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EQUAL JUSTICE AND CULTURAL DIVERSITY: THE GENERAL MEETS THE PARTICULAR

Chief Justice Robert French AC

Equality before the law does not necessarily result in equal justice. Equal justice may require different treatment of persons according to the differences between them. As such, it represents a more demanding and controversial standard. This article examines the varying ways in which the substantive law attempts to accommodate cultural diversity through the application of these two concepts of equality. Importantly, however, attempts to address difficulties faced by certain groups in accessing and effectively engaging with the judicial system must also extend to the procedural and administrative aspects of the law. In a demographically diverse nation, achievement of equal justice requires all players in the legal system to be aware of and respond appropriately to the challenges of cultural difference. 706

THE UNITED NATIONS REPORT ON NORTH KOREA AND THE SECURITY COUNCIL: INTERFACE OF SECURITY AND HUMAN RIGHTS

Hon Michael Kirby AC CMG

This article examines the origins of the provisions in the UN Charter 1945, governing resolutions of the Security Council. It traces those provisions ultimately to the Congress of Vienna, 1815 and subsequent developments, including the Covenant of the League of Nations 1920. Both the Covenant and the Charter draw a distinction between “procedural” resolutions and others, so far as the “veto” reserved to the permanent members of the Council is concerned. Invoking this distinction a resolution was adopted by the UN Security Council in December 2014, placing the issue of human rights in North Korea (DPRK) on the Council’s agenda. The resolution followed a report of a UN Commission of Inquiry on DPRK chaired by the author. He examines the utility of the resolution and the way ahead. 714

MAGNA CARTA IN AUSTRALIA 1803-2015: LAW AND MYTH

David Clark

Magna Carta broke free of its medieval roots many centuries ago and by the 19th century came to stand for general propositions about the law and liberty. These included the right to due process, personal freedom and the right to representative government. As a statute only Ch 29 of Magna Carta 1297 currently survives in Australia and, while significant, it does not override contemporary Australian legislation, as some have argued. This article examines the myths surrounding the Charter and argues that these myths have oddly ensured the survival of the Charter in the public mind. The contemporary significance of Magna Carta in Australia, evidenced in both the law and in the press, lies in its uses in political and legal debate, and by being part of the educational culture of lawyers and the general public. 730

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