

# Publications by Centre Members

## Books

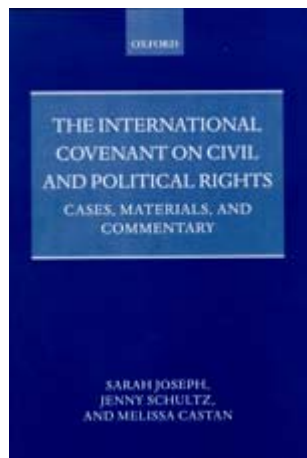
Bottomley, S. and Kinley, D. (eds.), *Commercial Law and Human Rights*, (Dartmouth Publishing Co., Aldershot, 2001).

Joseph, S. and Castan, M., *Federal Constitutional Law: A Contemporary View* (Law Book Co, Sydney, 2001).

Joseph, S., Schultz, J., & Castan, M., *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary*, (Oxford University Press, Oxford, 2000).

Available to purchase:

<http://www.oup.co.uk/isbn/0-19-826774-6>



'The authors are to be congratulated on the excellence of their book. During the last session of the Committee in Geneva that book was much in evidence in the hands of members and of the Secretariat' –Ivan Shearer.



The authors with Felicity Hampel SC

## Book Chapters & Articles

### Bill of Rights

Debeljak, J., 'Access to Civil Justice: Can a Bill of Rights Deliver?' (2001) *Tort Law Review* 1.

### Constitutional Rights

Joseph, S., 'Political Advertising and the Constitution', in G. Patmore (ed), *The Big Makeover: A New Australian Constitution - Labor Essays 2002* (Pluto Press, Melbourne, 2001), pp. 48-59.

### Corporations and Human Rights

Joseph, S., 'An Overview of the Human Rights Accountability of Multinational Enterprises', in Kamminga, M. and Zia-Zafiri, S.), *The Liability of Corporations in International Law*, (Kluwer, The Hague, 2000), pp. 75-93.

Kinley, D. and Joseph, S., 'Multinational Corporations and Human Rights: Questions about their Relationship', (February, 2002) *27 Alternative Law Journal*, pp. 7-11.

Kinley, D., 'International Human Rights as Legally Binding or Merely Relevant', in Bottomley, S. and Kinley, D. (eds.) *Commercial Law and Human Rights*, (Dartmouth Publishing Co., Aldershot, 2001).

### Enforcement: Domestic

Gaze, E., 'The Costs of Equal Opportunity – will changes to HREOC solve the problem of anti-discrimination law enforcement?' (2000) *25:3 Alternative Law Journal* 125-130.

### Enforcement: International

Duxbury, A., 'Saving Lives in the International Court of Justice: The Use of Provisional Measures to Protect Human Life', (2000) *California Western International Law Journal*.

Duxbury, A., 'The Privileges and Immunities of United Nations Experts: The *Cumaraswamy Case*', (2000) *Asia-Pacific Journal on Human Rights and the Law* 88-110.

### European Convention on Human Rights

Kinley, D., 'Legal Rights and State Responsibilities under the ECHR', chapter in Hancock, L. & O'Brien, C., (eds.) *Re-writing Rights in Europe*, Dartmouth Publishing Co., Aldershot, 2000).

### Indigenous Rights

Castan, M., 'Reconciliation, the Law and the Constitution', in M. Grattan (ed.), *Reconciliation: Essays on Australian Reconciliation* (Black Inc, Melbourne 2000), pp. 202-209.

Castan, M. & Naylor, B., 'The Hardest Bridge' (2000) *25 Alternative Law Journal* 102 (regarding the reconciliation debate).

Debeljak, J., 'Barriers to the Recognition of Indigenous Peoples' Human Rights at the United Nations' (2000) *26 Monash University Law Review* 159-194.

Debeljak, J., 'Indigenous Rights: Recent Developments in International Law' (2000) *28 International Journal of Legal Information* 266-310.

<http://www.law.monash.edu.au/castancentre/index.html>

O'Connor, P., 'History of Trial: *Cubillo v Commonwealth, Gunner v Commonwealth*' (2001) 26:1 *Alternative Law Journal* 27-31.

O'Connor, P. 'Squaring the Circle: How Canada is Dealing with the Legacy of its Indian Residential Schools Experiment' (2000) 6:1 *Australian Journal of Human Rights* 188-215.

O'Connor, P., 'Reparation for Australia's removed Aboriginal children: Defining the Wrong' (2000-2001) *Third World Legal Studies*.

### International Covenant on Civil and Political Rights

Joseph, S., 'Human Rights Committee: Recent Decisions', (2001) 1 *Human Rights Law Review*, 83-95; 305-318.

### International Organisations

Duxbury, A., 'Austria and the European Union - The Report of the "Three Wise Men"' (2000) *Melbourne Journal of International Law* 169-174.

### Judicial Independence

Debeljak, J., 'Judicial Independence', A Collection of Materials for the Judicial Conference of Australia, with Professor Stephen Parker, 2002.

### Refugees

Kneebone, S., 'Restricting Judicial Review of Migration (Refugee) Decisions: A System in Crisis in Need of a Holistic Approach' (2000) *Public Law Review* 87-92.

Kneebone, S., 'Merits Review of Refugee Status Determinations and the Natural Justice Paradigm' in *Refugee Law, Policy and Practice* (Migration Resource Centre, 2001).

### Relationship between International Human Rights Law and Domestic Law

Duxbury, A., (co-author) 'The International Law Implications of Australian Abortion Law' (2000) *University of New South Wales Law Journal* 1-34

### Women's Rights

Gaze, B., 'Working Part Time: Reflections on "Practicing" the Work-Family Juggling Act' (2001) 1 *QUT Law and Justice J.* 199-212.

Loff, B., Gaze B., and Fairley, C., 'Prostitution, Public Health and Human Rights Law' (2000) 356 *The Lancet* 1764.

### Reports/Submissions

#### Anti-Terrorism Legislation

McCasland-Pexton, A., Joseph, S. and Kinley, D., **Submission to the Senate Legal and Constitutional Committee** regarding the *Security Legislation Amendment (Terrorism) Bill 2002* [No 2]. Transcript of hearings available at: <http://www.aph.gov.au/hansard/senate/committee/s5459.pdf>.

Joseph, S and Kinley, D., **Submission to the Parliamentary Joint Committee on ASIO, ASIS and DSD** regarding the *Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002* - April 2002: Transcript of hearings available at: <http://www.aph.gov.au/hansard/joint/committee/j5493.pdf>

### Bill of Rights

Debeljak, J., 'Inquiry into a Bill of Rights for New South Wales', submitted to the NSW Standing Committee on Law and Justice, on behalf of the NSW Branch of the Australian Plaintiff Lawyers Association, April 2000 (evidence given in February 2001), pp 1-41.

Kinley, D., 'Inquiry into a NSW Bill of Rights' written submission to the NSW Standing Committee on Law and Justice 29 April 2000.

### Enforcement: Domestic

Gaze, B., **Submission to the Victorian Attorney-General** on a review of the *Equal Opportunity Act* 1995, July 2000.

Gaze, B., **Submission to Administrative Review Council** on a Code of Conduct for Members of Merits Review Tribunals, February 2001.

### Environment and Indigenous Rights

Mfodwo, K., 'Indigenous Use' – Chapter 9 - *Management and institutional arrangements assessment, South East Regional Marine Plan* - a report to the National Oceans Office, Hobart, Australia, October 2001 42 pp.

Mfodwo, K., **Maori participation in legal and institutional arrangements for the marine sector** – a report to the Ministry for the Environment, Wellington, New Zealand, August 2001, 50pp.

Mfodwo, K., **Protection of Maori historic heritage** a series of publications commissioned by the Ministry for the Environment, Wellington, New Zealand July-August 2001.

Mfodwo, K., *Implications for Maori of proposed legal and institutional reforms: heritage management, oceans policy and local government* – a scoping report commissioned by the Ministry for the Environment New Zealand, March 2001, 15 pp.

Mfodwo, K., *Treaty and Maori interest aspects of environmental law in New Zealand* -- a report to the Ministry for the Environment, Wellington, New Zealand June, 2000, 390pp.

Mfodwo, K and Tsamenyi, B. M., *A Review of the Legal and Institutional Framework for Indigenous Participation in Commercial Fisheries: Australia, New Zealand & Canada*, a report commissioned by the Aboriginal and Torres Strait Islander Commission, Canberra June 2000, 40pp.

#### Indigenous Rights

Joseph, S., **Submissions to the United Nations Human Rights Committee** by the Human Rights and Equal Opportunity Commission (HREOC) on 'Native Title', 'Indigenous People in Custody', and 'Mandatory Sentencing Laws in Northern Territory and Western Australia', 2001. available at: [http://www.hreoc.gov.au/social\\_justice/submissions/un\\_human\\_rights.html](http://www.hreoc.gov.au/social_justice/submissions/un_human_rights.html).

Joseph, S., (co-author) **Submission to the United Nations Human Rights Committee** by the Human Rights and Equal Opportunity Commission (HREOC) on 'Heritage Protection' and 'Indigenous Disadvantage and Self-Determination', 2001. available at: [http://www.hreoc.gov.au/social\\_justice/submissions/un\\_human\\_rights.html](http://www.hreoc.gov.au/social_justice/submissions/un_human_rights.html).

Kinley, D., **Submission to Senate Legal and Constitutional Committee** 'Inquiry into the Stolen generation.' 13 July 2000.

#### Prisons

Naylor, B., 'Government's **Independent Investigation into the Management and Operations of Victoria's Private Prisons**', August 2000.

#### Refugees

Crafti, G. and Kneebone, S., 'Detention, Children and Asylum Seekers: a comparative study', a submission to the Human Rights and Equal Opportunity Commission regarding the National Inquiry Into Children in Detention, 15 April 2002.

Joseph, S., **Submissions to the United Nations Human Rights Committee** by the Human Rights and Equal Opportunity Commission (HREOC) on 'Detention of Unauthorised Arrivals', 2001. This report is available at: [http://www.hreoc.gov.au/social\\_justice/submissions/un\\_human\\_rights.html](http://www.hreoc.gov.au/social_justice/submissions/un_human_rights.html)

#### Women and Human Rights

Gaze, B., **Comments to Sex Discrimination Commissioner** on draft Pregnancy Guidelines for Employers, on behalf of National Women's Justice Coalition, February 2001.

Gaze, B., **Submission to Senate Legal and Constitutional Committee** inquiry into proposed amendments to the Sex Discrimination Act, November 2000.

#### Conference Papers & Public Speeches

#### Bill of Rights

Kinley, D and Debeljak, J., 'Bill of Rights Roundtable', Gilbert & Tobin

Centre of Public Law, University of NSW Faculty of Law, 1 March 2002.

Debeljak, J., 'Will a Bill of Rights Enhance Access to Civil Justice?' at the *Victorian Conference of the Australian Plaintiff Lawyers Association*, Mt Buffalo, Victoria, 5-7 May 2000.

Debeljak, J., 'Access to the Civil Justice System: Can a Bill of Rights meet the Challenge?' at the *Annual Conference of the Australasian Law Teachers' Association*, Canberra, 2-5 July 2000.

Debeljak, J., 'Human Rights as Judicial Politics or Parliamentary Judgements', presented at Castan Centre's *Human Rights and Global Challenges Conference*, Melbourne 10 December 2001. Available online: <http://www.law.monash.edu.au/castancentre/conference2001/papers/debeljak.html>

#### Corporations and Human Rights

Kinley, D., 'Business and Human Rights: the legal dimension' presented at *Regional Workshop on Economic, Social and Cultural Rights, Asia-Pacific Forum of National Human Rights Institutions*, Hong Kong 11-13 July 2001.

Kinley, D., 'Corporations, Human Rights and Legal Obligations', *Inaugural Meeting of Human Rights Interest Group*, Mallesons Stephen Jaques, Melbourne, 19 April 2002.

Joseph, S., 'Human Rights Accountability and Multinational Corporations', *ACFOA: Development Challenges in the Global Economy*, 7 September 2000.

Joseph, S., 'The "Third Wave" of Corporate Human Rights Accountability: Pharmaceuticals and Human Rights', presented at Castan Centre's *Human Rights and*

Global Challenges Conference,  
Melbourne 10 December 2001.  
Available online:  
<http://www.law.monash.edu.au/castancentre/conference2001/papers/joseph.html>

### Globalisation and Human Rights

Kinley, D., ‘**Human Rights and Global Challenges**’, Legal Aid Conference, Victorian Legal Aid, 26 October 2001.

Kinley, D., ‘**Globalisation & Human Rights**’, *Symposium on Globalisation and the Universalisation of Legal Norms*, Sydney University, 24 August 2000.

Kinley, D., ‘**Economic, Social & Cultural Rights**’, in *Globalising the Rule of Law, Vice-Chancellor’s Symposium*, Griffith University, Brisbane, 19-19 August 2000.

### Indigenous Issues

Castan, M., ‘**Terra Nullius, Res Extincta; Australian Legal Culture and Indigenous Identity**’, presented at *Imaging Aboriginality: Indigenous/European entanglements in culture and representation CAIS conference*, Prato Italy, 9-12 April 2002

Castan, M., ‘**When sorry is not enough: reconciliation in Australia**’ at University of Wisconsin-Madison’s Conference *Interrogating Reconciliation*, Manila, Philippines, August 2001.

### International Human Rights Law

Kinley, D., ‘**The Rhetoric of Human Rights?**’ presented at *Extremism and Exclusion: The European Experience and Australian Resonances*, Contemporary Europe Research Centre, University of Melbourne, 14-14 November 2001.

Kinley, D., ‘**Human Rights Training and the Myanmar Government**’, *Burma/Myanmar Update 2002*, Coombs Theatre, The Australian National University, 14 February.

### International Organisations

Duxbury, A., ‘**The Immunity of International Organisations for Human Rights Abuses**’, presented at the *American Society of International Law and Australian and New Zealand Society of International Law Joint Conference*, Sydney, June 2000.

### Judicial Independence

Debeljak, J., ‘**Courts versus the People: Have the Judges Gone too Far?**’ the *Annual Colloquium of the Judicial Conference of Australia*, Launceston, 26 to 28 April 2002.

Debeljak, J., ‘**Judicial Independence: Norms and Declarations, and some Practical Outcomes**’, a paper to launch A Collection of Materials for the *Judicial Conference of Australia*, at the *Annual Colloquium 2001 of the Judicial Conference of Australia*, Uluru, 7 to 9 April 2001.

### The Relationship between International Human Rights Law and Domestic Law

Joseph, S., ‘**Federalism and International Human Rights**’, presented at the *American Society of International Law and Australian and New Zealand Society of International Law Joint Conference*, Canberra, 29 June 2000.

Kinley, D., ‘**The Shrinking State’s Growing Responsibilities for Human Rights Protection**’, presented at Castan Centre’s *Human Rights and Global Challenges Conference*, Melbourne 10 December 2001.  
Available online at:

<http://www.law.monash.edu.au/castancentre/conference2001/papers/kinley.html>

### Prisons

Naylor, B., ‘**Public accountability in Victoria’s prisons**’ a paper presented at the *Australian and New Zealand Society of Criminology Conference*, Melbourne, February 2001.

Naylor, B., ‘**Prisons, Privatisation and Human Rights**’, presented at Castan Centre’s *Human Rights and Global Challenges Conference*, Melbourne 10 December 2001.  
Available online at:  
<http://www.law.monash.edu.au/castancentre/conference2001/papers/naylor.html>

### Privacy

Gaze, B., ‘**Privacy and Research Involving Humans**’ paper presented to the *National Privacy Conference*, Melbourne Nov 26-27, 2001.

### Pro Bono Human Rights Work

Castan, M., ‘**Pro Bono work and Human Rights Law**’ delivered at PILCH, Annual General Meeting, 13 December 2000.

### Refugees

Kinley, D., ‘**Refugees and International Human Rights**’, Mentone Girls Grammar School, 17 October 2001.

Kneebone, S., ‘**Judicial Review: A Common Law or A Constitutional Doctrine?**’ presented at *Annual Conference of the Australian Institute of Administrative Law*, Adelaide, June 2000.

<http://www.law.monash.edu.au/castancentre/index.html>

## United Nations Global Compact

Kinley, D., 'Human Rights and Corporate Responsibilities', *Reputation Qest UN Global Compact Seminar*, Blake Dawson Waldron, Melbourne, 18 October 2001.

Kinley, D., 'Legal Perspectives on the UN Global Compact', Discussion Forum at Ruyton Girls' School, 7 March 2002.

## Project Grants

### Non-Academic Bodies

#### Burma

'Human Rights and International Law Training Program' for officials of Government of Burma: 2000-2002.

#### Indonesia

The Castan Centre has won a second tender under the **Indonesia Australia Specialist Training Project II** (IASTPII) program to run a series of human rights workshops here at the Faculty.

The first workshop was held for 15 Indonesian officials in April -July 2001. The second workshop is taking place from April to June 2002, for 19 Indonesian government officials. In addition to a number of external experts engaged specifically for the workshops many lecturers from within the Faculty have been involved in the delivery of the workshops and seminars.



*Welcome Dinner for Indonesians 2001*

'Human Rights Training Workshop' for staff of Indonesian Ministry of Human Rights, Indonesia-Australia Strategic Training Program II, Puncak, Indonesia, June 2000.

**Advice to Indonesian Minister for Human Rights** on Ministry Strategic Planning, Jakarta, March-April 2000.

Provision of **Short Course on International Law** to Officials from Indonesian Ministry of Law and legislation by Monash University Law School, with Commonwealth Attorney-General's Department, June-July 2000.

### Academic Bodies

#### Bill of Rights

Debeljak, J., Strategic Partnership with Industry - Research and Training (SPIRT) Grant (The Judicial Conference of Australia being the Industry Partner) 1999-2002: **The Institutional Impact of a Bill of Rights**.

Debeljak, J., '**Reform in American History and Law**', Fulbright American Studies Institute Fellowship, June-August 2001.

#### Corporations and Human Rights

The Centre has won a substantial grant to conduct a major three-year research project into the legal dimensions of the relationship, both present and future, between **corporations and human rights**, beginning in January 2002.

The project is being undertaken by the Castan Centre, led by Prof Kinley and Sarah Joseph, in conjunction with its Industry Partners, Futureye and Premier Oil (UK).

The project is being run under the auspices of an **Australian Research Council Linkage Grant**.

The project is international and domestic in focus. Part of the research will involve significant industry, NGO, government and community consultation and the project team would be happy to hear from organisations who might be interested in participating in or learning more about the project. For more information see article by David Kinley and Sarah Joseph in the *Alternative Law Journal*: [http://www.law.monash.edu.au/castan/centre/arc\\_kinley.pdf](http://www.law.monash.edu.au/castan/centre/arc_kinley.pdf)

### Globalisation

Kinley, D., McAdam, M., Bieske, N., Kneebone, K., '**Globalising Human Rights in Asia**' part of a coalition of six centres established under the research unit on cultures and technologies in Asia: SMURF Grant 2001.

### Prisons

Naylor, B., Monash University Small Grants Scheme 2000: '**Accountability in public and private prisons: the operation of internal disciplinary hearings in Victorian prisons**'.

### Refugees

Kneebone, S., ARC Discovery Scheme Grant 2002: '**Fair Procedures for Refugee Status Determination**'.