

FORUM#***REFORM OF THE LAW OF NEGLIGENCE: BALANCING COSTS
AND COMMUNITY EXPECTATIONS*****FOREWORD**

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Negligence law reform is an issue that has captured the public's attention throughout 2002. Despite the devotion of vast quantities of public and private sector resources and time to analysis of the 'crisis' surrounding public and professional liability insurance and damages awards for negligence in particular, the principles behind statutory tort reform remain somewhat nebulous. At the same time, law reform is proceeding apace, with more than 30 Bills currently before the Commonwealth, State and Territory Parliaments relating to some aspect of negligence law. It therefore seemed appropriate to devote this issue of *Forum* to the problem of balancing the costs of the negligence system to defendants, insurers and governments with community expectations.

The reference to 'community expectations' in the title of this issue of *Forum* is deliberately ambiguous. On the one hand, there is a significant community of victims and their legal representatives whose interests are perhaps quite clearly opposed to those of the various groups aiming to reduce the costs of negligence actions. On the other, the entire community in Australia, in our various roles as consumers, workers and taxpayers, has a level of expectation about what compensation the legal system will deliver to those who are accidentally yet negligently harmed. Current public debate suggests these community expectations are closely aligned with those proposing significant tort law reform, but this is not necessarily the case and it is clear that debate will continue. As many of the contributors in this issue point out, tort law debates have been unceasing in common law jurisdictions throughout most of the 20th century.

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The *University of New South Wales Law Journal Forum* aims to promote greater awareness and considered analysis of an important contemporary legal topic within academic, judicial and professional circles. This *Forum* begins with a four-article overview of current developments in negligence law, informed by the various perspectives in the debate. The following articles examine the philosophy behind recent reforms, posing questions about the meaning of personal responsibility and about common themes in tort reform debates worldwide. Particular aspects of the proposed negligence reforms, including changes in relation to damages, limitation of actions and professional liability are then considered. The *Forum* concludes with an evaluation of the New Zealand accident compensation scheme, posited by many as the best alternative to the current common law action for negligence.

Given the very fluid nature of the legislative developments in this area and the continuing negotiations about particular reforms, there have obviously been changes since the date that many of the authors finalised their articles. Some of these are noted, although very recent material has been necessarily excluded. The fundamental issues concerning regulatory philosophy, personal responsibility and the expectations of the community about recovery for damage caused by negligence remain unchanged.

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