

School of Law

# Religious Freedom after Ruddock Conference Program

The University of Queensland, St Lucia

Saturday 6 April 2019

# Program

8.30am

Forgan Smith Tower (1)

Registration

9–10.45am

Steele Building (3)  
Level 3, Lecture theatre 309

## The Ruddock recommendations considered

**Nicholas Aroney, The University of Queensland**  
*Reflections on Ruddock*

**Harry Hobbs and George Williams, University of New South Wales**  
*Protecting Religious Freedom in a Human Rights Act*

**Jacquie Rochow (Former) Intern with the SA Office of the Equal Opportunity Commission in collaboration with Dr Niki Vincent, SA Equal Opportunity Commissioner**  
*The Ruddock Review: Impact on South Australian Anti-discrimination Law*

10.45–11.15am

Global Change Institute Building (20)  
Level 1, Atrium

Morning Tea

11.15am–12.45pm

Steele Building (3)  
Level 3, Lecture theatre 309

## Understanding the policy choices

**Michael Quinlan, The University of Notre Dame**  
*Enforcing Conformity: Criminalising Religiously Inspired Actions and Refusals to Act*

**Joel Harrison, The University of Sydney**  
*Religion-Based Exemptions: The Legislature's Role in Protecting Religious Liberty*

**Joshua Neoh, Australian National University**  
*Do Religious Values have any Value?*

12.45–1.30pm

Global Change Institute Building (20)  
Level 1, Atrium

Lunch

1.30–2.30pm

Forgan Smith Building (1)  
Level 3, W332

## Ruddock and its limitations

**Jeremy Patrick, University of Southern Queensland**  
*Evidence of Absence in the Ruddock Report*

**Alex Deagon, Queensland University of Technology**  
*Religious Schools, Religious Vendors and Refusing Services*

1.30–2.30pm

Steele Building (3)  
Level 3, Lecture theatre 309

## Religious schools and discrimination

**Anja Hilkmeyer, University of Tasmania and Amy Maguire, University of Newcastle**  
*To what extent would the Ruddock panel's recommendations regarding discrimination by religious schools align Australian law with the 'balancing of rights' approach of the European Court of Human Rights?*

**Renae Barker, University of Western Australia**  
*Charting the future of religious schools after the Ruddock review by understanding what came before*

2.30–3pm

Global Change Institute Building (20)  
Level 1, Atrium

Afternoon tea

3–4.15pm

Steele Building (3)  
Level 3, Lecture theatre 309

## Emerging issues in religious freedom

**Neil Foster, The University of Newcastle**  
*Religious Free Speech After Ruddock: Implications for Blasphemy and Religious Vilification Laws*

**Patrick Byrne, National Civic Council**  
*Religious and Secular Beliefs in Conflict with Gender Identity Laws: Is there a Solution?*

**Patrick Quirk, Australian Catholic University**  
*Conscience and Freedom in the Contemporary German Rechtsstaat: Australian Implications and Comparative Reflections*

4.15–4.45pm

## Wrap up

**Patrick Parkinson, The University of Queensland**  
*The Future of Religious Freedoms*

4.45pm

## Closing remarks

**Justice François Kunc, Supreme Court of New South Wales**

6–8pm

Women's College  
College Road

Dinner

# Speakers

**Nicholas Aroney** is Professor of Constitutional Law at The University of Queensland and an External Fellow of the Centre for Law and Religion at Emory University. He has held visiting positions at Oxford, Cambridge, Paris, Edinburgh, Sydney, Emory and Tilburg Universities and has published over 100 books, journal articles and book chapters in the fields of constitutional law, federalism, and religious freedom. His most noteworthy publications include: *The Constitution of a Federal Commonwealth: The Making and Meaning of the Australian Constitution* (Cambridge, 2009), *Shari'a in the West* (Oxford, 2010) (edited with Rex Ahdar), *The Future of Australian Federalism* (Cambridge, 2012) (edited with Gabrielle Appleby and Thomas John), *The Constitution of the Commonwealth of Australia: History, Principle and Interpretation* (Cambridge, 2015) (with Peter Gerangelos, James Stellios and Sarah Murray) and *Courts in Federal Countries* (Toronto 2017) (edited with John Kincaid). In 2017-18 he served on a federal government panel to advise whether Australian law adequately protects the human right to freedom of religion.

**Harry Hobbs** is a Lecturer at the University of Technology Sydney, Faculty of Law. He is also a PhD candidate at the University of New South Wales, Faculty of Law, where he is a Lionel Murphy Postgraduate Scholar. Harry has a LLM in International Legal Studies from New York University and undergraduate degrees in Political Science and Law from the Australian National University. Prior to undertaking his PhD, Harry was a Principal Legal Officer at the Parliamentary Joint Committee on Human Rights.

**George Williams** AO is the Dean, the Anthony Mason Professor, and a Scientia Professor at UNSW Law. He has held an Australian Research Council Laureate Fellowship, and visiting positions at Osgoode Hall Law School in Toronto, Columbia University Law School in New York, and Durham University and University College London in the United Kingdom. He has written and edited 36 books, including *Australian Constitutional Law and Theory*, *The Oxford Companion to the High Court of Australia and Human Rights under the Australian Constitution*. He has appeared as a barrister in the High Court in many cases over the past two decades, including on freedom of speech, freedom from racial discrimination and the rule of law. He has also appeared in the Supreme Court and Court of Appeal of Fiji, including on the legality of the 2000 coup. As chair of the Victorian Human Rights Consultation Committee in 2005 he helped bring about Australia's first State bill of rights, the Victorian Charter of Human Rights and Responsibilities. In 2007 he chaired a NSW Government inquiry into Options for a New National Industrial Relations System that produced the historic referral of State industrial power over the private sector to the Commonwealth. He has also served on a High Level Advisory Group on Federal-State Relations, was a member of the NSW Government's Panel to Examine Recall Elections and assisted the Northern Territory in its attempt to become Australia's seventh State as a member of its Constitutional Convention Committee. George was made an Officer of the Order of Australia in 2011: 'For distinguished service to the law in the fields of anti-terrorism, human rights and constitutional law as an academic, author, adviser and public commentator.'

**Jacque Rochow** is a final year law student at The University of Adelaide. She is also a graduate of the University, BA (Phil). She has focused in both her philosophy and law degrees on issues relating to freedom of religion, conscience and belief and distinguished herself in undergraduate theses written in that area in both law and philosophy. Those theses are in the process of being prepared for publication. She has had experience through various internships that have fit well within her areas of interest, both here and in Europe. Jacque interned with Deputy President Peter Britten-Jones of the AAT. She has also worked with Peter and (now) Justice Natalie Charlesworth of the Federal Court while they were at the Bar. In early 2017 she assisted in drafting questions that were used in the House of Commons in Westminster on why Parliament should continue to treat freedom of religion as an important matter. She also assisted in organising an international conference in Brussels on the topic of how freedom of religion of belief would survive Brexit and become a theme throughout the Commonwealth. In February 2018, she was a member of the organising committee that arranged an international conference held both in Sydney at The University of Notre Dame Law School and in Adelaide at The University of Adelaide Law School specifically in the question of the future of freedom of religion in Australia. All but one of the Ruddock Expert Panel attended part of the conference and held a special roundtable discussion as one of the sessions. From late November last year to early January this year, she undertook an internship with the South Australian Equal Opportunity Commission, working under the direction of the South Australian Commissioner, Dr Niki Vincent. Jacque hopes to continue her interests in the area upon completion of her law degree through post-graduate studies in both philosophical and legal aspects of human rights and freedoms.

**Dr Niki Vincent** is the South Australian Commissioner for Equal Opportunity. As such, she is responsible to the Attorney General for the general administration of the SA Equal Opportunity Act (1984). Under the Act, her functions are to receive, investigate and conciliate complaints of discrimination; foster and encourage informed and unprejudiced attitudes amongst members of the public, with a view to eliminating discrimination; institute, promote or assist in research, data collection and dissemination of information relating to discrimination; and to make recommendations to the Minister as to legislative or other reforms that she believes will further the objects of the Act. Prior to this appointment, Niki held the position of CEO of the Leaders Institute of SA as well as a concurrent appointment as a member of the SA Remuneration Tribunal. She currently Chairs the Australian Council of Human Rights Authorities (ACHRA), serves on the national management committee of Play by the Rules and is a member of the SA/NT Advisory Council for the Committee for Economic Development of Australia (CEDA). She also holds an appointment as an Adjunct Associate Professor in the University of South Australia's Business School. In addition, she is an active ambassador for Time for Kids – a respite foster care organisation. Niki holds two University Medals (for her PhD and Honours in Psychology). She has also received an Australian Leadership Award and was an SA Finalist in the Telstra Business Woman of the Year Award. She has authored numerous academic publications.

**Michael Quinlan** is a Professor of Law and Dean of the School of Law, Sydney at The University of Notre Dame Australia. Prior to joining Notre Dame in 2013, Professor Quinlan had a distinguished career of over 23 years at the commercial law firm Allens where he was a commercial litigation partner for more than 14 years. Professor Quinlan was a long-time member of that firm's Pro Bono Committee. Professor Quinlan is the Junior Vice President of the St Thomas More Society, a director of Freedom For Faith, a board member of the Legal Profession Admissions Board and a contributing member of the Wilberforce Foundation. He has a deep interest in the relationship between law and morality and law and religion.

**Dr Renae Barker** is the author of *State and Religion: The Australian Story* (Routledge, 2018). She currently lectures in Law and Religion at the University of Western Australia where she completed her PhD in 2014 on the history of the relationship between the state and religion in Australia. She is an Honorary Research Fellow with the Centre for Muslim States and Societies and the Diocesan Advocate for the Anglican Diocese of Bunbury in Western Australia. Her research spans a wide range of areas related to law and religion and has been published in the *Oxford Journal of Law and Religion*, *Australian Law Journal*, *Adelaide Law Journal* and the *University of Western Australia Law Journal* amongst others.

**Dr Joel Harrison** is a Senior Lecturer at Sydney Law School, University of Sydney where he teaches constitutional law. His research focuses on constitutionalism, religious liberty, human rights norms, and theological jurisprudence. Joel's forthcoming book, *Post-Liberal Religious Liberty*, will be published with Cambridge University Press. His previous positions include Associate-in-Law at Columbia Law School, New York, and a tutor in constitutional law at the University of Oxford. He holds degrees from the University of Auckland and the University of Oxford.

**Joshua Neoh** is a Senior Lecturer in Law at the Australian National University (ANU). He completed his LLB at the ANU, LLM at Yale, and PhD at Cambridge, and held visiting research positions at Harvard and Oxford. His latest book on *Law, Love and Freedom* will be published by Cambridge University Press as part of the Cambridge Studies in Law and Christianity.

**Jeremy Patrick** is a Lecturer in Law at the University of Southern Queensland. He comes to USQ by way of Nebraska and Toronto, and his experience teaching constitutional law in three countries has enabled him to bring a comparative approach to his research. His work can be found in American, Canadian, and Australian journals such as the *Journal of Law and Religion*, the *University of British Columbia Law Review*, and the *University of Queensland Law Journal*. His book on fortune-telling, spiritual counselling, and how legal principles of freedom of religion apply to the growing number of believers who self-identify as "spiritual but not religious" is forthcoming from UBC Press. This semester, he's teaching a new elective at USQ in Law & Religion.

**Dr Alex Deagon** is a Senior Lecturer in the Faculty of Law, Queensland University of Technology. His research focuses on jurisprudence, law and theology, and freedom of religion. His PhD, 'Using Christian Theology and Philosophy to Construct a Jurisprudence of Truth', received the Chancellor's Medal for outstanding excellence. The PhD was subsequently published as a book in 2017: *From Violence to Peace: Theology, Law and Community* with Hart Publishing, Oxford. Alex has been published in *Law, Culture and the Humanities*, the *Harvard Journal of Law and Public Policy* and the *Federal Law Review*, and has published multiple articles on the Section 116 Freedom of Religion provision of the Constitution. Alex has been cited extensively by Parliamentary Committees and Inquiries on religious freedom. He teaches in *Theories of Law, Constitutional Law, and Evidence*.

**Anja Hilkemeijer** is a lecturer in Law at the University of Tasmania. Her work includes research, teaching and community engagement in the three broad areas of constitutional law (particularly in the area of executive power), human rights and international trade law. She is the Faculty Coordinator of the Social Justice and the Student Competitions program.

**Dr Amy Maguire** specialises in public international law and human rights at the University of Newcastle Law School, Australia. She is a sought-after commentator on international legal and human rights issues for Australian and international television, radio, online and print media and a featured author for *The Conversation*. Dr Maguire contributes to evidence-based policy-making through submissions to government inquiries in her fields of expertise. Dr Maguire's fields of research span human rights institutions, the rights of Indigenous peoples, climate change and human rights, the death penalty and abolition advocacy, refugees, and international criminal law. In 2019, she was a Visiting Research Fellow at Queens University Belfast School of Law. In 2018, she represented the Australian and New Zealand Society of International Law at the Seventh International Four Societies Conference at Waseda University, Tokyo, Japan.

**Neil Foster** is an Associate Professor of Law in Newcastle Law School at the University of Newcastle, NSW, Australia. Neil teaches, publishes and researches in the areas of Torts, Workplace Health and Safety Law, Law and Religion, and Property. He is a member of the Editorial Board of the Torts Law Journal, a co-author of the 6-8th editions of the Luntz & Hambly Torts text, sole author of a Supplement to that book on Defamation and Wrongful Interference with Goods (2nd ed, 2019), responsible for a new chapter in the 10th edition of Fleming's Law of Torts, and co-author of Property Law in NSW (4th ed, 2017). He is the sole author of Workplace Health and Safety Law in Australia (LexisNexis Butterworths, 2nd ed 2016), and an e-book published by Matthias Media, Pressure Points (2014) dealing with potential clashes between the Christian faith and recent laws. He has published a number of articles in the area of Torts, WHS law, and Law & Religion.

**Patrick J Byrne** BA B.Theol is President of the National Civic Council (NCC), founded in 1941 by the late BA Santamaria. He recently published a text book, Transgender: One Shade of Grey – the legal consequences for man and woman, schools, sport, rights, politics, democracy (Wilkinson Publishing). He is regular contributor to the NCC's magazine, News Weekly.

**Patrick Quirk** is Associate Professor of Law at Australian Catholic University (Melbourne Campus) and a former tenured Associate Professor and Academic Dean at Ave Maria School of Law in Naples, Florida, USA. He holds degrees in law and arts from The University of Queensland, as well as a Master of Civil Laws (Magister Legum) from the University of Tübingen, Germany, which he completed by coursework and thesis (in German). Following graduation, Patrick was admitted to the Queensland Bar and later practised as a solicitor at a large firm in Sydney. Patrick has also taught at Bond University Law School and the Columbus School of Law at The Catholic University of America (CUA) in Washington, D.C. He teaches and writes on various commercial and civil law areas, including the U.S. Uniform Commercial Code, the law of electronic commerce, and law & religion. Patrick has taught or given presentations in many countries including Italy, the United Kingdom, Hong Kong, Germany, and the United States, and in Poland as part of CUA's summer program in Krakow. Patrick is also Scholar-in-residence at St Mary's College at the University of Melbourne.

**Patrick Parkinson** is the Academic Dean and Head of School for the TC Beirne School of Law at The University of Queensland. Professor Parkinson is a specialist in family law, child protection and the law of equity and trusts. His books include Australian Family Law in Context (6th ed, 2015), Tradition and Change in Australian Law (5th ed, 2013), Family Law and the Indissolubility of Parenthood (2011), The Voice of a Child in Family Law Disputes (with Judy Cashmore, 2008), Child Sexual Abuse and the Churches (2nd ed, 2003) and Principles of Equity (editor, 2nd ed., 2003). Professor Parkinson served from 2004-2007 as Chairperson of the Family Law Council, an advisory body to the federal Attorney- General, and also chaired a review of the Child Support Scheme in 2004-05 which led to the enactment of major changes to the Child Support Scheme. He was President of the International Society of Family Law from 2011-14. Professor Parkinson also works with churches on child protection and religious freedom issues. He is a Fellow of the Australian Academy of Law.

**The Honourable Justice François Kunc** was appointed to the Supreme Court of New South Wales in April 2013 and sits in the Equity Division. After graduating with degrees in Arts and Law from the University of Sydney he practised as a solicitor with Allen Allen and Hemsley from 1986. He was called to the Bar in 1992 and was appointed Senior Counsel in 2007. He was a leader of the commercial bar appearing in courts throughout Australia for major government, corporate and individual clients, including Paul Hogan and Ginia Rinehart. Justice Kunc is a Fellow of the Australian Academy of Law and is currently the General Editor of The Australian Law Journal and a member of the editorial board of the Journal of Equity. He was a member of the specialist committee which wrote the Recommended National Standards for Working with Interpreters in Courts and Tribunals under the aegis of the Judicial Council on Cultural Diversity. Outside of the law he is the Chairman of the Layne Beachley Aim for the Stars Foundation and a director of the Opera Australia Capital Fund.



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