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ARTICLES

When Do Reasons for Judgment Fail to Attract Comity? – *Oliver Jones*

The principle of comity has long been the gentler cousin of the doctrine of precedent, enabling departure from an earlier decision of the same court, typically under the plainly wrong test. Comity has, at the High Court’s insistence, become more prominent recently, with categories crossing jurisdictional lines. There remains scant discussion of exceptions to the principle. That is, when does a decision which might otherwise attract comity not warrant such deference? Some instances are fairly straightforward – the absence of a discernible proposition of law, distinguishability and tentative regard to an earlier decision when extending time. Others are more difficult: may the proposition be obiter rather than ratio, assumed rather than determined or not fully argued? Then there is the acutely difficult question of inconsistency, which the author recently explored with respect to precedent in this journal. If two decisions conflict, and each is owed the same kind of comity, which should prevail? What happens if the decisions are owed different kinds of comity? What is the position where one decision attracts comity and the other binding force in precedent? There are clear answers, but there is much subtlety involved.

3

The “Trauma-informed” Court: Specialist Approaches to Managing Sexual Offence Proceedings – Part 1 – *Vicki Lowik, Amanda-Jane George, Masahiro Suzuki and Nichola Corbett-Jarvis*

There is growing international recognition that the justice system’s response to the problem of sexual violence requires reform. This two-part series provides a snapshot of the main findings and discussion from a recent integrative literature review on specialist approaches to managing sexual assault proceedings. Part I is designed to provide a concise “primer”: an overview of the prevalence of sexual violence and, in particular, the trigger points in the justice system which are often distressing and re-traumatising for victim-survivors. This re-traumatisation contributes to low reporting rates, high attrition rates, and a felt sense by victim-survivors that the justice system is not a realistic option for them. Part II of the series presents selected findings from the review on the various specialist measures being taken internationally to improve the justice system response for victim-survivors. It concludes with a compendium of recommended best practice specialist measures.

29

