

EDITOR'S NOTE

This 14th volume of the *Macquarie Law Journal* is a general publication which features a collection of very interesting, topical and, in some cases, highly original contributions to legal scholarship. We are pleased to present articles from a number of Australian law schools and other sources that traverse a range of research areas, including international war crimes trials, human rights law, discrimination law, commercial law and comparative jurisprudence. If one of the aims of a university law journal is to showcase its own research capacity, this edition is also a fitting reflection of work being undertaken at Macquarie Law School, with four contributions on a variety of significant topics.

The Annual Tony Blackshield Lecture for 2014 was delivered by Emeritus Professor Upendra Baxi, who has had a distinguished career in comparative law and human rights law, and a long association with Macquarie Law School. His insights into the judicial review process in India and its development in the context of the complex relationship between the various branches of government in the world's largest democracy, provided a fascinating speech for the receptive audience. The speech also included some intimate reminiscences about the evening's eponymous special guest Emeritus Professor Tony Blackshield AO.

The articles, although presented alphabetically by author name, may be mentioned here thematically. With the recent and often highly visible public dialogue about Section 18C of the *Racial Discrimination Act 1975* (Cth), it is noteworthy that this edition has attracted two provocatively titled contributions on that issue. Francesca Dominello asserts that the recent apology to Australia's Indigenous population has not resulted in concomitant reforms which such an apology necessarily entails, as witnessed by the apparent defence of a right to bigotry in the context of the s 18C debate. On the other hand, Augusto Zimmermann and Lorraine Finlay argue for a robust conception of freedom of speech, and a repeal of s 18C, as the most effective way of responding to bigotry in public discourse.

In the related field of discrimination law, and again on an issue that has attracted considerable public comment recently, Greg Walsh argues for an opt-in approach to the regulation of employment in religious schools under Australian anti-discrimination legislation. The article contends that the opt-in model has the potential to more appropriately regulate such employment decisions, and maintain religious freedom and autonomy, in comparison with other approaches currently utilised in Australian jurisdictions.

Reflecting some highly original field work, Lyma Nguyen and Christoph Sperfeldt have made a very valuable contribution to our understanding of the capacity of international criminal tribunals to capture the experience of minority groups in post-conflict transitional mechanisms. Their article focuses on the experience of the Vietnamese minority in Cambodia before, during and after the Khmer Rouge period, and the participation of Vietnamese civil parties in the proceedings before the Extraordinary Chambers in the Courts of Cambodia.

Sophie Riley and Grace Li have reported in their piece on their own research with students of Company Law in addressing an important area of teaching and learning – how to develop students’ intercultural skills in the context of contemporary legal education. There are some interesting indicators for legal educators, especially given the extent of student diversity and the challenge of developing intercultural understanding in meaningful and practical ways.

In an insightful article on ‘domestic promises’, Malcolm Voyce undertakes a genealogical reading of a set of historical cases on the division of family property in Australia to demonstrate how the judiciary prioritises a male-oriented understanding of productive labour, thereby encoding ideas about economics, sexuality and domesticity in the wider context of Australian capitalism and nation building.

Finally, this edition ventures into the broad fields of commercial law as well. Peter Cain offers a carefully crafted and detailed synthesis of judicial approaches to the complex issue of the legal characterisation of the freight forwarder’s role in commercial transportation. It includes a short comparative analysis of the civil law position and is a very useful addition to the current literature on the topic. We are pleased also to present a highly commended Macquarie Law School student contribution by Timothy Lou who addresses the prudential regulation of commercial litigation funders. He seeks to do so through a perspective that has received very limited attention so far, at least in Australia, by characterising litigation funders as shadow banks.

The book review in this edition, a perspicacious account by Denise Meyerson of an original contribution to an understanding of the theoretical foundations of South African constitutional law and jurisprudence by Stu Woolman, is published by mutual agreement with the *South African Journal on Human Rights*, in which it has also been published.

I wish to thank all the contributors for their submissions to this edition of the *Macquarie Law Journal* and their cooperation with the editorial staff during the production phase. I would also like to express my gratitude to the hard working and enthusiastic student editors, students of Macquarie Law School, whose commitment and perseverance made its publication possible.

Ilija Vickovich
Editor
