



June 2009 Newsletter

This edition

Forthcoming Events 1

News3

Recent Publications.....10

Team Member Profile.....11

Forthcoming Events

Professor Peter Singer Presents 'Ethics and World Poverty'
Monday 13 July 2009

As part of the Law School's Distinguished Speakers Program 2009, Professor Peter Singer will be joining us to present his thoughts on ethics and world poverty. This is a joint event with the Law School's Centre for Health Governance Law and Ethics and the Julius Stone Institute for Jurisprudence.

Professor Singer has been the Ira W DeCamp Professor of Bioethics at the University Centre for Human Values at Princeton University since 1999 and since 2005 has also held the part-time position of Laureate Professor in the Centre of Applied Philosophy and Public Ethics at the University of Melbourne. Professor Singer first became well-known internationally after the publication of his work *Animal Liberation* and has since published many works that have appeared in more than 20 languages. He was the founding President of the International Association of Bioethics and founding co-editor of the journal *Bioethics*. He is also the co-founding President of The Great Ape Project and is the President of Animal Rights International.

Please take the time to register for this event [here](#) as it will surely be a popular one. For more information please visit the law school website [here](#).

Time: 5-8pm

Location: Sydney Law School, Bldg F10, Eastern Ave, University of Sydney

Contact: (02) 9351 0259 or law.events@usyd.edu.au



Global Health Beyond the Millennium Development Goals
Thursday 6 August 2009

Another of the Law School's 2009 Distinguished Speakers Program series, this event will include internationally acclaimed scholar Professor Lawrence Gostin as keynote speaker and Professor Daniel Tarantola from the University of New South Wales.

Professor Gostin is the Linda D and Timothy J O'Neill Professor of Global Health Law at Georgetown University. He has led major US law reform initiatives and is also leading a drafting team in the development of a Model Public Health Law for the World Health Organisation. In the UK he was the Legal Director of the National Association for Mental Health, Director of the National Council of Civil Liberties and Fellow at Oxford University. He helped draft the Mental Health Act (England and Wales) and brought several landmark cases before the European Commission and Court of Human Rights.

Professor Tarantola is the Professor of Health and Human Rights at the School of Public Health and Community Medicine at the University of New South Wales. He is a former senior advisor to World Health Organisation and recently was with the Harvard School of Public Health. Professor Tarantola was involved in the creation of Medecins Sans Frontieres and through his work with the WHO supervised the team responsible for the eradication of smallpox. As a researcher, he is best known for his work in HIV/AIDS and human rights.

For more information please visit the law school website [here](#).

Time: 5-8pm

Location: Sydney Law School, Bldg F10, Eastern Ave, University of Sydney

Contact: (02) 9351 0259 or law.events@usyd.edu.au

Conference – Regulating the Public's Health
Friday 28 August 2009

Another of the Law School's Distinguished Speakers Program for 2009, the line up will include Professor Lawrence Gostin (Linda D and Timothy J O'Neill Professor of Global Health Law, Georgetown University Law Centre), Professor Simon Chapman (School of Public Health, University of Sydney) and Professor Patricia Peppin (Professor of Law, Queens University, Ontario).

For more information please visit the law school website [here](#).

Time: 9am-6pm

Location: Sydney Law School, Bldg F10, Eastern Ave, University of Sydney

Contact: (02) 9351 0259 or law.events@usyd.edu.au



News

The Garling Oration: “small steps” towards addressing the challenge of health resource allocation in the public hospital system



From left: Mark Ragg, Professor Mary Chiarella, Peter Garling SC, Professor Belinda Bennett and Professor Roger Magnusson

As Commissioner of the Special Commission of Inquiry into the NSW public hospital system, Sydney Law School alumnus Peter Garling SC (BA 1975; LLB 1977) was asked by the NSW government to make recommendations about one of the most difficult challenges facing governments in Australia and around the world: how to contain rising health costs, while meeting the public’s expectations around access and service quality. The Commission’s Report, delivered to government in November 2008, makes 139 recommendations. They include recommendations for the establishment of three new independent agencies: a Bureau of Health Information, a NSW Institute for Clinical Education and Training, and a Clinical Innovation and Enhancement Agency. These agencies would join the work of the existing Clinical Excellence Commission in driving culture change and monitoring the performance of the public health system.

On 26 March, Mr Garling SC delivered the 2009 Oration of the Centre for Health Governance, Law & Ethics. Speaking to a large audience in the new law building, Mr Garling re-visited the underlying dilemma: the discrepancy between public



expectations around health service quality and availability, and the amount of money available to spend on the health system.

At 28%, health expenditure currently accounts for the largest proportion of NSW government spending. As Mr Garling pointed out, this amounts to \$36 million per day, or \$1.5 million per hour. The health system also faces sharp cost pressures in future, particularly due to the health needs of an ageing population. Based on current trends, unless the rate of growth in health system expenditure is curtailed, by 2040 health spending will consume 100% of the annual budget.

Something needs to be done. But there can be few more ethically and politically charged issues than deciding whose health care needs should lose priority, relative to the needs of others, and ultimately to other government priorities. As Mr Garling pointed out, there *are* alternative solutions, such as raising taxation or charging patients for services received in public hospitals – and thereby sacrificing the principles of free and universal access. But these are less feasible than the option of modifying what Australians are able to claim from the public hospital system in the light of budgetary constraints.

A key theme in Mr Garling's oration, titled "Sharing caring in a time of budget insufficiency: is there an ethical reform paradigm?" was that the big questions about health resource allocation themselves constitute a reform process that must be approached in a rational and systematic manner. In Mr Garling's view the key to successful reform lies in "starting with achievable small steps, and then developing to embrace the larger and more difficult decisions rather than the reverse".



Enablers and impediments to reform

Enablers of the reform process include, firstly, better information. The Garling Commission recommended the establishment of an independent Bureau of Health Information that would systematically measure the performance of service delivery in hospitals, including safety and quality, and patient outcomes. Another important enabler of reform is the development of an agreed process for debating and agreeing on rules for the sharing of resources.

The impediments to reform, Mr Garling told the audience, include the fact that there is no right answer to the challenge of health resource allocation: “One is entering the field where economic rationalism comes face to face with individual standards of morality, individual values and a multitude of different perspectives....Should the Baby Live? And Should the Grandparents die? There is no single and obvious answer to these questions”.

Four recommendations for reform

Mr Garling outlined four recommendations for reform in his oration. Firstly, he recommended the design and implementation of evidence based protocols for clinical interventions, as agreed by a broad network of clinicians through a process of consensus. Importantly, these standardised models of care for each disease, or typical surgical intervention should be made public, so that the community knows what kind of care they will receive in a public hospital. Mr Garling acknowledged that standardised care models do limit clinician’s choice, but he emphasised that standardised medicine does not mean sub-standard care.

Secondly, Mr Garling recommended a 25 year plan describing and guiding planning towards the capital investment and fixed resources necessary to support the effective implementation of these protocols and models of care. Long term planning avoids the demands of sectional interests and the volatility of the political cycle. Thirdly, Mr Garling pointed to the need for the public to become more involved in their own care, with greater use of living wills and mechanisms for formalising patient choice around the use of the expensive technology that characterises much end of life care. Finally, Mr Garling proposed the development of a Charter of Patient Rights “which makes it plain what it is that a patient and their family can expect to receive from the public health care system”.

2009 is the 200th anniversary of Charles Darwin, and Mr Garling concluded by pointing to what Darwin said, nearly 150 years ago: “It is not the strongest of species which survive, nor the most intelligent, but the ones most responsive to change”.



Rejoinders

The Garling oration led to lively discussion, chaired by Professor Mary Chiarella from the University's Faculty of Nursing and Midwifery. A trained lawyer and nurse, Professor Chiarella also gave a rejoinder to the oration, proposing a Clinicians and Community Council as a possible structure for re-engaging clinicians (and not just doctors) in the challenge of tackling resource allocation issues. Dr Mark Ragg, a journalist, and health communications consultant, also responded to Mr Garling's address, pointing to the need for resource allocation decisions to confront the relative priority of prevention versus clinical care, and not only the distribution of acute care services.

International public health consultation confirms national public health law infrastructure as a priority



Professor Roger Magnusson (second from left) with Consultation delegates

On 26-28 April, Professor Roger Magnusson attended and served as rapporteur for a consultation on public health law co-convened by the International Development Law Organisation (IDLO), the World Health Organisation, and the O'Neill Institute for National and Global Health Law at Georgetown University. Hosted at IDLO headquarters in Rome, the aim of the consultation was to explore opportunities for using law to improve health in developing countries, through action within the international legal arena, within national legal frameworks, through networking, and capacity-building. Although representatives attended in their own capacity as experts, a wide range of countries and international agencies were represented,



including China, Malawi, Uganda, South Africa, Kyrgyzstan, Egypt, the United States, Canada, United Kingdom, Netherlands, the United Nations University, the Food and Agricultural Organisation (FAO), the World Bank, UNDP, UNAIDS – together with IDLO, WHO and the O’Neill Institute.

One important outcome of the consultation was the agreement, with the support of IDLO/WHO, to begin a process for the development of guidelines identifying the key functions and legal components of a national public health law. Many developing countries have fragmented, and outdated public health laws, with inadequate mandates and means of enforcement. In other countries, public health laws are moribund and have fallen into disuse, and the criminal law now fills the gap. While law cannot, by itself, summon up the resources for an effective public health infrastructure, the existence of a coherent legal infrastructure for the performance of core public health functions plays an important part in addressing the material and environmental conditions that create the conditions for a healthy population.

Read the press release issued by the O’Neill Institute for Global and National Health Law here: [“O’Neill Institute, WHO and IDLO Call on Governments to Strengthen Public Health Laws”, 30 April 2009](#)



New Law School at Camperdown Campus



One hundred and eighteen years 'downtown' and thousands of hours of research and teaching later, delivering many of the most respected and influential names in justice, business, politics and academia, the Sydney Law School embarked on an exciting new phase in the heart of the University's beautiful Camperdown Campus upon its move in February 2009.

The new Law School is a flagship building, creating a new gateway to the University from the city via Victoria Park and representing a new era for law teaching at The University of Sydney. It provides prestigious and well-equipped accommodation as benefits one of Australia's leading law schools and offers the highest quality teaching and learning and research facilities for students and staff.

The building consists of four levels and accommodates the academic and administrative staff, together with a range of research centres and institutes. It incorporates collaborative spaces, meeting and conference rooms. There are a total of 23 teaching spaces within the building ranging from 300 and 100 seat lecture theatres, through to 60, 56, and 24 seat seminar facilities to suit a wide range of teaching requirements. It also accommodates a Moot Court facility, the Law Library and a spacious Forecourt.

Law School Open Day Hypothetical: A Womb with a View



From left: Dr Kristin Savell, Emeritus Professor David Weisbrot, Assoc Professor Ian Kerridge and Professor Belinda Bennett.

The Centre for Health Governance, Law and Ethics hosted a hypothetical at the Law School Opening in May, entitled 'A Womb with View'. The panel of speakers included Emeritus Professor David Weisbrot, Chair of the ALRC, Associate Professor Ian Kerridge from the Centre for Values Ethics and the Law in Medicine, and our own Professor Belinda Bennett and Dr Kristin Savell from the Centre for health law and Governance. The panellists were grilled by Assoc Professor Cameron Stewart, about a scenario involving the use of pre-implantation genetic diagnosis to create a saviour sibling, and led the panellist through treacherous issues surrounding foetal selection, abortion, negligence and the capacity for future generations to make claims for faulty genetic engineering. A lot of fun was had by all and Professor Terry Carney gave a rousing summary, thanking the participants and the audience.



International Presentations by Professor Terry Carney

Professor Terry Carney presented a paper in Prato Italy in May at the invitation-only international symposium on the future shape of mental health laws, convened by Professor Bernadette McSherry (Monash) as part of her Federation Fellowship Project. Professor Carney's paper draws on research conducted as part of an ARC Linkage project in conjunction with mental health tribunals in NSW, Victoria and the ACT. In June/July he will be presenting further findings at the *31st Congress of the International Academy of Law and Mental Health*, New York, USA, 29 June-4 July 2009.

Carney, T 'Involuntary Mental Health Treatment Laws: The 'rights' and the wrongs of competing models?' for "*Rethinking Rights-Based Mental Health Laws*" International Symposium, Prato Italy, 21-22 May 2009

Carney, T., 'Mental Health Tribunals: A 'relational case-conference' to pursue fairness, freedom, & treatment? A paper to be delivered at the *31st Congress of the International Academy of Law and Mental Health*, New York, USA, 29 June-4 July 2009.

Recent Publications

Ethics and Law for the Health Professions

Ian Kerridge, Michael Lowe and Cameron Stewart, *Ethics and Law for the Health Professions* (3rd ed, Federation Press, 2009)

Brave New World of Health

Belinda Bennett, Terry Carney and Isabel Karpin (eds), *Brave New World* (Federation Press, 2008)

Health Law's Kaleidoscope: Health Law Rights in a Global Age

Belinda Bennett (Ashgate Publishing UK, 2008)

Anorexia: A Role for Law in Therapy?

Terry Carney, 'Anorexia: A role for law in therapy?' (2009) 16, i, *Psychiatry Psychology and Law*, 41-59



Compulsory (Involuntary) Treatment for Anorexia Nervosa

Stephen Touyz and Terry Carney, 'Compulsory (Involuntary) Treatment for Anorexia Nervosa' in Carlos Grilo & James Mitchell (Eds) *The Treatment of Eating Disorders* (Guilford Press), in press [Ch 12]

Team Member Profile

Associate Professor Cameron Stewart

Assoc Professor Cameron Stewart joined the Centre in February 2009. He has a background in commercial law but has spent the last 10 years at Macquarie Law School, the last of which as Dean. Cameron is a former Sydney alumni having taken out a doctorate from the University of Sydney under Professor Roger Magnusson's supervision. Cameron has worked on a number of projects for NSW Health, the NSW Guardianship Tribunal, the Office of Public Guardian and other government departments. His current project include studies on umbilical cord blood banking, direct to consumer advertising of pharmaceuticals, guardianship law and consent to high risk medical procedures. Cameron is also in charge of re-establishing the ethics and health law news service, which we can hopefully report on in the next edition of the newsletter.



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