

# THE AUSTRALIAN LAW JOURNAL

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## **CURRENT ISSUES – Editor: Justice François Kunc**

Gaza .....	237
International Court of Justice: South Africa v Israel Genocide Decision .....	239
The Australian Law Reform Commission (ALRC) I – Corporations Law Reform .....	243
ALRC II – Justice Responses to Sexual Violence .....	243
Thirty-six Years of Judicial Service of Rare Variety .....	244
The Curated Page .....	244

## **FAMILY LAW – Editor: The Hon Justice Grant Riethmuller AM**

The Role of the Independent Children’s Lawyer .....	245
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## **HUMAN RIGHTS – Editor: Emeritus Professor Simon Rice OAM**

Will a Parliamentary Joint Committee Recommend a Justiciable Human Rights Act? .....	245
--	-----

## **FROM THE LAW SCHOOLS – Editor: Emeritus Professor David Barker AM**

An Update .....	251
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## **ARTICLES**

### **IMPERIAL ENACTMENTS IN AUSTRALIA RECONSIDERED: WHAT ARE THEY AND ARE THEY WORTH KEEPING?**

#### **Oscar H Kawamata**

Imperial enactments in Australia are in a state of limbo. Often overlooked, even the jurisdictions which have attempted to systematically organise them have not revisited them since the passage of the *Australia Acts in 1986*. For nearly four decades, the Australian legislatures have had the unencumbered power to repeal or amend inherited Imperial laws, but have not done so on any significant scale. This article lays the groundwork for meaningful reform in this area by: (1) seeking to identify the Imperial enactments which remain in force in Australia; and (2) making provisional conclusions as to whether they should be retained. It ultimately argues that the vast majority of Imperial enactments can and should be repealed or re-enacted. ....

253
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**Melissa Perry, Benjamin Durkin and Charlotte Breznik**

This article considers some of the key challenges posed by Artificial intelligence (AI) to fundamental legal values which hitherto have drawn upon inherently human qualities such as mercy, compassion, equality, and fairness. While there have been significant developments internationally, there is presently no international consensus as to the best means for regulating AI, and governments globally, including in Australia, are still in the process of developing appropriate and effective regulatory systems. The article first briefly explains the evolution of automated processes and AI in order to explain some of the potential impacts and risks associated, in particular, with new generative AI technologies by reference to practical, contemporary examples. The article then considers the use of machine technologies in administrative decision-making in Australia. It concludes with a discussion of some of the fundamental values and concepts relevant to developing appropriate legal responses to the use of AI in administrative decision-making. .... 272

**“HEARD” BUT UNREPRESENTED: MAKING THE CASE FOR THE INDEPENDENT LEGAL REPRESENTATION OF CHILDREN IN ADOPTION FROM CARE PROCEEDINGS IN NEW SOUTH WALES**

**Gabrielle Stricker-Phelps and Professor Judy Cashmore**

In New South Wales, as in other Australian jurisdictions, children are routinely legally represented in care and protection, criminal, and contested family law matters. This is not the case, however, in adoption matters although the *Adoption Act 2000* (NSW) enables the Court to appoint a children’s lawyer where it appears that a child “needs to be represented”. This article outlines the substantive and procedural benefits of children’s legal representation particularly in adoption-from-care proceedings though of course, the extent to which the benefits of children’s legal representation are fully realised is dependent on the effectiveness of children’s lawyers and the quality of legal services they deliver. Various factors that the Court may consider when exercising its discretion to appoint a legal representative for a child in NSW adoption-from-care proceedings are outlined. .... 286

**BOOK REVIEW – Editor: Angelina Gomez**

*The Law of Loyalty*, by Lionel Smith ..... 301

## Australian Law Journal Reports

**HIGH COURT REPORTS – Staff of Thomson Reuters**

DECISIONS RECEIVED IN OCTOBER 2023

Vanderstock v Victoria ([2023] HCA 30) (*Constitutional Law; High Court and Federal Court*) ..... 208

