?***

Recent events in Mexico, particularly the judicial reforms and constitutional amendments introduced by the current administration, have certainly influenced my research agenda. These changes—including the dismantling of key institutions like the judiciary and independent agencies, the abolition of proportional representation in the legislature, and the militarization of the police—reveal the fragility of institutional checks and balances and the pervasive mechanisms through which democratic governance can be undermined. These developments have heightened my concern about the rapid erosion of

seemingly stable democratic systems.

Against this backdrop, my future research will focus on analyzing the strategies that enable the gradual and inconspicuous weakening of democratic structures, leaving them vulnerable to more direct and aggressive forms of capture.

Additionally, I aim to document ongoing developments in Mexico to better understand the broader implications of these governmental actions, ensuring my work remains relevant and responsive to current and future challenges.

***What piece of advice has stuck with you most throughout your career, and what advice do you give to students and young legal researchers?***

To value the power of community in advancing scholarship. Comparative constitutional law thrives on exchanging ideas among scholars from diverse contexts and backgrounds. No one can be an expert on every jurisdiction or phenomenon, but we can shed light on issues through collaboration and dialogue and develop a more comprehensive understanding.

My advice for students and fellow young researchers is to step out of your comfort zone—both geographically and intellectually. Engage with communities that challenge your assumptions, explore unfamiliar legal systems, and embrace interdisciplinary learning. Remain open to learning from everyone and everything, you never know when an unexpected conversation or idea will transform your perspective or inspire your next breakthrough. Seek collaboration, stay curious, and approach your work with humility and determination.



# Constitutional Transformation Network

The Constitution Transformation Network (CTN) is a network of scholars and practitioners applying comparative constitutional law to the theory and practice of constitutional evolution and change. Based at Melbourne Law School, CTN has a global reach, with a particular focus on Asia and the Pacific.

The Constitution Transformation Network offers:

- Research into the practice and theory of constitutional transformation;
- Advice on constitutional change and design in specific polities, on a public or confidential basis;
- Brokered connections between country experts, comparative scholars and practitioners;
- Workshops and events exploring the practice and theory of constitutional transformation;
- Teaching and capacity-building programs.

The Convenors of CTN are:

Tom Daly, Jayani Nadarajalingam, and Cheryl Saunders

Research Associates are:

Anmol Jain, Faiza Rahman and John Sebastian

Affiliates include:

Anna Dziedzic, Dinesha Samararatne, Will Partlett, Mark Deng, Lulu Weis, Katy LeRoy and Radha Govil.

## Activities

ConTransNet has been engaged in three major projects in the second half of 2024.

### Melbourne Forum on constitution building in Asia and the Pacific

The Eighth Melbourne Forum on constitution building in Asia and the Pacific, was held in Taipei, Taiwan, on 23, 24 May. The Forum is jointly designed and organised by ConTransNet and the International Institute for Democracy and Electoral Assistance (International IDEA), this time in partnership with the National Taiwan University College of Law. The theme of this year's Forum was Climate Change and Constitutions. The Forum brought together scholars and practitioners from 16 jurisdictions across the broad Asia-Pacific region to discuss the many ways in which climate change interacts with constitutions, using the distinctive interactive format pioneered by the Melbourne Forum. The Forum report was finalised in the latter part of 2024 and will be available shortly.

### External assistance to constitution building processes

The project report on [External Support to Constitution Building Processes](#) was launched online on 31 October. The report was commissioned by the Expert Group for Aid Studies, a government committee mandated to independently evaluate and analyse Sweden's international development assistance. CTN convenor Cheryl Saunders was the project leader. Other team members were Anna Dziedzic (now a program officer with International IDEA), Andy Carl, an adviser and researcher on peace building, and Samantha Smith from Verian Global. The aim of the project was to better understand what makes external support to constitution building

processes more or less effective. To that end, the report examines the positive contributions external support can make and the challenges it faces. It identifies four factors that are relevant to the effectiveness of external support, each of which is informed by the analysis of opportunities and challenges: national ownership; added value, quality and influence. The research team is most grateful to all those who assisted with the project as providers or recipients of external support. The final report of the project is available [here](#).

### Launch of Demoptimism Project Focus Areas

On 18 June 2024 the Democratic Decay & Renewal (DEM-DEC) research hub, which Professor Daly has been running since June 2018, was re-launched as Demoptimism (democracy + optimism). It can be accessed at [www.demoptimism.org](http://www.demoptimism.org). Since June 2024 it has launched two of its five focus areas: [Resisting Threats](#); and [Constitutional Repair](#). The remaining focus areas will be launched in 2025: Democratic Decay; Renewing Democracy; and Redesigning Democracy.

## Directions of work in progress

### Ideas

Ideas currently being pursued and explored by ConTransNet and its members include constitutional repair in the wake of decay (Tomás Daly), environmental constitutionalism (Lulu Weis), culture, Constitutions and the concept of the imaginary (Cheryl Saunders) and the interface between national Constitutions and international law (with the Centre for Comparative Constitutional Studies).

### Publications by ConTransNet members reflecting these interests include:

Tom Gerald Daly, 'Constitutional Repair: A Comparative Theory', now accepted for publication by the American Journal of Comparative Law

Tom Gerald Daly, 'Parties versus Democracy: Addressing Today's Political Party Threats to Democratic Rule' in T Ginsburg, A Huq and T Khaitan (eds), [The Entrenchment of Democracy: The Comparative Constitutional Design of Elections, Parties and Voting](#), Cambridge University Press (2024)

Tom Gerald Daly, 'Book Review: Constitutional Foundings in South Asia' (2023) 24(2) Australian Journal of Asian Law 133-135

Cheryl Saunders, 'Towards Deeper Dialogue: Constitutional and International Law' in M Khosla and V Jackson (eds), [Refining Comparative Constitutional Law: Essays for Mark Tushnet](#), Oxford University Press (2024)

### Presentations

Tomás Daly, 'From Constitutional Repair to Institutional Resilience', conference, 'Building Institutional Resilience' conference, Chicago, 26-27 September 2024

Tomás Daly, keynote panel speaker, conference, 'A Playbook for Reinstating the Rule of Law', Freiburg, Germany, 20-21 June 2024

TomásDaly, 'Constitutional Repair: A Comparative Theory', Taipei Comparative Constitutional Law Roundtable 2024, Taiwan, 23-24 May 2024

Cheryl Saunders, Keynote presentation, 'Cresting the (seventh) wave of Constitution making', Asian Constitutional Law Forum, Hong Kong, 9 December 2024



# Research Seminars

## CCCS Global Public Law Seminar Series

12 August 2024

### University Governance, Academic Freedom and Freedom of Speech: Perspectives from Constitutional Law

Universities have recently been at the centre of heated controversy and debate. Academic freedom and freedom of speech are said to be under threat from rising intolerance. At the same time, worries abound about the rise of managerialism and of the commercialisation of research.

These controversies raise fundamental questions about the nature of power within universities and of their place within a democracy. Nonetheless, the insights of constitutional law – a discipline squarely focussed on the nature and distribution of power and on the place of institutions within democracies – have been absent.

In this seminar, panellists brought the insights of constitutional law to bear on these questions. First, the panellists will consider how the university is governed.

Second, the panellists considered universities as an institution of democratic government and the role they play in supporting civil society, holding governments to account and in enabling democratic government.

[Listen to the seminar recording](#)

## Academic Freedom: From Professional Norm to First Amendment Right

15 August 2024

CCCS hosted a panel discussion for Professor David Rabban's new book *Academic Freedom: From Professional Norm to First Amendment Right*, to be published by Harvard University Press in August.

The book explores academic freedom and its relation to freedom of speech as guaranteed by the US Constitution. Professor Rabban examines the extensive case law addressing academic freedom and free speech at American universities, developing a robust theory of academic freedom as a distinctive subset of First Amendment law. **Professor Rabban** was joined in discussion by two University of Melbourne experts: **Professor Timothy Lynch** and **Professor Adrienne Stone**. The panel was chaired by **Associate Professor Lael Weis**.

## Deference and the Administrative State: A Judicial Conversation

22 August 2024

CCCS were excited to host a special event, 'Deference and the Administrative State: A Judicial Conversation'.

In this seminar, the **Hon. Judge Amal Thapar** of the United States Court of Appeals for the 6th Circuit was joined by the **Hon. Kenneth Hayne AC KC**, formerly of the High Court of Australia for a discussion of this theme with a focus on the Chevron doctrine recently overturned by the United States Supreme Court in *Loper Bright Enterprises v Raimondo* (2024).

## The Future of Judicial Independence

*Co-hosted with the Melbourne Centre for Commercial Law*

16 October 2024

The Centre for Comparative Constitutional Studies and the Melbourne Centre for Commercial Law proudly convened a special lecture presented by **Judge Duro Sessa** (President of the International Association of Judges and Justice of Supreme Court of Croatia) and chaired by the **Hon. Tony Pagone AM KC**.

The International Association of Judges ('IAJ') was founded in 1953 and aims to defend the independence of the judiciary, as an essential requirement of the judicial function and guarantee of human rights and freedoms. In this lecture, the current President of the IAJ reflected on the importance of this principle and contemporary challenges.



## Law and Pluralism in Divided Societies: Lessons from Afghanistan and Beyond

*Co-hosted with Asian Law Centre*

19 November 2024

The Asian Law Centre and the Centre for Comparative Constitutional Studies hosted a workshop showcasing work on responses to pluralism in divided societies, with an emphasis on religious difference.

Visitors **Dr Shamshad Pasarlay** (Chicago) and **Assistant Professor Dian Shah** (NUS) joined MLS **Professors Farrah Ahmed** and **Kirsty Gover** to discuss ways to accommodate and facilitate pluralism in societies where multiple legal systems and religious communities co-exist. Particular attention was given to the role of Islamic law and legal traditions, to methods to encourage solidarity between religious communities and just interactions in judicial fora between state and non-state law.

## Melbourne Institute for Comparative Constitutional Law

27-29 November 2024

CCCS hosted a three day workshop. Each day comprised of a different theme. Local and international scholars contributed across in-person, hybrid and online sessions.

**Wednesday 27 November 2024**

**Workshops for Special Issue of Comparative Constitutional Studies: 'After the Referendum'**

Session 1

- The people as a Collective Actor in Referendum
- After the Voice

Session 2

- Amending the Dual Constituent Deficit: Taiwan's Tragic Deliberative Choice in the Constitutional Quest for Sovereignty
- How to lose a referendum in Ireland: The challenges of practical and symbolic constitutional change
- Randomly Selected Constitutional Conventions: A Theoretical Exploration

**Thursday 28 November 2024**

**Workshops for 'The interface between Domestic and International Legal Orders - Tang Prize Project'**

Session 1

- Presentation of Case Studies

Session 2

- Background Paper, Brainstorming and Future plans

**Friday 29 November 2024**

**Book Manuscript Workshop**

This workshop provided critical commentary and feedback on Shamshad Pasarlay's in progress book manuscript: *Incomplete Constitutions in Deeply Divided Societies*

# What Now? Protecting Australia's Democracy in Uncertain Times

*Co-hosted with the Centre for Public Integrity*

**10 December 2024**

CCCS with the Centre for Public Integrity hosted an in conversation seminar.

As the world comes to terms with Trump's victory, can Australia be prevented from joining the global trend toward strongman authoritarianism?

**Jon Faine AM** was in conversation with **Professor Lisa Hill** and **Associate Professor William Partlett** to discover what holds us in good stead and what imperils us.

The recording will be made available in early 2025.

# CCCS

## Brown Bag Seminar Series

*The CCCS Brown Bag Seminar Series is a weekly, in person forum for discussion of recent research and other developments in public law.*

### 17 July 2024

Instrumentalising the University: The Nehruvian Roots of India's Instrumentalist Idea of a University and University Grants Commission

**Siddarth Saxena** (Jindal Global University)

### 23 July 2024

Impressions from the July conference circuit

**Lael Weis, Adrienne Stone and Scott Stephenson**

### 30 July 2024

Are Existing State and Territory Taxes on Aliens Constitutionally Unsafe? (The Emperors' New Taxes on "Others")

**Eu-Jin Teo**

### 6 August 2024

A V Dicey's Patriarchalism

**Ngairé Naffine** (University of Adelaide)

### 8 August 2024

Power Over Parliament: Lessons from Canada Regarding the Justiciability of the Legislative Process

**Gerard Kennedy** (University of Alberta)

### 13 August 2024

History and law

**David Rabban** (University of Texas)

### 20 August 2024

Parliament as a workplace

**Andrew Young** (Deakin University)

### 27 August 2024

CCCS Brown Bag Community Meeting

### 3 September 2024

Procedural Human Rights Obligations: Culture of Justification or Culture of Formalism?

**Jason Varuhas**

### 10 September 2024

The climate change advisory proceedings: updates at half-time and some early reflections for public lawyers

**David Tan** (Deakin University)

### 17 September 2024

Artificial Intelligence and Government Decision Making

**David Tan** (Deakin University)

### 8 October 2024

*Commonwealth of Australia v. Yunupingu*

Co-hosted with the Indigenous Law and Justice Hub

**Tyson Holloway-Clarke and Lael Weis**

### 15 October 2024

Re-Designing Constitutional Resistance to Democratic Backsliding

**Tomás Daly**

### 22 October 2024

Bureaucratic inertia (lan zheng dai zheng) amongst Chinese officials

**Sarah Biddulph**

### 19 November 2024

10th Anniversary of the CCCS Brown Bag Seminar Series

**Anjalee de Silva, Liz Hicks, Adrienne Stone and Will Partlett**

# CCCS

# Reading Group

Centre for Comparative Constitutional Studies' Reading Group met over four sessions in August 2024.

The reading and discussion focused Richard Bellamy's *Political Constitutionalism: A Republican Defence of Constitutional Democracy* (2007).

## 1 August 2024

Chapter 1 – Constitutional rights and the limits of judicial review

**Will Partlett** kicked off the discussion.

## 8 August 2024

Chapter 2 – The rule of law and the rule of persons

**Farrah Ahmed** kicked off the discussion.

Chapter 3 – Constitutionalism and democracy

**Jesse Hartery** kicked off the discussion.

## 15 August 2024

Chapter 4 – The norms of political constitutionalism: non-domination and political equality

**Lynsey Blayden** (Sydney) kicked off the discussion.

Chapter 5 – The forms of political constitutionalism: public reason and the balance of power

**Jiacheng Gong** kicked off the discussion.

## 22 August 2024

Chapter 6 – Bringing together norms and forms: the democratic constitution

**Lael Weis** kicked off the discussion.



# Centre People

## Directors

Professor Adrienne Stone  
Associate Professor William Partlett

## 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  
Professor Pip Nicholson  
Professor Kristen Rundle  
Professor Dale Smith  
Professor Joo-Cheong Tham  
Professor Jason Varuhas  
Professor Margaret Young  
Associate Professor Paula O'Brien  
Associate Professor Glenn Patmore  
Associate Professor Scott Stephenson  
Associate Professor Lael 'Lulu' Weis  
Dr Jayani Nadarajalingam  
Dr Julian Sempill

## Senior Research Associates

Dr Erika Arban  
Dr Anna Dziedzic  
Professor Jeff Redding  
Dr Dinesha Samararatne (University of Colombo)  
Assistant Professor Stijn Smet (University of Hasselt)

## Post-doctoral Research Fellow

Dr Mark Deng (McKenzie Post-doctoral Fellow)

## Research Fellows

Trina Malone  
Rohan Nanthakumar

## Graduate Researchers

Phoebe Galbally  
Jesse Hartery  
Kinkino Legide  
Faiza Rahman  
John Sebastian  
Zelalem Siferaw Woldemichael

## **Constitution Transformation Network**

Laureate Professor Emeritus Chery Saunders AO

Professor Tomás Daly

Dr Jayani Nadarajalingam

## **Honorary Fellows**

Dr Julian Murphy

Dr Joshua Snukal

## **Advisory Board Members**

Ian Cunliffe

Dr Stephen Donaghue KC

Dr Gavan Griffith AO KC

Peter Hanks KC

Wendy Harris KC

The Hon. Chris Maxwell AO

Justice Stephen McLeish

Justice Debra Mortimer

Justice Mark Moshinsky

Professor Brian Opeskin

Jason Pizer KC

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Melbourne Law School  
The University of Melbourne

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