

were lucky enough to get your hands on before the exam).

Back to main course. The book begins with a brief chapter on the background and current position of discrimination law in Australia, referring the reader to key reports and inquiries which have shaped the development of this fast-evolving field. Ronalds then provides an easy-to-read discussion of direct and indirect discrimination. Going beyond a mere explanation of these concepts, Ronalds outlines the steps that must be taken to establish each type of claim. For those just getting used to the process of compiling and assessing potential complaints, this step-by-step approach offers a valuable beginner's template.

The author provides specialist discussion on complaints made in the areas of employment and education. She also explores the courts' approach to harassment, vilification and racial hatred before looking at the defences and exemptions which so frequently stymie complaints. The text concludes with discussion of the complaint-handling process, tips on running a hearing and the types of remedies that may be ordered.

Throughout the text, Ronalds includes brief excerpts from key cases and refers the reader to other relevant resources. In many places, I was frustrated by the feeling that discussion skimmed all too briefly over the facts and results of a particular case. Overall, this potential weakness is the very thing that makes the text what it is: a concise, accessible handbook with a practical focus and no shortage of references for those who get a taste for further research.

### AUSTRALIAN ANTI-DISCRIMINATION LAW:

#### *Text, Cases and Materials*

Neil Rees, Katherine Lindsay & Simon Rice; The Federation Press, 2008; 720 pp, \$99 (paperback)

This colourful orange text is the first comprehensive cases and materials book written in the field of Australian anti-discrimination law. It attempts

the monumental task of covering anti-discrimination law at the state, territory and federal levels, extracting and analysing the key cases and providing a comprehensive social and political history of the development of this area of law. The text's practical approach reflects the many years of grassroots advocacy undertaken by two of the authors, Neil Rees and Simon Rice, both of whom played a key role in the establishment and development of Kingsford Community Legal Centre's specialist anti-discrimination practice. The third author, Katherine Lindsay, also has extensive expertise in anti-discrimination law developed through her esteemed academic career as a legal teacher and researcher.

Unlike Ronalds' book, this text is designed specifically for law students, many of whom will be familiar with the traditional textbook format of historical and policy background, case extracts and critical analysis. Lecturers will be pleased to see that each chapter includes a clever list of problem questions for use in student tutorials.

Why, one might ask, has the field of anti-discrimination law grown so dramatically over the last three decades? The 1960s American civil rights movement and Britain's anti-discrimination statutes of the 1970s had a strong influence on the development of anti-discrimination law in Australia. With this background, the authors try to pin-down the policy goals of Australian anti-discrimination legislation, yet they have difficulty doing so. While many state, territory and federal politicians have made general statements about 'alleviating disadvantage' and the pursuit of a 'just and equitable society' there is a distinct lack of cogent material outlining how the available legislation should be interpreted to achieve the law-maker's intentions. Accordingly, the authors are critical that 'courts and tribunals have often been left with too much room for individual choice when seeking to determine whether particular conduct is unlawful' (p 32), noting that 'appellate courts have overturned many decisions ... because of disagreement over the meaning and the application of the statutory provisions' (p 68).

The book's core chapter deals with the concept of unlawful discrimination. The authors explore the elements of direct discrimination and do not hold back in pointing out the weaknesses of existing approaches. For example, the practical difficulty a complainant faces in proving that their employer treated them less favourably than the employer would have treated another employee of a different sex, race or sexual orientation. Even the most recent High Court case of *Purvis v New South Wales* (2003) 217 CLR 92 does not provide clear authority on the test a complainant must satisfy to prove that the unfavourable treatment was because of their protected attribute. This test becomes particularly complicated in a scenario where the employer can point to multiple reasons for treating the complainant less favourably than other employees. For those practising in the field on a daily basis, such cases tend to appear more often than not.

Discussing the concept of indirect discrimination, the authors recognise that it has the potential to dismantle systemic and structural discrimination, alleviating hardship suffered by some of the community's most disadvantaged groups. However, the evolution of this concept in Australian courts has set a high bar for complainants trying to argue their case amidst complex factual scenarios. Indeed, there have been very few successful indirect discrimination cases in Australia. Thankfully, the authors compare the Australian approach to that of the United States and the United Kingdom, making several straightforward recommendations for change that could radically improve the utility of indirect discrimination claims in Australian law.

The text uses a framework that is not dissimilar to Ronalds' text, exploring different grounds of discrimination, sexual harassment, vilification, procedural issues and remedies. Yet each section is highly detailed, dealing systematically with extracts from all of the major cases, observations from leading commentators and the authors' own critical analyses.

Reading this text chapter-by-chapter over a number of weeks, I was struck by the

overwhelming complexity of Australia's anti-discrimination laws. Like other areas of the civil law, individuals carry the burden of enforcing their rights. Most matters are characterised by an imbalance of power between complainant and respondent, whether the relationship be one of student/teacher, employee/employer or government/citizen. Yet it seems the resources required to pursue a discrimination claim, particularly a claim of indirect discrimination, are far beyond the practical reach of most would-be complainants. It is impossible to consider these matters without reference to the ultimate example of power imbalance: where a respondent government has the power to exempt its actions from anti-discrimination law altogether, as occurred in relation to the suspension of the *Racial Discrimination Act 1975* (Cth) in the roll-out of the Howard Government's Northern Territory intervention. The Rudd Government is yet to rectify this crucial human rights issue.

An overwhelming strength of this text is that the authors don't shy away from a harsh critique of existing laws. All eleven chapters include cogent, detailed analyses of the strengths and frailties of different aspects of Australian anti-discrimination law. It is this critical approach, and the resultant recommendations for change, which lend the book a sense of hope.

While those without a legal background are likely to find the reading hard-going, larger employers and human resources workers will find the text a useful resource for detailed information about specific areas. Similarly, practitioners will particularly appreciate having the text and analysis of the seven key High Court judgments on-hand in hard copy. Most significantly, this inquiring and critical text will be thought-provoking material for the many undergraduate and postgraduate law students with an interest in the area who may well become the policy-makers and judicial officers of tomorrow.

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## MARIE CLAIRE

Hearst Corporation, Australian editor: Jackie Frank; October 2008, \$8.50 (cover price)

I was driving up Oxford St in Sydney. Above Taylor Square a billboard advertised the October 2008 issue of *Marie Claire* with a series of words and phrases, along the lines of 'Style' 'Travel' 'Human Rights' 'Fashion' ... Wait! Human rights?

My human rights reading, which I had previously considered wide-ranging, had not ventured as far as *Marie Claire*. In my occasional waiting-room flick through magazines of the *Marie Claire* ilk I had never seen a human rights article, although human rights issues are implicit — such as the working conditions of those who labour to produce (and model) fashion designs, the harm done to the environment by the production and packaging of luxury goods, and the sheer waste of resources, money and talent dedicated to superfluous consumer goods.

Had I been too quick to judge? Too smug in dismissing a glossy cover as incapable of containing a story of social relevance? I bought *Marie Claire* to find out.

The cover didn't look promising: 'Shoes and bags', 'Beauty myths busted', '528 sexy fashion finds', 'Why women prey on one another', 'Can you have great sex forever?' and 'We put organic food to the test'. Oh, and 'Win a Jimmy Choo bag'. (The beauty myths, by the way, are '20 fab facts you need (sic) to know'.) A couple of the teasers could, if you were reading generously, have a human rights angle: 'Green glamour: how to look good, feel great and make a difference' and maybe this one: 'Natalie on why it's cool to care'. I wondered who Natalie is.

Jackie Frank sets the scene in her 'Editor's Letter': '*Marie Claire* readers have always known that it's cool to care, but recently it appears the rest of the world has started to catch on'. Nothing in the following 300 pages suggests that the magazine trades in irony — it seems that Ms Frank really is claiming that *Marie Claire* readers are in the vanguard of a global movement of 'caring'. *Marie Claire* is right up there with 'campaigners like Al Gore and Bono' and

the change is hitting home: *Marie Claire* is 'being inundated with beauty products and fashion labels that flaunt their ethical credentials'. Ms Frank announces a caring theme, 'Fashion with heart', a logo for which will identify 'stories highlighting initiatives that aim to make a difference to the world'. I turned the pages in search of the logo.

The next five turns of the page takes me past Sharon Stone (Dior), Catherine Zeta Jones (Elizabeth Arden), Sarah Jessica Parker (an eponymous perfume), Cartier, and Penélope Cruz (L'Oreal), to the first 'Fashion with heart' logo, on a story about 'international designers [who] reveal how they make a difference to the world around them': Donna Karan's foundation to encourage holistic medical treatment, Giorgio Armani's donations to an AIDS campaign, Katharine Hamnett's organic cotton clothing, Ralph Lauren's support of breast cancer research, Stella McCartney's rejection of leather or fur in her designs, a Missoni heiress's money-raising for African orphans, Oscar de la Renta's charity work in the Dominican Republic, and '27 year old fashion wunderkind' Zac Posen's charitable work to support teachers. Fashion (millionaires) with a charitable heart it might be. Human rights it isn't.

I turn pages past Ingrid Betancourt's escape from capture in Colombia, a 'Celebrity Report', an investigation into organic food, an artist who makes baby dolls, and an account of 'expert advice (eg Yahoo Answers and a Tarot reader) — and of course past Revlon/Hilfiger/Lacoste etc ads — before I arrive at my next 'Fashion with heart' logo. It's about the admirable 'Fitted for Work', a Melbourne volunteer organisation that helps women to prepare, and present well, for employment interviews. There's a heart indeed, and fashion of a prosaic sort, in the fitting out of women looking for work. If one were trying to, it could be given a human rights spin — sex discrimination and the right to work, for example — but no-one was trying.

Onwards through the gloss, past 'Confessions' to a 'Special Report' labelled 'Fashion with heart': supermodel Christy Turlington Burns's diary of her trip to Peru as an ambassador for CARE. The captions