

## 50 Human Rights Cases that Changed Australia

Lucy Geddes and Hamish McLachlan, Federation Press, 2023, pb \$70

I was excited to see the concept of this book, which is a shortlisting of the 50 human rights cases that changed Australia. The book – written by two practising human rights lawyers, Lucy Geddes and Hamish McLachlan, and with a foreword by the Hon Michael Kirby – comes at an opportune time.

The national human rights debate is being reinvigorated. Shortly after publication, the Australian Human Rights Commission released a significant position paper which proposes the enactment of a statutory Australian Human Rights Act (in contrast to the authors' view in favour of a constitutional bill of rights). A parliamentary joint committee inquiry is now considering whether an Australian Human Rights Act should be enacted.

This book is targeted at law students, lawyers and activists. It is written in an accessible and concise way, with a short introduction and case summaries (together with LawCite citation counts). Iconic cases (eg, *Mabo (No 2)*, *Toonen*, *Teoh*) and more recent victories are discussed. The summaries are insightful and nuanced. They are helpfully structured into chapter themes, such as First Nations Rights, LGBTIQ+ Rights, and the welcome inclusion of the Right to a Clean, Healthy and Sustainable Environment (as a testament to that theme's emerging importance, there have already been significant Australian developments since the book was written).

One critique is that the book is titled and described as being about "human rights cases". However, many of the case summaries focus on the common law and

the "principle of legality", and constitutional freedoms. Traditional common law lawyers will say that several common law rights are more like "freedoms" and cannot be directly enforced. Constitutional lawyers will say that, for example, the implied freedom of political communication is a limitation on power; not a personal right. That is not to say that human rights law, the common law and constitutional law operate in complete silos. They don't. But it is a stretch to describe all of these as human rights cases.

Another critique is that cases where human rights arguments failed are not included. However, both successful and unsuccessful outcomes "changed Australia" – for better or worse. Inclusion of unsuccessful cases (eg, *Al-Kateb v Godwin*, *Newman v Minister for Health and Aged Care*) would have given a more complete picture of the Australian position, and may have provided further cause for the need for better human rights protections.

In fairness, such critiques are foreshadowed and addressed in the book's introduction. The authors acknowledge that the cases are "scattered across various . . . areas of law" and "do not always explicitly refer to human rights". They "deliberately only included cases that have gone some way to advance human rights in Australia". In any event, I enjoyed revisiting many of these cases, and discovering a few unfamiliar ones. This book is a helpful gateway for those wanting to learn more about the litigation of rights and freedoms in Australia. For the more experienced, it is a useful resource which can be returned to from time to time. ■

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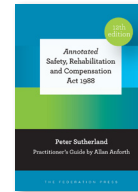


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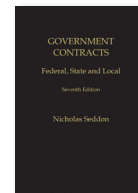


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