

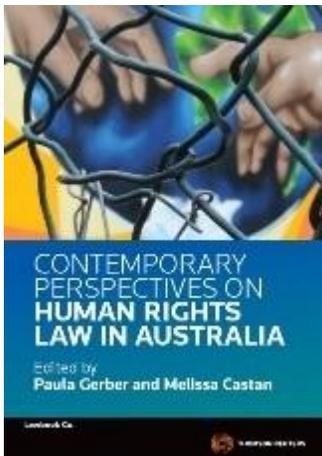
Published March 20, 2013

## CONTEMPORARY PERSPECTIVES ON HUMAN RIGHTS – MID-WEEK REVIEW

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By Jessica Szwarcbord.



Paula Gerber and Melissa Castan, of the [Castan Centre for Human Rights Law](#), have pulled off an editorial feat. They have birthed a five-hundred-and-fifty-five page monster and managed to make her a kind one.

[Contemporary Perspectives on Human Rights Law in Australia](#) is a more interesting read than the typical law textbook cover implies. Over twenty-two chapters, the book canvasses an expansive legal landscape, covering topics ranging from the obvious and better known like anti-discrimination laws and marriage equality, to issues less commonly discussed, such as the human right to a healthy environment.

Each chapter has a different author – from a range of academic backgrounds – and as I moved through the textbook I discovered different voices. Some were indignant, some were more legalistic, some were rational and realistic and others were more idealistic. What this created was a sense that I was reading a conversation between different people with varying approaches to human rights themselves. This made the textbook feel inclusive rather than isolating me as a reader, and I engaged more fiercely with each author as a result.

One thing that I struggle with personally, when it comes to my approach to human rights, is that it is extremely difficult to decide just how committed I am at every point along the way; to navigate my way around conflicting rights or to decide how hard to swing when batting away utilitarian arguments against some rights. This book's many voices and perspectives make me feel I am not alone in this confusion and delivers good insight into where some of those conflicts lie.

*... 'A Human Right to a Healthy Environment' ... examined a human right that is less obvious when we consider human rights generally, and tends to often fall as a right incidental to other recognised rights ...*

Admittedly, the book is a hard uphill trek for the first six chapters. This is no criticism of the authors, who are tasked with setting the scene for the juicier chapters to come. I won't list names, given the number of contributing authors, except to say that an active engagement with the book by Paula Gerber and Melissa Castan – in writing some of the early chapters themselves and a focus on ensuring that individual chapters work together comprehensively – means the initial chapters effectively help to establish a requisite understanding of the broader legal framework that enlivens and contextualises the following, more specific chapters. In sum, stop complaining and keep going – once you get past the difficult start the view from the top is rich in intrigue and well worth the pain.

For example, I particularly enjoyed reading Rowena Cantley-Smith's 'A Human Right to a Healthy Environment', because it examined a human right that is less obvious when we consider human rights generally, and tends to often fall as a right incidental to other recognised rights, or as something not recognised at all internationally or in Australia. Smith discusses three different ways that this right may be recognised, and highlights just how important it is to protect a right to a healthy environment so that many other rights that most people would value the utmost are also ensured. She illustrates this point with a flow chart, pointing out some examples of environmental degradation and how they may affect our rights: right to life, work, health, food, water, shelter... these are only some of the rights affected. I was already concerned about our environment, domestically and globally, as many are, but for different and more obvious reasons. Aside from thinking about the tragedy of something like deforestation or water pollution for those in the immediate area, Cantley-Smith offers a profound and less obvious reason to focus on environmental protection. To have the nexus between the environment and human rights laid out in front of me very much changed my perspectives and priorities.

*The book suggests that the human rights landscape is, like Australia's geographic landscape, vast and diverse, with many problematic areas.*

Another powerful chapter was by Bernadette McSherry on Australia's mental health laws. She explains the extreme power that Australian States and Territories have through their mental

health legislation to override our autonomy and self-determination. Involuntary detention and treatment powers do exist within Australia in this context and, as she points out, statistically, this power has the potential to reach more of the population than the uninformed layperson would realise. Dealing with the incredibly difficult conflict between public health, protection of the individual and others, the right to respect physical and mental integrity, and the right to health amongst others, is a seemingly impossible task to resolve without sacrificing something. McSherry handles this dilemma incredibly well, making it relevant to a large portion of society, rather than an issue that only touches an invisible few, and summarising it for us simply so that we can truly grasp its complexity.

Some of the chapters explore contentious issues such as anti-terrorism laws, the rights of 'boat people' and the rights of Aboriginal Australians. These chapters cover well the issues that are in the public spotlight and explain them from an academic distance. This allows the reader to make up her own mind about issues that are generally presented emotively from a position of informed tranquillity.

Overall, *Contemporary Perspectives* is a book to read now rather than later, as it depicts the legal human rights landscape from a 2012/2013 academic perspective. It is for those who want an overview and will offer a very well structured one, and a good launching pad for further research into any of the human rights covered.

The book suggests that the human rights landscape is, like Australia's geographic landscape, vast and diverse, with many problematic areas. Overall, it highlights that, while most Australians do feel that they enjoy fundamental human rights, Australia is condemnable for many of its approaches to human rights. As The Hon Michael Kirby AC CMG writes in the Foreword, 'It reveals a country that enjoys many important attributes of basic human rights. But a land that is seriously ambivalent about the desirable means of protecting such rights... For Australia, the human rights protection project is only partly complete'.

Right Now, March 2013