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## ARTICLES

<b>Robodebt and Government Lawyers: Ethical and Structural Challenges</b> – <i>Gabrielle Appleby</i>	
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Many observations of the Royal Commission into the Robodebt Scheme underscore the importance of understanding the unique professional and ethical obligations of government lawyers, and the imperative of structuring legal services to government in a way that supports the lawyers to fulfil those obligations, and ultimately, therefore, assist in government under the rule of law. The Robodebt Commission reveals instances of significant failures in the professional and ethical practice of lawyers working for government, with very real and human consequences. These intersect with an institutional failure regarding the structure of legal services for government, and support provided to lawyers. In this article, I explain the unique position filled by government lawyers, the historical and contemporary way in which legal services are structured at the Commonwealth level in Australia, before turning to consider the implications of the findings of the Robodebt Royal Commission as they relate to government lawyers. ....

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<b>Challenging a Repeat Player: Robodebt and the Role of Legal Assistance</b> – <i>Joel Townsend</i>	
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The Robodebt Royal Commission exposed how the Commonwealth Government avoided scrutiny on the question of the lawfulness of robodebt. Government acted as a “repeat player”, interested not only in the outcomes of individual cases, but in manipulating legal processes to “play for rules”. The work of Victoria Legal Aid in bringing test case litigation in the Federal Court contributed to bringing robodebt to an end. It shows the potential for legal aid bodies to redress the imbalance in the public law system between government as a “repeat player”, and “one shotters”: individuals with a stake only in the outcome of their

individual case. The Productivity Commission, in 2013, highlighted the value of legal aid bodies engaging in “strategic advocacy” to shape the legal systems which impact their clients. While there has been some resistance to legal aid bodies taking up this role, the robodebt experience demonstrates its potential benefits. .... 181

**Robodebt, Transparency and Freedom of Information: Should the Cabinet Confidentiality Exemption Be Retained? – Yee-Fui Ng and Maria O’Sullivan**

The Robodebt Royal Commission uncovered significant deficiencies in the operation of Australia’s Freedom of Information legislation, observing that journalists and the public faced difficulties accessing information regarding the Robodebt scheme due to departmental intransigence. This article critically analyses the Royal Commission’s recommendation that the Cabinet confidentiality exemption in the *Freedom of Information Act 1982* (Cth) (FOI Act) be repealed. Drawing on a comparative analysis from overseas jurisdictions and academic commentary, the authors argue that the Cabinet confidentiality exemption in the FOI Act should be narrowed in terms of the scope of documents covered. It also recommends the addition of a public interest override and a reduced timeframe for release. Further, the authors advocate for a holistic reform of the FOI system to meet the new challenges of automated government decision-making. .... 192

**Systemic Failure and Systemic Unfairness – Matthew Groves**

The Robodebt program continued for as long as it did in partly because it was not subject to a superior court determination that the scheme was illegal. There has been much discussion on why a suitable case was not able to reach the Federal Court, or why a decision of the Administrative Appeals Tribunal in publicly available form was not made. This article moves beyond speculation about the absence of a suitable test case to ask a different question. Could some of the more innovative approaches of United Kingdom (UK) public law have provided a useful means to challenge Robodebt? This article considers the UK principles that impose a duty of consultation in limited circumstances, review for inherent or structural unfairness, as well as a novel approach suggested by Lord Sales for processes involving automation. .... 209