
Index – Volume 18

Accountability

Fair Work Ombudsman *see* Fair Work Ombudsman

Administrative Appeals Tribunal (Cth)

ministerial directions
effect on tribunal independence, 161–171

Administrative review

Administrative Review Council (Cth), 125–126

Administrative tribunals *see* Victorian Civil and Administrative Tribunal (VCAT)

Adverse possession

statutory bodies, 188–192

Apprehended bias *see* Bias

Asylum-seekers *see* Procedural fairness

Bias

British American Tobacco Australia Services Ltd v Laurie (casenote), 198–202

judge's interlocutory decision, 198–202

Bills of rights

Constitution Ch III and State charters, 67–79

Ch III bill of rights, 72–77

jurisprudence, 73–77

original intent, 72–73

changing balance, 77–79

Kirk v Industrial Relations Commission (NSW), 68–70

national Human Rights Act, 67–68

R v Momcilovic, 70–72

New Zealand *see* Human rights

Book reviews

Constitutional Review under the UK Human Rights Act (Kavanagh), 115–117

Judicial Recusal (Hammond), 118–119

Memoirs of a Radical Lawyer (Mansfield), 117–118

Capital punishment

clemency, 186–187

Charters of rights *see* Bills of rights

Chief Justices

as Lieutenant Governors
federal jurisdiction, 3–6

Confidential information

use by regulators and law enforcement agencies, 215–228

Constitutional law

bills of rights and *see* Bills of rights

Constitutional Review under the UK Human Rights Act (Kavanagh) (book review), 115–117

free exercise of religion, 185–186

freedom of political communication

Hogan v Hinch, 124–125

rights guarantees and State Parliaments, 229–243

precedent for protection, 240–243

US experience, 230–235

Consumer satisfaction

guardianship hearings, 20–28

Courts *see also* Federal Court

determination of separate questions, 7–8

Criminal intelligence

control & disclosure, 29–43

analysis based on definition, 31–32

British & Australian law, 41–43

constitutional validity of legislation, 30, 37–38

definition, 30–31

dissent in Totani, 38–39

events since Totani, 39–41

Liquor Act (SA) & Serious and Organised Crime (Control) Act (SA), 32–33

privative clauses, 33–37

review of classification, 36–37

Crown

adverse possession, 188–192

- Death penalty
 - clemency, 186–187
- Determination of separate questions, 7–8
- Discovery
 - limits on use of material, 217–220
- Dismissals *see* Procedural fairness
- Due process *see* Procedural fairness
- Elections
 - Court of Disputed Returns (Cth), 123–124
- Employment law *see also* Fair Work Ombudsman
 - paid parental leave, 193–197
 - unfair dismissal claims *see* Procedural fairness
- Evidence
 - inadmissible
 - use by regulators and law enforcement agencies, 215–228
- Fair dismissals *see* Procedural fairness
- Fair hearing obligations
 - VCAT, 6–7
- Fair Work Ombudsman
 - accountability, 127–132
 - concept, 128
 - mechanisms, 128–132
 - downwards accountability, 131–132
 - horizontal accountability, 130–131
 - upwards accountability, 128–130
 - scope, structure & powers, 127–128
- Federal Court
 - rules, new (2011), 185
- Federal jurisdiction
 - Chief Justices as Lieutenant Governors, 3–6
- Freedom of political communication
 - Hogan v Hinch, 124–125
- Governors
 - Chief Justices as Lieutenant Governors
 - federal jurisdiction, 3–6
- Guardianship
 - consumer satisfaction with tribunal hearings, 20–28
- Hearings
 - determination of separate questions, 7–8
- Human rights
 - bills of rights *see* Bills of rights
 - Constitutional Review under the UK Human Rights Act (Kavanagh) (book review), 115–117
 - introduction to special issue, 63–67
 - New Zealand courts, 80–100
 - conceptual framework, 84–92
 - competing models, 84–85
 - immigration cases, 90–92
 - mandatory consideration model, 85–86
 - presumption of consistency model, 86–88
 - relationship between models, 88–90
 - international human rights movement, 81–84
 - rights horizontally traded, 83–84
 - rights vertically descended, 81–83
 - New Zealand Bill of Rights Act 1990, 92–96
 - attenuated reform, 92–93
 - circumscribing public powers, 95–96
 - methodology, 94–95
 - synergy of human rights, 96–100
 - caution, 99–100
 - fundamental & inherent rights, 96–97
 - overlay of human rights, 99
 - Zaoui saga, 97–9
 - procedural fairness *see* Procedural fairness
- Intelligence, criminal *see* Criminal intelligence
- International law
 - targeted sanctions *see* Procedural fairness
- Judges *see also* Chief Justices
 - apprehended bias *see* Bias
 - recusal
 - British American Tobacco Australia Services Ltd v Laurie (casenote), 198–202
 - comparative analysis, Judicial Recusal (Hammond), 118–119
 - interlocutory decision, 198–202
- Judicial review
 - federal review of State privative clauses, 203–214
 - Kirk v Industrial Relations Commission of NSW, 203–214
 - migration *see* Migration

Juries

- secrecy, 172–182
 - abuse of power & broad ultra vires, 180–182
 - bad faith, 181
 - improper purpose, 181
 - irrelevant & relevant considerations, 180–181
 - unreasonableness, 181–182
- access to information, 173–176
 - absence of duty, 173
 - deduction to be drawn from absence of reasons, 173–174
 - freedom of information law, 176
 - statutory framework for administrators to provide reasons, 174–176
- natural justice & procedural fairness, 177–180
 - bias rule, 179–180
 - main principles, 177–178

Jurisdiction

- federal
 - Chief Justices as Lieutenant Governors, 3–6

Jurisdictional error

- federal review of State privative clauses, 203–214
- Kirk v Industrial Relations Commission of NSW, 203–214
- migration *see* Migration
- Refugee Review Tribunal
 - Minister for Immigration & Citizenship v SZGUR (casenote), 133–137

Law enforcement agencies

- use of privileged, confidential and inadmissible information, 215–228

Lawyers

- Memoirs of a Radical Lawyer (Mansfield), 117–118
- use of confidential material, 221–225
 - Chinese walls, 223–225

Legality

- statutory bodies and adverse possession, 188–192

Lieutenant Governors

- State Chief Justices as
 - federal jurisdiction, 3–6

Migration *see also* Procedural fairness

- judicial review & jurisdictional errors, 138–160
 - code of procedure
 - Saeed, 156–159
 - SZKTI and SZLFX, 139–143
 - duty to inquire (SZAIA), 148–150
 - imperative duties, code of procedure & natural justice (SZIZO), 143–147
 - statutory language & underlying purpose (SZJGV), 150–155
- natural justice
 - Saeed v Minister for Immigration and Citizenship (casenote), 9–13
- Refugee Review Tribunal
 - jurisdictional error
 - Minister for Immigration & Citizenship v SZGUR (casenote), 133–137

Ministerial directions

- effect on tribunal independence, 161–171

Natural justice *see* Procedural fairness

New Zealand

- human rights *see* Human rights

Ouster clauses *see* Privative clauses

Political communication, freedom of

- Hogan v Hinch, 124–125

Privative clauses

- federal review of State legislation, 203–214
- Kirk v Industrial Relations Commission of NSW, 203–214

Privileged information

- use by regulators and law enforcement agencies, 215–228

Procedural fairness *see also* Judicial review

- clemency, 186–187
- dismissals, 14–19
 - “fair go” ethos, 16
 - small business exceptionalism, 16–17
 - small business fair dismissal code, 17–18
 - unfair dismissal and administrative law, 15–16
- unfair dismissal law as response to common law lack, 14

Procedural fairness – *continued*

- due process & rule of law as human rights
 - “offshore” processing of asylum seekers, 101–114
 - challenge to power, 106–111
 - grounds of review, 110–111
 - qualification by rules of procedural fairness, 107–110
 - remedies available, 111
 - creating exception, 101–104
 - “excised” territories, 104–106
 - Plaintiffs M61/M69 ruling & implications, 111–114
 - existing Christmas Island cases, 111–112
 - judicial oversight, 113–114
- jury secrecy *see* Juries
- Saeed v Minister for Immigration and Citizenship (casenote), 9–13
- UN targeted sanctions, 44–58
 - Australian implementation of regime, 47–50
 - “fair and clear” procedures, 44–47
 - implementing sanctions & ensuring procedural fairness, 50–58
- Refugee law
 - procedural fairness *see* Procedural fairness
- Refugee Review Tribunal
 - jurisdictional error
 - Minister for Immigration & Citizenship v SZGUR (casenote), 133–137
- Regulatory agencies
 - use of privileged, confidential and inadmissible information, 215–228
- Religion
 - free exercise of, 185–186
- Rule of law *see* Procedural fairness
- Search warrants
 - limits on use of material, 220–221
- Separate questions
 - determination of, 7–8

Small business

- unfair dismissals *see* Procedural fairness
- Social security
 - paid parental leave, 193–197
- States
 - bills of rights *see* Bills of rights
 - Constitutional rights guarantees and State Parliaments, 229–243
 - precedent for protection, 240–243
 - US experience, 230–235
 - federal review of State privative clauses, 203–214
 - Lieutenant Governors, Chief Justices as
 - federal jurisdiction, 3–6
- Statutory bodies
 - adverse possession, 188–192
 - use of privileged, confidential and inadmissible information, 215–228
- Subpoenas
 - limits on use of material, 217–220
- Supreme Courts
 - Chief Justices, as Lieutenant Governors
 - federal jurisdiction, 3–6
- Tribunals *see also* Administrative Appeals Tribunal (Cth); Refugee Review Tribunal; Victorian Civil and Administrative Tribunal (VCAT)
 - determination of separate questions, 7–8
 - guardianship hearings
 - consumer satisfaction, 20–28
- Unfair dismissals *see* Procedural fairness
- United Nations
 - targeted sanctions *see* Procedural fairness
- User satisfaction
 - guardianship hearings, 20–28
- Victorian Civil and Administrative Tribunal (VCAT)
 - fair hearing obligations, 6–7
- Welfare
 - paid parental leave, 193–197
- Workplace relations *see* Employment law