

## EDITORIAL

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Every Issue of the *University of New South Wales Law Journal* ('*Journal*') is the product of an immense amount of passion, curiosity, diligence, and gruelling effort. The quality of the 12 general articles in Issue 45(2) is testament to that. They canvass a broad range of pressing legal issues, but all share the qualities of being incisive in their analysis and forward-looking in their approach.

We are proud to continue our record of publishing articles that contribute to current legal discourse. Daniel Lavery, for example, re-examines the fundamental principles underpinning the current orthodox theory of Australian territorial sovereignty, reinforcing that it is based on false historical narratives. Lavery presents an alternative historical account that acknowledges the inherent and continuing sovereignty of Indigenous Australians, and calls for the incorporation of Indigenous sovereignties into our formal constitutional framework. This account is particularly timely in light of newly elected Prime Minister Anthony Albanese's commitment to the Uluru Statement from the Heart.<sup>1</sup>

In the wake of the legalisation of voluntary assisted dying in every Australian state,<sup>2</sup> Katrine Del Villar, Lindy Willmott and Ben P White examine all publicly available sentencing remarks in criminal cases concerning assisted suicide from 1980 to July 2020, revealing inconsistencies in both charges laid and sentences imposed. They present feasible avenues for law reform to better navigate these complex situations.

Many articles in Issue 45(2) discuss issues of human rights. Julie Debeljak interrogates the use of the override provision embedded in the *Charter of Human Rights and Responsibilities Act 2006* (Vic) ('*Charter*') to enact laws that prevent the granting of parole to specific individuals or classes of people. Tamara Walsh notes that while the *Charter* and its counterparts in the Australian Capital Territory<sup>3</sup> and Queensland<sup>4</sup> protect the right to non-interference with a person's home, the capacity of social housing tenants to enforce those rights during eviction proceedings is limited; radical legislative and political reform is required to ensure our society's most vulnerable have their most basic needs met. Meda Couzens argues that the

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1 Prime Minister of Australia, 'Press Conference, Darwin' (Transcript, 8 June 2022) <<https://web.archive.org/web/20220608053826/https://www.pm.gov.au/media/press-conference-darwin>>.

2 But not territories: Ashleigh Raper, Phoebe Bowden and Heath Parkes-Hupton, 'NSW's Voluntary Assisted Dying Laws Pass after Marathon Debate in Parliament', *ABC News* (online, 19 May 2022) <<https://www.abc.net.au/news/2022-05-19/voluntary-assisted-dying-laws-pass/101079940>>.

3 *Human Rights Act 2004* (ACT).

4 *Human Rights Act 2019* (Qld).

*Counter-Terrorism (Temporary Exclusion Orders) Act 2019* (Cth) – which allows the Australian government to control the return of nationals suspected of terrorism-related activities and applies to children as young as 14 – is incompatible with the United Nations *Convention on the Rights of the Child*.<sup>5</sup>

Other articles seek to promote consistency, coherency and efficiency in our legal system. Andrew Terry clarifies the ambiguous position of industry codes of conduct in the overall regulatory framework; Jeanne Nel de Koker considers whether placing volunteer charity directors under the same duties as their paid counterparts strikes the optimal balance between promoting public confidence and accountability of directors on one hand, and a vibrant charity sector on the other; Lisa Spagnolo and Sharon Rodrick compare the different ways courts have dealt with particular exceptions to indefeasibility under the Torrens system and call for a streamlining of approaches; Ben Mathews undertakes the first comprehensive analysis of the various laws and reporting obligations applying to those who undertake research about child maltreatment in Australia; and Brian Opeskin studies the ways Australia has attempted to modulate demand for the courts to achieve cost-effectiveness and efficiency, cautioning against losing sight of the primary values of our legal system in our search for affordability.

As the Editor of a General Issue, I did not come into the role with a theme in mind for Issue 45(2). However, when I look back on the last year, one clearly emerges. The theme of this Issue's launch, 'Equity in the Workplace', is inspired by the articles authored by Natalie Sheard and Angelo Capuano. Sheard demonstrates the biases inherent in the algorithmic hiring systems used by many employers today, and Capuano discusses the inequalities that arise from the post-pandemic world of 'hybrid' workplace design. This theme reflects important lessons I have learnt during my time working alongside the Executive Committee running the *Journal*.

I am honoured to have had the opportunity to oversee the publication of each of these valuable pieces of scholarship, and I am aware that being able to take on this opportunity reflects a level of privilege. That privilege is a result of many intersecting factors, but three have stood out to me this year.

The first factor is time. The amount of time and effort every single Editorial Board and Executive Committee Member has put into this Issue – poring over each article multiple times over multiple rounds of editing, fact-checking every proposition and formatting every citation – is no minor matter. The *Journal* is independent and entirely student run, and this is a point of pride – but many students who would be excellent editors, and no doubt better Issue Editors than I, are barred from participating in this process because of caring responsibilities, or a need to prioritise paid work over commitments like this one. The second factor is representation. It has been great to find parts of myself clearly reflected in the organisational structure of the *Journal*, and I cannot emphasise how much this empowered me to take on a leadership role. The third is support. If it takes a village to produce an Issue, it takes a city to support the villagers.

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<sup>5</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

I am proud that during my tenure, the 2021 and 2022 Executive Committees both reaffirmed the *Journal's* commitment to promoting diversity on the Editorial Board through internal recruitment processes and an active focus on the recruitment of Indigenous students. We have worked to be flexible and accommodate the varying needs of our diverse Board Members, without whom the *Journal* could not function, and foster the *Journal* community's supportive culture. But more can always be done; we must continue to be consistent and dynamic in our efforts to improve diversity and equity going forward.

The *Journal* is one institution within the broader institution of academia. It is no secret that, although the state of affairs has greatly improved over time, the academic 'workplace' is not yet an equitable one.<sup>6</sup> The 2021 and 2022 Executive Committees have been dedicated to better understanding the role the *Journal* plays in upholding systemic barriers in academia, and have begun working towards redressing them. The success of our efforts requires sustained focus and passion far into the future. Every Editorial Board Member already displays passion and an uncanny ability to sustain focus while scouring a page for the most minute errors, so I am confident that future generations of the *Journal* have what it takes to continue that work.

I must not waste this opportunity to thank the village that has contributed to Issue 45(2). First, thank you to the authors who have entrusted us with their articles. Without the work you do, the *Journal* would not exist. Thank you for your patience and willingness to adopt our suggestions over the course of this year. Thanks must also go to every academic and practitioner that has reviewed an article for us. Your expertise is instrumental in ensuring the *Journal* is able to continue publishing such excellent articles.

Thank you to my peers on the Editorial Board, for whom I have the deepest appreciation. The care and attention you put into every edit is at the heart of what makes this *Journal* a great one, and your friendship is what makes being a part of the *Journal* so fulfilling. We also cannot forget our typesetter, Kerry Cooke, and the designer of our cover, John Hewitt.

I am indebted to our Faculty Advisers, Rosalind Dixon and Gary Edmond, who have an uncanny ability to turn mountains back into molehills, and to Andrew Lynch, the Dean of the University of New South Wales' Faculty of Law & Justice, whose faith in us is heartening.

As always, the *Journal* is grateful for the continued support of our premier sponsors Herbert Smith Freehills, Allens and King & Wood Malletsons, who this year have been joined by Corrs Chambers Westgarth. Thank you in particular to Herbert Smith Freehills for hosting the launch of Issue 45(2).

On a more personal level, I have been incredibly lucky to work alongside such intelligent, resilient, capable, and kind people. Executive Editors Tina and Darius,

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6 See, eg, Hilary PM Winchester and Lynette Browning, 'Gender Equality in Academia: A Critical Reflection' (2015) 37(3) *Journal of Higher Education Policy and Management* 269 <<https://doi.org/10.1080/1360080X.2015.1034427>>; Nicole Brown and Jennifer Leigh, 'Ableism in Academia: Where Are the Disabled and Ill Academics?' (2018) 33(6) *Disability and Society* 985 <<https://doi.org/10.1080/09687599.2018.1455627>>.

thank you for your calm and measured leadership, and for patiently answering all my questions (even the silly ones). To our Forum Editors Arani and Isobelle, and Digital Editors Caitlin and Calum, your efforts are invaluable; thank you for always going above and beyond. To the Issue Editors that preceded me, Lilian, Alisha, and Karie, thanks for guiding and believing in me. To those that follow, Katherine, Georgia, and Enrico, your support has kept me steady this year. This has truly been a team effort.

Now, to my ‘city’ of supporters. How can I ever say thank you enough to my parents, Geeta and Sumeer, to whom I owe it all? Or to my sister, Anahita, whose unconditional support drives me to bigger and better things? I am not sure it is possible, so I will just say that I love you all. To my friends and partner, thank you for listening to my ramblings about unitalicised commas, and keeping things in perspective during the busiest of times.

Finally, a reluctant thank you to any typos that remain in this Issue despite our best efforts to erase them. I will no doubt catch them years down the track and be inspired by their tenacity.