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COMMENT – QUEENSLAND UNIVERSITY OF TECHNOLOGY CASE

COMMENT: This is a comment article rather than our usual straightforward analysis of important and interesting decisions in the law.

The decision in *Prior v Queensland University of Technology & Ors [2016] FCCA 2853* has been extraordinarily controversial and the subject of shrill media reports coupled with disingenuous arguments by proponents for the retention and application of section 18C of the *Racial Discrimination Act 1975* ("the Act"). Some Labor Politicians have disingenuously argued that there is "nothing wrong with section 18C", "it has worked as was intended" with the Court dismissing the application.

Rather, they argue that there may be some improvements to the procedure that may require some review. This is easy to say for those that have not been subjected to this claim and were required to defend themselves in the Federal Court including the long winded lead up.

In our view this was a grave injustice and the performance of the Australian Human Relations Commission ("AHRC") deserves scrutiny and rebuke. The students who were defendants (along with Queensland University of Technology ("QUT")) were, in our view, punished not only by the process but the lack of common sense judgement of the AHRC.

The media reporting has been sensational and unbalanced on both sides of the argument. The decision of Justice Jarrett is remarkable for its reasoning and common sense despite the noise surrounding the case.

We recommend a recent article in "The Conversation" by Murdoch University academics "*QUT discrimination case exposes Human Rights Commission failings*" as a balanced report and is recommended reading.

However, the matter is yet to be completely settled. Ms Prior has sought to appeal the decision but did not lodge the appeal within the prescribed time limits. Therefore Ms Prior's (and that of her legal team) first step is to seek leave to lodge the appeal out of time. We await that outcome with interest.

Ms Prior's claim against QUT is yet to be finalized.

In our view, there is considerable merit in the argument that the defendant students were harshly treated and tarnished by the conduct of the AHRC. The suggestion by the AHRC that “most matters are settled”, begs the question – how many were settled merely to avoid the cost and tarnished reputation of defendants rather than because of guilt?

There are many watching closely for further developments.

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