

Call for Submissions to the *University of New South Wales Law Journal* Issue 44(1)

### **‘Rights Protection amidst COVID-19’**

The *UNSW Law Journal* is currently welcoming submissions for Issue 44(1). The Issue will comprise of both a thematic component and a general component. The topic for the thematic component is ‘Rights Protection amidst COVID-19’.

COVID-19 is mounting an unprecedented challenge to the Australian legal system. The virus is of a scale unseen in the last century – since the Spanish Influenza – during which sweeping advancements in technology, science, global politics and globalisation have fundamentally reshaped our legal system. Whilst media coverage and online legal advice are available in abundance, accurate, rigorous and peer reviewed information is scarce. Academic discourse is necessary to ensure the novel legal issues raised by COVID-19 are thoroughly and critically discussed.

Australia, like the rest of the world, faces what Scott Morrison has labelled a ‘twin crisis’ – ‘a crisis on a health front, which is also causing a crisis in the economy’.<sup>1</sup> As federal and state governments rush to contain and eliminate COVID-19, legal and moral rights face the possibility of being invoked or undermined. Issue 44(1) aims to examine what constitutes appropriate protection of individual rights during a pandemic, when there exists a constant tension between maintaining individual freedoms and prioritising public interests.

Thematic submissions to Issue 44(1) of the *Journal* may fit under one of three broad categories:

1. practical-leaning submissions on the operation of substantive individual rights;
2. theoretical-leaning submissions on policy, constitutional issues and institutions;
3. comparative submissions on any legal right in Australia and a foreign context.

In submissions on substantive individual rights, authors may examine issues including, but not limited to:

- Contractual rights:
  - the operational scope and potential limitations of force majeure clauses and frustration in light of COVID-19.

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<sup>1</sup> Scott Morrison, ‘Press Conference: Australian Parliament House, ACT’ (Press Release, 25 March 2020) <<https://www.pm.gov.au/media/press-conference-australian-parliament-house-act-250320>>.

- Human rights:
  - freedom of movement and association in light of social distancing measures;
  - freedom from arbitrary detention as affected by control orders issued under the *Biosecurity Act 2015* (Cth);
  - privacy rights and their interaction with data collection and analysis during testing and tracking of potential COVID-19 carriers;
  - the extent to which the right to social security is being adequately upheld.
- Employment law rights:
  - employee and employer rights and obligations when working from home;
  - leave and termination policies;
  - workers compensation;
  - the rights of casual workers and those in specifically affected industries (eg, the entertainment and sporting industries).
- Property rights:
  - Tenancy law:
    - tenants' rights to rent negotiations and payment extensions;
    - landlords' right to continue claiming rent during a macro crisis;
    - how tenants' rights support the rights to housing and an adequate standard of living.
  - Intellectual property:
    - government control over new patents relating to COVID-19 innovations;
    - the tension between maximising public access to medical innovations and protecting private patent rights.
- Administrative law rights:
  - the scope for invoking merits or judicial review rights in response to ministerial decisions and executive policies concerning COVID-19.
- Criminal law rights:
  - whether dynamic and widely varying actus reus components of containment-related offences between Australian states pose potential difficulties in proving mens rea (and upholding the right to due process and a fair trial);
  - the extent to which those in preventive detention are having their right to a fair trial undermined by court closures.

In more theoretical submissions, authors may explore issues including, but not limited to:

- Policy and its interaction with moral and political philosophy:
  - How should utilitarian policies aimed at promoting public health and the public good be balanced against individual rights and freedoms?
- The Australian Constitution:

- How do the abundant executive measures being passed interact with legislative powers and Acts? Are individual rights being compromised by executive overreach?
- How is Parliament continuing operations as social distancing permeates all sectors of society? To what extent do Parliament's constitutional obligations as a check on the other heads of power demand that it continues sitting?
- How effective is Australia's federalist structure in mounting an appropriate response to COVID-19? Could individual rights and freedoms be better empowered by a more uniform federal approach?
- Institutions:
  - How do international institutions, including the World Health Organisation, influence the balance between group and individual rights in times of crisis?
  - How effective are domestic rights-focused institutions in times of crisis (eg, the Office of the Information Commissioner and the Fair Work Commission)?

The submission deadline for the thematic Issue 44(1) is **5 September 2020**. Publication of Issue 44(1) is set for late March 2021. In addition to submissions for the thematic component, authors are welcome to submit on any topic for the general component. Submissions for the general component will be considered on a rolling basis, and will be published in a forthcoming Issue of the Journal. Any changes to these deadlines will be indicated on the *Journal's* [website](#).

Articles for print publication in the *Journal* must be between 7,000 and 13,000 words in length (excluding footnotes). The style guide for the *Journal* is the current edition of the *Australian Guide to Legal Citation*, available [online](#), and as supplemented by the latest edition of the *Journal's* '[Additions](#)'.

The *Journal* is an independent, peer-reviewed publication. Although all submissions received are subject to peer review, decisions as to publication remain at the discretion of the Editor, in counsel with the Executive Committee of the *Journal*. The *Journal* does not publish articles that have been, or will be, published elsewhere, either in identical or substantially similar form.

If you are interested in, or have any queries about, submitting for Issue 44(1), please contact the *Journal* at [law.journal@unsw.edu.au](mailto:law.journal@unsw.edu.au). If you intend to submit an article, it would be greatly appreciated if you could provide some early indication of your proposed topic or area of research. We strongly encourage you to pass on this call for submissions to any colleagues, research networks or organisations who may be interested in making a submission.

Yours sincerely,

Drew Gillespie  
 Editor, Issue 44(1)

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