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ARTICLES

Managing Societal Conflicts: Identity, Social Inclusion and Values – *Lola Akin Ojelabi*

Using a real-life scenario, this article highlights identity and social inclusion issues embedded in the negative public discourse relating to crimes generally referred to as “African-Gang” crimes. It argues that every crime situation involving an Australian of African origin should be isolated and treated as a crime rather than an “African problem”. Negative discourses are indicative of a societal conflict that could lead to social exclusion with implications for the wellbeing of young Australians of African descent. The societal conflict must be managed using conflict resolution processes with social justice at their core. The article canvasses values underlying the restorative justice approach to conflict resolution as suitable for managing these types of conflicts. 193

Recent Judicial Consideration of the Australian Financial Complaints Authority: The Cases of QSuper and Investors Exchange – *Camilla Pondel*

The Australian Financial Complaints Authority (AFCA) is Australia’s sole financial external dispute resolution scheme. With powers broader than its predecessors, encompassing superannuation and non-superannuation complaints, the extent and limitations of AFCA’s powers are an important aspect of the financial system with potentially far-reaching effects. This article will examine the first case law to emerge from appeals of AFCA’s determinations. *QSuper Board v Australian Financial Complaints Authority Ltd* is the first case to consider AFCA’s new superannuation determination powers under s 1055 of the *Corporations Act 2001* (Cth). *Investors Exchange Ltd v Australian Financial Complaints Authority Ltd* is the first case to consider AFCA’s non-superannuation determination powers. Both cases provide instructive guidance to future appellants on the limited reviewability of AFCA’s determinations, and insight into AFCA’s role in creating and maintaining fairness and reasonableness for retail customers. 204

The Legal Framework for International Commercial Arbitration in Bangladesh: Achievements and Proposed Improvements – *Ishrat Jahan*

Due to the growth of Bangladesh in international trade and commerce, the probability of international commercial disputes also increases. To resolve international commercial disputes consensually between commercial partners, an effective dispute resolution mechanism is necessary. Arbitration as a dispute resolution mechanism offers a fairer process to settle international commercial disputes. The government of Bangladesh enacted

the *Arbitration Act 2001* (Bangladesh), which is mainly based on the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration. However, there are some deviations from the UNCITRAL Model Law on International Commercial Arbitration. Although the adoption of the *Arbitration Act 2001* was a timely legislative step in the face of increasing foreign investment and economic growth in Bangladesh, gaps remain in the existing law on international commercial arbitration. The government of Bangladesh should take effective initiative for the improvement of the law to make Bangladesh an attractive place for dispute settlement for international trade and commerce. 215

Anti-Arbitration Injunction – A Bangladeshi Developmental Conundrum through the Prism of Australian and Public International Law – Junayed Ahmed Chowdhury

This article addresses the prevailing issue of wholesale anti-arbitration injunction awarded by Bangladeshi courts in cross-border arbitrations involving a Bangladeshi party. The discussion revolves around the rationale adopted by Bangladeshi courts in awarding ex parte anti-arbitration injunction and the extent to which such rationale is legally justified. A comparative analysis between established principles of international commercial arbitration and Bangladeshi jurisprudence shows serious gaps in interpretation of arbitration law by Bangladeshi courts which render it difficult to enforce foreign arbitral awards. Besides threatening foreign investors’ confidence in the country’s market, these anti-arbitration injunctions may invoke breach of Bangladesh’s international law obligations under various treaties. In order to prevent such consequences, it is pertinent for the judiciary of Bangladesh to respect mutual agreement of contracting parties and uphold principles of international commercial arbitration in a coherent manner. 224

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