

EDITORIAL

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Issue 43(4) of the *University of New South Wales Law Journal* ('*Journal*') is the last release of the calendar year, and as a result, it bears the rather unenviable burden of providing closure to our 2020 publication run. It would, however, be something of a disservice to the magnitude of what has transpired this year to confine it to a handful of prefatory pages. Much has been said on the impact of the COVID-19 pandemic, but I defer to Issue 44(1) next year to perform an exegesis of the legal implications that are sure to follow.¹

A running thread throughout this year's Issues has been transformative critique on the law. Whether the law is sufficiently responsive to such critique is a separate discussion. But there can be no doubt that vernacular such as 'the application of fresh perspectives to traditional areas of law',² 'legal norms and boundaries ... being constantly tested, questioned and re-evaluated',³ and, of course, '[t]o revitalise legal authorities'⁴ evokes the idea that robust pressure is being applied to legal orthodoxy as we know it; and that this pressure is urgently needed now more than ever.

Often this pressure comes from where the law meets the outsider; when the alien disturbs the hitherto incumbent. Such flashpoints form the basis of the articles from which the launch theme for this Issue – 'The Alien and the Law' – is drawn. These articles explore the differential impact of the criminal law upon migrants; the historical tension between foreign physicians and the medical establishment; the practical consequences on family roles of the entry of women into the legal profession; and a comparative analysis of nascent foreign influence legislation on literal 'aliens'. I thank the authors who have generously volunteered their time to participate in the launch Q&A, and also extend my thanks to the Hon Justice David Hammerschlag who kindly agreed to deliver the keynote address for this launch.

The remaining articles comprising Issue 43(4) form equally diverse scholarship: the scope of the competition regulator's information gathering powers; the intersection of constitutional norms and international investment law; the future of the legal profession; the 2019 edition of the *Journal's* long-running High Court statistics; disciplinary proceedings of female health practitioners; judicial enforcement of not-for-profit law; ASX 100 securities trading policies; Aboriginal fishing rights in New South Wales; coercive powers of corporate crime

* Editor, Issue 43(4), 2020.

1 See 'Call for Submissions to the *University of New South Wales Law Journal* Issue 44(1): "Rights Protection amidst COVID-19"' (16 April 2020).

2 Phoebe Saxon, 'Editorial' (2020) 43(1) *University of New South Wales Law Journal* 1, 1.

3 Tom Milner, 'Editorial' (2020) 43(2) *University of New South Wales Law Journal* 384, 384.

4 Indrepreet Kaur Singh, 'Editorial' (2020) 43(3) *University of New South Wales Law Journal* 762, 762.

investigators; casual vacancies under proportional representation; apportionment of proceeds from collective sales of strata property; and confidentiality and privilege in mediation.

The above outline should indicate that this is something of a bumper Issue – 16 articles in total. This is partly a consequence of the frontloaded impact of the pandemic on this year's publication pipeline. However, to a greater extent, it is the consequence of an increasing volume of quality, topical research being generated in Australia, and from institutions around the world. I am grateful to be able to provide a preamble to what has ended up a substantial contribution to contemporary legal scholarship. To the 19 authors without whom this Issue would not be possible, thank you for entrusting your article to the *Journal*, and to my stewardship.

However, this Issue is the collective achievement of the entire Editorial Board. It is no mean feat to edit legal scholarship as a student, let alone for a journal as storied and distinguished as the *University of New South Wales Law Journal*. The contributors to this Issue have made clear their appreciation of the editors' hard work, and I take the opportunity to again commend your diligence and labour. It has been a pleasure.

The Executive Committee, and their patient but decisive guidance, also deserve commendation. To Antonia Xu (Executive Editor), thank you for your constant feedback on the 'big picture' considerations; to Veronica Sebesfi (Digital Editor), thank you for providing a font of institutional (often rarefied) knowledge; to Sarah Philipson (Forum Editor), thank you for showing me the light of short form articles. Lastly, but not least, thank you to my fellow Issue Editors, past and present. The legacy of the *Journal* subsists in you.

Of course, I should thank our very own representatives in the academy – Faculty Advisors, Professors Rosalind Dixon and Gary Edmond; Acting Dean of the UNSW Law Faculty, Professor Andrew Lynch; our former Dean, Professor George Williams (now Deputy Vice Chancellor (Planning and Assurance)); and the Law Faculty at large.

I am further grateful to our anonymous peer reviewers, whose attention to detail and critical eye have very frequently been the decisive factor in transforming good scholarship into exceptional scholarship. I have always believed in the supreme importance of the peer review process in Australia, and working with our peer reviewers has only bolstered that belief.

I would also like to thank the *Journal's* three premier sponsors for their ongoing support of the publication – Allens, Herbert Smith Freehills and King & Wood Mallesons. I am especially grateful to Allens for facilitating the launch of this Issue, particularly in circumstances where our traditional launch structure has been rendered unfeasible.

Finally, I would like to thank the friends and family closest to me, all of whom have been a bastion of stability throughout the whole process. To my parents, thank you for your kind forbearance during the year. Thank you to my peers on the Editorial Board, Tasnim Ahsan, Caitlin Goutama and Rebecca Zhong, who have been a mediating presence to all my idiosyncrasies.

Returning to the theme of transformative scholarship, I leave the reader with a memory of a question posed at the first launch of 2020. It pertained to what might be termed a ‘discourse gap’ between the academy and the profession – whether legal scholarship of the kind that might end up in compilations such as the *Journal* is ultimately ‘shouting into the wind’, so to speak. Such concerns are nothing new,⁵ and it is a fact that often the most tangible effects of academic writing are only realised when translated into judgment and statute.

The positive reception to each academic journal launch (not least for this *Journal*) suggests that this is not the case in Australia. As the Hon Chief Justice Susan Kiefel has noted, the use of academic materials (by judges specifically, but in my view coextensive to lawmaking at large) ‘confirms our shared concern with the correct and coherent development of the law’ – and the continuance of such influence ought to be encouraged.⁶

5 Such as in the United States: see, eg, Richard A Posner, ‘The Judiciary and the Academy: A Fraught Relationship’ (2010) 29(1) *University of Queensland Law Journal* 13; Judith S Kaye, ‘One Judge’s View of Academic Law Review Writing’ (1989) 39(3) *Journal of Legal Education* 313.

6 Chief Justice Susan Kiefel, ‘The Academy and the Courts: What Do They Mean to Each Other Today?’ (2020) 44(1) *Melbourne University Law Review* (advance) 2.