

EDITORIAL

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It can be hard to know precisely what to write in an editorial, or indeed what the utility of one even is. I have written and discarded more drafts of this editorial than I am proud to admit. How can one, in the space of a few short pages and without boring our esteemed readership to the point of tedium, even begin to describe an experience which has brought with it the highest of highs, the occasional low and a path of self-discovery that I am still *far* from comprehending? The task, to me, seems quite insurmountable. However, in the spirit of honouring the countless hours which have been invested in this publication and the many mind-blowingly brilliant people I have met along the way, I invite you all to venture with me across the opening pages of this Issue of the *University of New South Wales Law Journal* (*Journal*) as I attempt to answer this question, quite ironically, in one simple, transient, all-encompassing word.

Like my eyes in the morning after a long night editing, I shall open narrowly. Perhaps ‘enlightening’ may be a fitting epithet to capture the wonder that the pages of this Issue hold. After all, the *Journal* has a lengthening history of placing itself at the forefront of some of the most intriguing, topical and downright thrilling debates in Australian legal scholarship. To this end, Issue 46(2) is no exception. It contains a total of 10 articles, with an even split falling within the Issue’s thematic component – titled ‘Life Sciences: Ethics, Innovation and the Future of Law’ – and its general counterpart. In fact, it was my own personal enlightenment, sparked by reading the High Court’s judgment in *Cattanach v Melchior* as a lowly first-year law student,¹ that allowed me to see just how important the law remains in our understanding of the virtue we arguably all hold dearest – life. As the Court grappled with the longstanding socio-legal conception of life as a ‘blessing’ and the continued relevance (or perhaps more accurately, irrelevance) of such a conception,² my own understanding of the law was broadening at rapid pace. It became clear to me that the law is much more than just a set of prescriptive rules governing conduct. It is the formalisation of a society’s moral underpinnings. And with that realisation, the ideological foundations of this Issue were laid.

I pronounce with little doubt that each article within this Issue will be enlightening to its readers. From Jane Kotzmann, Morgan Stonebridge and Paulien

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1 (2003) 215 CLR 1.

2 See *ibid* 13 [15] (Gleeson CJ), 36 [79] (McHugh and Gummow JJ), 54–9 [141]–[151] (Kirby J), 72–4 [195]–[197] (Hayne J), 130–3 [358]–[362], 143 [392] (Heydon J).

Christiaenssen asking us to rethink our understanding of personhood and afford it to animals for their survival in the context of ineffective animal protection laws, to Kay Wilson and Christopher Rudge providing us with an in-depth historical analysis of vaccine mandates to argue that even strongly held legal precepts, such as the right to bodily integrity, are not without limits; it is clear that the interplay between law and the life sciences forces us to reconsider the role of the law as fearless gatekeeper of social morality. Gardens inevitably grow and even sundials may end up in the shade. And, in response, the law must move.

Likewise, the general component of this Issue poses similar questions. For instance, in their thorough analysis of court transcripts, Anthony Hopkins et al demonstrate that the predominant discourse surrounding aboriginality in the sentencing of Indigenous offenders may be inconsistent with socially accepted constructions of Aboriginal identity. Meanwhile, Emma Genovese's expansive statutory survey lifts the lid on the persisting inequality against the queer community that continues to permeate throughout Australian law years after same-sex marriage was legalised. The findings of these articles are certainly enlightening, if not concerning. Yet, I do not feel that 'enlightening' truly captures all this Issue has to offer, particularly in light of its forward-focused lens. Something is missing.

Could 'transformative' fill this perilous void? Potentially, for this Issue certainly represents a metamorphosis of sorts. In no place is this truer than in this Issue's thematic component. As leading professor Sheila Jasanoff explains, 'when biological advances seem most surely to be putting new [moral] issues on the agenda ... powerful legal norms lie barely concealed beneath the surface, conditioning the very terms in which those debates are formulated'.³ Such biological advances, or more so the responses to them, thus provide a rich tapestry of how the law adapts to evolving social values and, by extension, contemporary conceptions of life itself.

For instance, Callum Vittali-Smith's article raises pertinent questions as to the intertwined legality and ethicality of using genetic information in criminal investigation procedures, with special reference to the criminalisation of race, the psychocultural impacts on the construct of 'family' and the very volatile issue of genetic privacy. Likewise, Lisa Eckstein et al explore how novel frameworks of consent, arising in response to evolving research needs, have fundamentally altered the role of Human Research Ethics Committees away from being arbiters of ethical acceptability. In turn, it is argued that the assumption of more legalistic functions dilutes the transparency, trustworthiness and accountability of such bodies – presenting a plethora of new ethical challenges. Just how the law considers these varied and competing factors in its propulsion is seldom clear, but it simply must. This Issue shines a light on the often-turbulent waters within which these legal, scientific and moral dilemmas arise.

Transformation in this space is a constant. But does it *really* encompass the beating heart of this Issue? Sadly not. It obfuscates the many friendly voices, helping hands and eagle eyes that fuse the spine of this publication solid. Perhaps

3 Sheila Jasanoff, 'Introduction: Rewriting Life, Reframing Rights' in Sheila Jasanoff (ed), *Reframing Rights: Bioconstitutionalism in the Genetic Age* (MIT Press, 2011) 1, 3 <<https://doi.org/10.7551/mitpress/9780262015950.003.0011>>.

‘synergetic’ may be a more apt descriptor to rightfully acknowledge the efforts that made this Issue possible. First, there are the 27 authors whose work, insight and vision for change consume the pages of this Issue. Please know that I am sincerely thankful for your patience throughout the editorial process and for the wisdom you have indelibly imparted on the *Journal* community. It has been an honour to work with all of you. Thanks too must be extended to the anonymous peer reviewers whose knowledge, expertise and generosity of time refined the articles. During my tenure, I earned quite the reputation for scouring every corner of the globe to source reviewers of the highest esteem. So, wherever you are, thank you for contributing to the discourse in which this Issue forms part.

In a similar vein, this Issue is a product of the longstanding relationships we share with our highly-valued premier sponsors – Allens, Corrs Chambers Westgarth, Herbert Smith Freehills and King & Wood Mallesons. Your continued support allows all of the students involved in this publication to find their passion, build a community and enrich their university experience. Thank you for having faith in our product and for your continued investment in furthering high calibre academic legal debate. Special thanks must be afforded to Corrs Chambers Westgarth for kindly hosting this Issue’s launch.

It is easy to forget that the *Journal* is nearly 50 years old. Such longevity could not be achieved without the ardent support of our home university. In particular, I wish to thank our Dean, Professor Andrew Lynch, for his fervent championing of the *Journal* and proud commitment to our independence. The personal sacrifices made by all student editors are the untold stories that exist on every page of every Issue of the *Journal*, so it is heartening to know that our efforts are not only seen and appreciated, but celebrated by our law school.

There are two particular figures that play a fundamentally vital role in shepherding students through the whirlwind of an experience that is serving on the *Journal*’s Executive Committee – Professors Rosalind Dixon and Gary Edmond, in their capacities as Faculty Advisers. Thank you both for meeting every panicked email with a soothing calm and for your saint-like patience in dealing with often idealistic, overly ambitious law students navigating through their *Journal* tenure. I must also extend my sincere gratitude to Professor Dixon for her encouragement, mentorship and guidance outside of the *Journal*.

It will no doubt delight many readers to know that this editorial will soon be over. When it is, you will be met with a thoughtful and witty Foreword penned by the Hon Justice Robert Beech-Jones, Chief Judge of the Common Law Division of the Supreme Court of New South Wales and Judge of the New South Wales Court of Appeal. The *Journal* is very lucky to have such an eminent figure from within the judiciary write a Foreword for us and we appreciate his Honour’s thought-provoking commentary on this Issue. I personally thank his Honour greatly for completing this undertaking with such enthusiasm and for delivering the keynote address at this Issue’s launch on 18 July 2023.

The launch is an opportunity to celebrate the awe-inspiring work of the names that appear on this Issue’s inside cover – the volunteer student members of the Editorial Board. I thank all of you for your admirable work ethics, good humour

and unrelenting willingness to take issue with my stance on the capitalisation of hyphenated suffixes. Special thanks must go to Boardies Alfred Nguyen and Sarah Shapiro Parata who took temporary elevated roles to assist the Executive Committee at times when the flow of submissions was particularly heavy. Working with our Boardies has, without a skerrick of doubt, been a highlight of my university experience. I know you will all go on to achieve brilliant things – both within the *Journal* and beyond.

There are, of course, others who play a critical yet often hidden role in the publication of the *Journal*. I thank our typesetter, Kerry Cooke, and our cover designer, John Hewitt, for their untiring commitment to the *Journal* and for the timely delivery of their excellent services. I must also thank Maggie Stein for the wonderful artwork which appears on the first page of this Issue's thematic component. I could not think of a more fitting way to thrust open academic discourse on the competing forces between law and the life sciences.

Personally, the publication of this Issue would not be possible without the steadfast support of my family and friends who exist beyond the confines of the *Journal*. In my attempt to find the perfect word to describe this Issue, to you I owe two – 'thankyou' and 'sorry'. I am sorry for all of the milestone moments I have missed over the past 13 months, but thank you for sticking with me nonetheless. This Issue truly is a labour of love and I could not have done it without yours.

Clearly, from the number of words it has taken to thank all of the necessary parties, Issue 46(2) could not be described as anything else other than 'synergetic'. But I remain unconvinced that it is the fitting lettered expression from which I can contently leave my office as Editor, for there is a group of people remaining in that crowded office who rendered the experience purely 'magical'.

To the Issue Editors who came before me – Enrico Mainas, Georgia Fink-Brigg, Katherine Cheng and Aakriti Shoree – thank you all for welcoming me to the Executive Committee when I was still a bright-eyed and bushy-tailed Boardie to whom 'R&R' meant not 'revise and resubmit', but 'rest and relaxation'. Your warmth, kindness and altruistic spirit has meant that you have not only supported me while we were on the Executive Committee together, but long after your *Journal* retirement. To those stewarding future Issues – Anna Ho, Ella Davidson, Jessie Liu and Brad Marzol – I leave knowing the *Journal* is in your capable hands. Seeing you all not only seize your roles with such gusto, but thrive in them, has been as rewarding as it has been inspiring.

To the Executive Editors – Matilda Grimm and Darius Dadgostar – the respect and admiration I harbour for you both is unparalleled. Thank you for steering the ship when no one else would dare touch the wheel and for always doing so with a reassuring sense of confidence. To the *Forum* Editors – Jack Zhou and Isobelle Wainwright – and Digital Editors – Zhong Guan and Calum Brunton – thank you all for your consistent desire to pitch in with this Issue. Few people recognise how integral you are in keeping the ship afloat, and you do so with an unadulterated passion for the product we collectively create.

In sum, how I feel about you all, and my sojourn at the *Journal* more generally, goes beyond words. It is a tangible, thriving space from which I have personally

derived an incredible amount of goodness, fulfillment and belonging. It's much more than a word. It's a 'home'.

I realised this through a recent series of chance encounters with *Journal* alumni – it didn't matter if months, years or even decades had passed since their tenures ended, when they discovered we had a shared connection through the *Journal*, their eyes lit up all the same. That's because the *Journal* is much more than one word could ever capture. It's a home to which we all, hopefully, can return and look on from afar with positive nostalgia. But, above all else, it is comforting to know that those who will come to occupy our cosy, cramped office on level three of the Law Building will have as much of an enlightening, transformative, synergetic and magical experience in their home, as I did in mine.