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WHITE ISLAND AND ACCIDENTS IN NEW ZEALAND: ISSUES IN PRIVATE INTERNATIONAL LAW

Michael Gvozenovic

This article seeks to canvass some of the issues in private international law that may arise in Australian proceedings as a result of accidents in New Zealand. The eruption on White Island in 2019 is one such example. The incident raises many interesting and overlapping conflict of law questions. This includes how courts should determine the place of the tort and the applicable substantive law; an examination of New Zealand’s foreign compensation scheme and recently introduced choice of law legislation; and cognate issues regarding concurrent liability and workers’ compensation.	175
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LOST IN TRANSLATION: THE WRONGFUL CONVICTION OF KATHLEEN FOLBIGG
BASED ON FRESH MEDICAL EVIDENCE AND EXPERT INTERPRETATION OF
HER DIARIES

Dr Fiona Hum and Dr Andrew Hemming

This article argues that Kathleen Folbigg was wrongly convicted of suffocating her four children and should be immediately released from prison where she has been incarcerated since 2003. The basis for this contention is the fresh and compelling evidence that Ms Folbigg has the CALM2 mutation which she passed on to two of her four children and precipitated lethal cardiac arrests. The current medical and scientific expert opinion is that all four children died from natural causes. In addition, recent expert opinion from psychologists and linguists on Ms Folbigg’s diaries, which the Crown argued amounted to virtual admissions of guilt, concluded that there was no evidence Ms Folbigg harmed her children and her purpose in writing the entries was to try and make sense of the deaths of her children. 180

DEFINED TERMS IN LEGISLATION: MERE PLACEHOLDERS OR MEANINGFUL
LABELS? REVISITING THE PRINCIPLE FROM SHIN KOBE MARU

Nick Wray-Jones

Australian courts have regularly questioned the High Court’s judgment in *Owners of Ship Shin Kobe Maru v Empire Shipping Co Inc*, which prohibits using defined terms in legislation to interpret their definitions. The basis for this prohibition is that it would be “circular” to use defined terms to interpret definitions, as definitions give defined terms a “special” legislative meaning. Recently, the Queensland Court of Appeal has endorsed *Shin Kobe Maru* as a strict rule against this kind of circular reasoning, whereas the New South Wales Court of Appeal has suggested that the position may be more complex. This article analyses these competing decisions and suggests that *Shin Kobe Maru* is subject to a number of qualifications and exceptions, arising out of the importance of defined terms as a source of context. Rather than being “mere placeholders” for their definitions, defined terms in legislation can be “meaningful labels”. 196

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