

Editorial

It is a pleasure indeed to be invited to contribute to the journal by way of an editorial. The emphasis in this issue is on educational rights, particularly those of students and teachers, with representatives of five nations involved. In recent years both students of education law and practitioners have developed a much more international perspective. It is hoped that this issue of the journal celebrates that trend and enhances it.

Susan Fraser and Val Riewe outline the rights of teachers in Canada, particularly in Alberta. Maintenance of standards, employment security, the sources of teachers employment rights, downsizing of the public sector, stress, part-time teaching, and feminisation of the profession are all discussed. Their disturbing, but convincing, conclusion refers to '*...a world where efficiency is asserted over ethics, collegial relations are replaced by internal competition and new forms of commitment, based on corporate cultural and survivalism, replace professional judgement and ethics*'. The effect of this is that classroom practice then becomes based on '*...responses to changing external demands rather than professionally considered, educationally sound practice*'.

Wilfred Legotlo discusses the significance of South Africa's recent Bill of Rights in relation to the rights of educators. He also discusses the Education Labour Relations Council and the Labour Relations Act under which '*all registered teachers organisations are to be consulted in all matters of mutual interest*'. From Wilfred's paper it would appear that very few disputes or matters of concern to South African educators could not be made the subject of proceedings before an independent decision-maker.

Recent experience in the United States of America is discussed by Albert Miles and Xin Fu, where the legal framework is long established. They deal with many recent decisions, emphasising the need for awareness by teachers of students' rights and explaining the (rather unfortunate) limitations on academic free speech flowing from decisions on the interpretation of the First Amendment to the United States Constitution. This article concludes with discussion of recent cases in contract, tort, due process and non-discrimination and civil rights laws.

In many jurisdictions the law increasingly reflects the notion that both staff and students in educational institution have legally enforceable rights to safety in those institutions. Sally Varnham deals from a New Zealand perspective with the issue of sexual harassment. She refers to United States decisions in relation to teacher/student harassment and peer harassment and places this experience and recent New Zealand cases in the context of both the New Zealand Human Rights Act and traditional tort remedies.

Peter Williams' analysis of the School Education Act 1999 (Western Australia) demonstrates the extent to which recent education legislation reflects the new emphasis on rights. For more than a century after the introduction of compulsory education throughout the (then) Australian colonies in the 1870s the legislative framework concentrated on the powers of (centralised) education bureaucracies, with very little or no discussion of rights. It is significant that the key objectives of the Act include the express conferral of rights on students and parents.

This contribution also explains the focus placed by the legislation on '*enrolment in an educational programme, rather than physical attendance at a school*'.

Marvin Zuker's article, based on an address given by him in Canada, draws on both his judicial experience and his wide reading to provide much information about the context in which educational rights issues should be considered. Whilst contemporary trends are certainly increasing the range of opportunities for successful young people, there are many potential dangers facing the vulnerable.

Discrimination and equal opportunity law often involves a conflict between competing defensible interests. Such conflicts are often determined by the grounds of exemption in such legislation. Kate Offer analyses in detail a recent Western Australian decision applying a provision permitting religious schools to discriminate in favour of members of that particular religion or creed as long as the discrimination is '*in good faith*'.

This is the final issue of this journal to be prepared under the Editorship of Dr Doug Stewart of Queensland University of Technology. Dr Stewart, who has chaired the Australia and New Zealand Education Law Association at both state and national level, is the founding editor of this journal and has guided it for half a decade. He has made a major contribution to the journal's success and will continue to be involved in a more limited capacity. Principal responsibility will now move to Katherine Lindsay of the University of Newcastle. On behalf of the Editorial Board I am delighted to welcome Katherine to the position and to wish her well.

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