

# JOURNAL OF JUDICIAL ADMINISTRATION

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## ARTICLES

**Piercing the Veil of Merit: The Path to a Representative Australian Judiciary –**  
*Helen Leung*

Despite Australia becoming one of the most culturally diverse places in the world, the Australian judiciary continues to be dominated by white, middle-aged men. No person of colour has been appointed to the High Court of Australia, and only a handful of Asian Australians have served on the Federal Court of Australia or a state or territory Supreme Court. This is largely the result of the current system which appoints judges behind closed doors using one criterion – merit. This article argues that without reform of the judicial appointments process, the Bench will continue to lack representation, but more troublingly, the judiciary risks losing the public confidence it currently enjoys. This article recommends the Federal Government, and state and territory governments, establish judicial appointment commissions to find, assess and recommend candidates through a transparent process and have the executive appoint judicial officers from the pool of recommended candidates based on broader considerations, including diversity ceiling quotas. .... 143

**Investigating the Legitimacy of a Pilot Therapeutic Court: A Rationale for “Flipping the Default”?** – *Jill Howieson and Andrew Dhu*

A newly developed therapeutic jurisprudence (TJ) framework provides a tangible method for determining the effectiveness of a therapeutic court. The framework illustrates how together the psychological constructs of procedural justice, trust and self-determination create the guiding principles of the legal therapeutic alliance, which in turn, explains how legal decision-making processes can act as therapeutic agents and provide therapeutic outcomes for its users. This article uses the TJ framework to investigate whether the Children’s Court of Western Australia’s Dandjoo Bidi-Ak Pilot enacts TJ and whether it can legitimately be called a therapeutic court. The investigation concludes that not only can Dandjoo Bidi-Ak be considered a therapeutic court but it also provides an introductory rationale for flipping the default in protection and care cases from a traditional, adversarial court to a therapeutic one. Strategies for future-proofing Dandjoo Bidi-Ak and suggestions for ways to integrate TJ into the whole of the Children’s Court’s operations are provided. .... 156

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