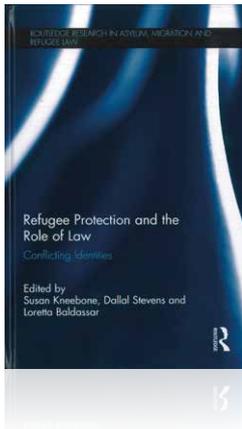


INPRINT

This month's reviews cover refugee protection, global justice, judicial review and maritime law.

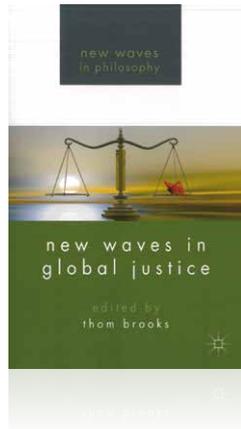


Refugee Protection and the Role of Law: Conflicting Identities

Susan Kneebone, Dallal Stevens, and Loretta Baldassar (eds), *Refugee Protection and the Role of Law: Conflicting Identities*, 2014, Routledge, hb \$154

Sixty years ago Australia signed the United Nations Refugee Convention which had been settled in Geneva in 1951. The Convention was seen as a beacon of hope to emerge from the horrific aftermath of two world wars. It established a regime to protect refugees throughout the world. It defined who was a refugee, their right to protection and, in general terms, the obligations of signatory countries not to expel or imprison refugees or return them to places where they were not safe. According to the UNHCR, there are now more than 50 million displaced persons, asylum seekers and refugees, many of whom seek protection under the Convention.

The book contains papers which were delivered by international experts at a conference in the Monash University Centre at Prato in 2011. The papers provide interdisciplinary perspectives from law, politics, sociology and anthropology on how refugee identities are shaped by and respond to the legal regime in refugee destinations and how protection and identity are interconnected. They examine the response to asylum seekers in Europe, North America, South East Asia, Africa and the Middle East, as well as



Australia. They argue that refugee protection is under threat as there are many gaps and inconsistencies in protection, including prominent cases of refoulement.

The book comprises an introduction and conclusion by the editors which bring together the main themes and 12 conference papers collected in four parts. The first part sets up the book's central questions and themes about the continuing relevance and effectiveness of the Convention definition of refugee and its role in shaping legal and social refugee identities. The second part explores the way implementation and interpretation of the Convention has shaped current understanding of refugee identity. The third and fourth parts examine various perspectives and approaches to refugee protection.

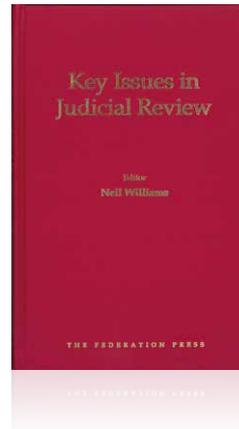
This book is an outstanding scholarly work on a topic of considerable public importance in Australia and elsewhere.

JOHN RUTHERFORD
SOLICITOR

New Waves in Global Justice

Thom Brooks (ed), *New Waves in Global Justice*, 2014, Palgrave Macmillan, pb \$44.95

Global justice is a relatively new area within philosophy. Global justice examines the most important and serious issues confronting all States in the world, from global, rather than domestic, perspectives. These issues include human rights abuses, immigration, just wars, climate change, humanitarian intervention, severe poverty, accountability of

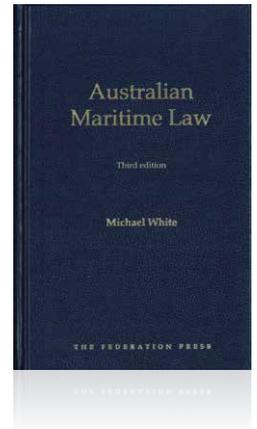


NGOs and asylum seekers. This book covers all these issues and more. All the topics clearly have direct relevance for Australian policymakers and the Australian public.

The book is a collection of papers (11 chapters) by "up and coming" writers from a range of countries and is publicised as representing cutting edge thinking about these topics. The title would be more accurate if it included the word "theorising" as it is a philosophy text with brief references to legal constructs rather than a law text.

There are a number of themes running through all the papers. One theme is that the notion of "justice" tends to be examined from local or domestic perspectives rather than global or "supra" perspectives. Global perspectives offer new insights but also raise different types of problems and challenges in terms of both practice and theory. Another theme in most of the chapters is that current models or ways of thinking about these topics tend to be constrained or "bounded" by our historical intellectual and political traditions and that new, more radical models are needed in order to more effectively deal with these major global problems and questions.

The chapters are of variable quality. Some chapters tend to over-theorise which leads to dense and convoluted discussion making it difficult for the reader to identify the key argument or position presented. Other chapters raise fascinating and important questions. Briefly, some examples include whether existing models of accountability (from legal, political and commercial



contexts) are suitable to ascertain the accountability of NGOs for their work, the extent to which climate change is destroying the cultural identity of some groups (such as the Inuit in the Arctic Circle), and whether some form of global democratic participation (eg in the form of a global parliament) is possible or desirable. In summary, this is a challenging and provocative book worth reading.

DR CHRIS CORNS
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Key Issues in Judicial Review

Neil Williams (ed), *Key Issues in Judicial Review*, 2014, The Federation Press, hb \$165

In 1962 the then president of the NSW Bar Council, C L D Meares, opined that professional legal education should be concerned with “severely practical questions”. The present work, which has its origins in seminars held under the auspices of the Constitutional and Administrative Law Section of the New South Wales Bar, continues this fine tradition.

Practical questions dominate this scholarly work, which focuses on judicial review of administrative action for the most part. The work comprises 13 chapters. On jurisdictional error the question addressed by Jeremy Kirk is how important the concept is in practice. The First Parliamentary Counsel of the Office of Parliamentary Counsel, Peter Quiggin, reveals the multitude of decisions that lie behind the surface of legislation that the ordinary reader sees. The commentary by Justice Nye Perram explains why judges continue to subscribe to the concept of parliamentary intention in interpreting legislation. The gathering of evidence in public law cases is considered by the editor. The practical utility of the reforms proposed by the Administrative Review Council in its 2012 report, *Federal Judicial Review in Australia*, is critically explored by Justice Alan Robertson.

The idea that judicial review needs unifying substantive principles and approaches is elaborated by Kristina Stern. Justice Patrick Keane contributes an amusing chapter recounting examples of cases of political misjudgments by judges. Other topics discussed include absence of jurisdictional fact, and relevance, illogicality, irrationality and unreasonableness grounds of review; partial invalidity of legislative and administrative instruments; and constitutional and administrative law aspects of taxation law.

A foreword by Chief Justice Allsop highlights aspects of each chapter. The work is well produced by Federation Press and contains a table of cases, a table of statutes and an index. Recent High Court cases of interest, such as *Minister for Immigration and Citizenship v Li* (2013), are discussed by a number of contributors.

Anyone interested in improving their understanding of the many facets of administrative law will find this an informative exploration of key contemporary issues.

DR JEFFREY BARNES
LA TROBE UNIVERSITY

Australian Maritime Law

Michael White, *Australian Maritime Law*, (3rd edn), 2014, The Federation Press, hb \$225

This edition has been re-written from the second edition published in 2000. Inevitably in that 14-year period there has been statutory change and developing case law.

The *Navigation Act* 2012 (Cth) and the *Coastal Trading (Revitalising Australian Shipping) Act* 2012 (Cth) have, among other things, established a new regime for trading around the Australian coast. In *CSL Australia v Minister for Infrastructure and Transport* [2014] FCAFC 10 (which post-dates the third edition) Allsop CJ canvassed the background and nature of this new statutory regime.

In 2012, an Australian International Shipping Register was established. The *Maritime Powers Act* 2013 (Cth) provides for the administration and enforcement of Australian regulatory laws in its maritime areas. The *Fair Work Act* 2006 (Cth), *Maritime Labour Convention* 2006 and the *Navigation Act* impact on the terms and working environment of seafarers. The *Crimes at Sea Act* 2000 (Cth) legislates for the cooperative scheme between the states and territories relating to the application of the criminal law. The *Australian Consumer Law* has implications, for example, to charter parties and carriage of goods by sea.

The nature of the action *in rem* was considered in *Commandate Marine Corp v Pan Australian Shipping Pty Ltd* (2006) 157 FCR 45. The interrelationship between Articles 3 and 4 of *COGSA* (in Schedule 1A) was considered in *The Archangelgracht* (2007) 160 FCR 342. In *The Cape Moreton* (2005) 143 FCR 43 the Full Federal Court confirmed that in Australia a party may be the “owner” of a ship for the purposes of particular provisions of the *Admiralty Act* and not be on any register. The reasoning of the Full Federal Court in *The Taruman* (2006) 151 FCR 126 has implications for whether the meaning of “ship” in the *Admiralty Act* includes the bunkers and whether the bunkers form part of “other property” for the purposes of s17 of that Act.

These matters and others are skilfully interwoven in this 700 odd page edition. ●

CAHAL FAIRFIELD
BARRISTER

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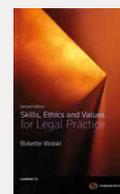


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