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(articles and book reviews included in this part are linked to the LexisNexis platform)

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Articles

- [Resolving Discrimination Claims outside the Courts:
Alternative Dispute Resolution in Australia and the United Kingdom](#)
— *Alysia Blackham and Dominique Allen* 253

Alternative Dispute Resolution (ADR) is a longstanding feature of both Australian and United Kingdom (UK) anti-discrimination law. In this article, we critically examine the advantages and disadvantages of using ADR to resolve a discrimination claim in Australia and the UK, and the effect ADR is having on discrimination law more broadly. While the UK and Australia have similar discrimination law statutes, and both largely rely on an individual rights model to address discrimination, they use ADR in contrasting ways, and with varying implications in practice. We argue that while ADR offers potential benefits in resolving discrimination claims, the extensive reliance on ADR in both jurisdictions to resolve disputes risks undermining the development of discrimination law. We suggest several key areas in which the regulatory framework could be reviewed to address these limitations and risks.

- [The Role of the ‘Genuinely Try to Reach Agreement’ Requirement
in the Protected Industrial Action Regime under the Fair Work Act 2009](#)
— *Breen Creighton, Catrina Denvir, Richard Johnstone,
Shae McCrystal and Alice Orchiston* 279

The requirement genuinely to try to reach an agreement (GTRA) is one of a number of criteria that employees must satisfy before they can take protected industrial action in the course of enterprise negotiations under the Fair Work Act 2009 (Cth). It is tested before the Fair Work Commission (FWC) in the process of making a Protected Industrial Action Ballot Order (PABO), and such an order cannot be made unless the FWC is satisfied that the requirement has been complied with. While there is a well-developed jurisprudence on the meaning of GTRA, there have been no attempts to study how the requirement operates in practice. To address this gap in the literature, this article draws on a qualitative and quantitative analysis of PABO applications, and interviews with stakeholders including unions, employers and members of the Fair Work Commission. The analysis of this data demonstrates that the success rate of PABO applications is very high, with few PABO applications being contested by employers and even fewer being rejected by the FWC on the basis that the application has failed to meet the GTRA requirement. However, while few PABO applications are denied on this ground, the empirical findings also suggest that the GTRA requirement plays a signalling role in the enterprise bargaining regime, helping to establish accepted norms of conduct by trade union bargaining representatives seeking to take protected industrial action.

Strategic 'Co-enforcement' in Supply Chains:
The Case of the Cleaning Accountability Framework
— Sarah Kaine and Michael Rawling

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This article examines the development of the Cleaning Accountability Framework (CAF) in Australia. The CAF is a multi-stakeholder initiative comprising of representatives from along the cleaning supply chain. A growing body of evidence suggests there is a need for a consistent industry-wide approach to employment standards in the cleaning industry. Given the extent of noncompliance in the industry and price/cost pressures along the supply chain, it would appear that some form of co-enforced supply chain regulation might be warranted. This article assesses the extent to which the CAF is a multi-stakeholder version of such regulation. The article draws on enforcement theories with a focus on 'co-enforcement' to assess the CAF and highlights the implications of the CAF case study for that approach. The article uses this analysis to identify the preconditions for co-enforcement within supply chains in an unsupportive or complex political environment.

Book Reviews

*The Shaping of Labour Law Legislation — Underlying Elements
of Australia's Workplace Relations System* by Richard Naughton
— Peter R A Gray, AM

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The Evolving Project of Labour Law,
John Howe, Anna Chapman and Ingrid Landau (eds)
— Guy Davidov

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