

# Editorial

By **Savitri Taylor**, La Trobe University, Melbourne, Australia, **Orcid:** <https://orcid.org/0000-0003-3114-3453>

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The first issue of *Law in Context - A Socio-legal Journal* was published in 1983. In 2019, the journal was refreshed and relaunched in Open Access format. The first issue of the journal's new incarnation was volume 36(1). The editorial of that issue provided a brief account of the journal's distinguished history and explained how it would be responding to a digital world (Casanovas, Chen and Wishart 2019). We are gratified by the positive reception that volume 36 (1) has received and excited to tread further down the same path with the present issue.

The issue commences with reflective pieces we invited from Michael Kirby and Peter Goodrich. Michael Kirby is a former judge of the High Court of Australia, Australia's highest court, and is renowned for his contributions to human rights law in Australia and internationally. Kirby has written for *Law in Context* previously (Kirby 2007, 2010, 2016), and we are pleased that his connection with the journal has continued into its new incarnation. His piece in this issue of *Law in Context* is based on an address he gave in 2017 at an event celebrating the 50th anniversary of La Trobe University and the 25th anniversary of its Australian Research Centre in Sex, Health and Society. The language of the oral delivery has been preserved because the address is deeply personal. Woven through Kirby's comments on the adverse health impacts of socio-legal regimes which discriminate on the basis of sexuality are references to his own relationship with his partner of 48 years, Johan van Vloten.

In volume 36(1), Lawrence Friedman (2019), Martin Chanock (2019) and Richard Abel (2019), reflected on the Law and Society movement and the place of their own work in it. In this issue, Peter Goodrich, whose long career has been devoted in part to an exploration of the interaction between law and literature, muses on law as a literary genre through an extended analysis of *Chambers v DPP*, a case in which Judge Judge resorts to Shakespeare to justify a decision about the application of a legal text, the 2003 Communications Act, to utterances made in the Twittersphere.

Rene Cornish and Kieran Tranter also focus on the response of law to social media use in their article in this issue of *Law in Context*. Their comparative study of social media misconduct dismissals in Australia and South Africa differs from previous comparative studies (Nel 2016, Reddy 2018) in focusing not on identification of the state of the law but rather on examination of the "the cultural, economic and technical milieu" of social media misconduct dismissals in the two countries through a socio-legal structured analysis of "street-level" decisions. The study uncovers both similarities and differences. One of the similarities is that decision makers in both jurisdictions have rejected the argument that there is a reasonable expectation of privacy attached to comments made by employees on social media out-of-work hours using private devices. Although comments made in conversations with friends "over a coffee" may be private,

the same comments made to the same intended audience via social media are public because they are, in fact, accessible by others, including employers who choose to keep their employees under 24/7 surveillance.

The article by Chris Culnane and Kobi Leins and the article by Eleonora Bassi also deal with privacy in an era in which digital surveillance by all kinds of actors is becoming ever more pervasive. Culnane and Leins critique the reliance placed by legislators and policy-makers on “de-identification” of data as a form of privacy protection. They explain why most “de-identification” techniques do not ensure that an individual is indistinguishable from at least one other individual in a dataset and advocate for privacy protections that actually work. Bassi looks at the civilian use of unmanned aerial systems (i.e. drones) acknowledging the economic and social benefits to be derived therefrom while drawing attention to privacy and data protection concerns. She discusses the regulatory response of the EU to civilian use of drone and proposes a three-fold approach to tackling the legal challenges.

The unmanned aerial system operations discussed by Bassi are a manifestation of the disruption of society by technology. The article by Carlos Górriz and the article by Nicholas Morris, Sue Jaffer and Louis de Koker are concerned with the mobilisation of law in response to other manifestations of technological disruption. In his article, Górriz takes a close look at the legal and political strategies used by taxi drivers to fight back against Uber’s attempted entry into the Spanish market. In their article, Morris, Jaffer and de Koker look not only at the regulation of Uber and its clones but also the regulation of automated vehicles and emissions trading to consider whether these regulatory experiences hold lessons for those seeking to regulate the new financial service models and products enabled by new technologies.

We hope you enjoy this new issue of *Law in Context* and invite submissions of articles, book reviews and research reports for publication in future issues. We are acutely aware that measures implemented by governments in response to the present COVID-19 pandemic have had a very disruptive impact on researchers, and particularly on those with caring responsibilities. We wish to ensure that the current circumstances do not impact adversely on the diversity of voices that we publish. We will, therefore, be making every effort to accommodate requests for timeline flexibility and the like made by authors and reviewers.

## REFERENCES

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<sup>1</sup> As a matter of interest, Goodrich’s article in this issue is, in fact, his second contribution to the journal. His first contribution was a book review of A.W.B. Simpson’s *Invitation to Law* published in volume 7 (2) in 1989.