

Editorial

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It is my pleasure to welcome you to Issue 16 of the Court of Conscience, titled 'People, Power and Perspectives: A Pandora's Crisis'. This thematic Issue explores the often-fraught relationship between people and governments, legal institutions and political bodies in an era that has challenged civil liberties and human rights more than ever.¹ In particular, it asks its contributors and audience whether governments adequately provide for their citizens' needs.

This Issue is undeniably a product of its zeitgeist, more so than I envisaged when first sending out the Call for Submissions in March of this year. Myriad events, including the Russian invasion of Ukraine,² the Supreme Court's overruling of *Roe v Wade* ('*Roe*')³ in the United States of America ('US'),⁴ the Sri Lankan economic crisis and the storming of the presidential address,⁵ and the recent protests in Iran following the death of Mahsa Amini,⁶ have entwined to ensure that the tension between the rights of the individual and the power of a governing body is at an all-time high.

In the five years between 2016–21, the extent to which 'people [were] free from government torture, political killings, and forced labor, ... have property rights, and enjoy the freedoms of movement, religion, expression, and association' decreased in 114 countries.⁷ Likewise, 60 countries faced a democratic decline in global freedoms from 2021–22, whilst only 25 countries improved their rankings.⁸ In 2021, at least 67 countries introduced legislation to restrain 'freedom of expression, association and peaceful assembly'.⁹ Coupled with the rising inequalities arising from the COVID-19 pandemic,¹⁰ a grim picture of rights protection is painted worldwide.

These repeated infringements of human rights resonate with the publication's titular allusion to Pandora of Greek mythology. Like Pandora's release of endless strife into the world, many governing bodies have appeared to respond to various crises by unleashing more instances of human rights abuses and impediments to civil liberties upon the world.

It must be noted that such concerns are not isolated to one country or even a particular type of government. Accordingly, as the Court of Conscience has always endeavoured to develop discourse on contemporary social justice issues, it was particularly important that this Issue investigated disturbances to humanitarian rights both domestically and internationally.

Issue 16 opens with a foreword by Justine Nolan, the Director of the Australian Human Rights Institute, who reinforces the importance of human rights in today's age of democratic transgressions and endorses the need for more accountability. We then launch a suite of Australian-focused articles through two distinct considerations of constitutional rights that could, one day, support civil liberties. Shireen Morris explores possible constitutional amendments that would best promulgate

the First Nations Voice to Parliament whilst Dane Luo reflects upon the possibility of a constitutional right to judicial review following the High Court's decision in *Kirk v Industrial Court of New South Wales*.¹¹ Alan Berman and Mark Brady then take us through three religious discrimination bills introduced in 2021 and analyse how they promote religious freedom at the expense of other human rights. Further questions are raised in the following two articles about a government's ability to restrain individuals through healthcare. Sarah Moulds considers the South Australian and Victorian Governments' exercise of emergency pandemic powers whilst Lucy Geddes formulates a passionate response to the inadequate access to medical care in onshore immigration detention.

The denial of civil liberties in immigration detention is a global concern also raised by Joseph Lelliott, who highlights the difficulty of balancing protection and deterrence with regard to the restrictions placed on unaccompanied child immigrants in the US. Focus remains on the US for Ashleigh Mills' discussion on gerrymandering, concerning the inconsistencies between public opinion and judicial decisions in a post-*Roe* context. This is followed by Samuel Makinda's evaluation of the African Union's various human rights protections. The Issue concludes with a focus on the Asian region. Gemmo Bautista Fernandez examines the Philippines' vacillating relationship with authoritarianism before Catherine Renshaw sheds light on the prevalence of capital punishment in Asia to close Issue 16.

The content of the ten articles that form this Issue is often sombre and concerns historical and current atrocities that have taken place with little regard for humanity. However, through the authors' passion for societal improvement and the willingness to engage in these matters, the Court of Conscience, which has always served as a tool to develop awareness and discourse, aims to increase the presence of the final element of Pandora's box — hope.

I would be remiss in concluding this Editorial without expressing my sincere gratitude and appreciation to everyone involved in finalising the publication. Firstly, I would like to thank our esteemed authors for entrusting the Court of Conscience with your work. We remain indebted to you for your efforts and contribution to legal scholarship on such a diverse and meaningful theme. It has been a privilege to collaborate with you. I must also extend my gratitude to the anonymous peer reviewers for their dedication and thoughtful feedback, which significantly enhanced these final drafts.

My warmest thanks must go to Justine Nolan for kindly agreeing to write the foreword and providing insightful analysis of the prevalence of human rights issues across the globe. We are honoured to have your support. I would also like to express my deepest appreciation to the University of New South Wales ('UNSW') Faculty of Law & Justice, UNSW Law Society and the Vice President (Social Justice), Thareni Parameswaran, for their continual support and encouragement of the Court of Conscience.

I am immensely beholden to the Editorial Team of Issue 16, who have gone above and beyond what is required to finalise this Issue. Thank you for your diligent commitment, enthusiasm and extraordinary effort to see this publication come to light amid all your other responsibilities. It has been my absolute pleasure to work with you.

Special thanks must be given to our artist, Alice Xu, and graphic designer, Maha Rauf, for illustrating the journal and our online platforms with beautiful artwork and inspiring graphics that epitomise the themes at the heart of this Issue. Thank you additionally to our designer, Alexander Tanazefi, for the emblematic design of this publication.

To my friends and family, without whom none of this could have been possible, I cannot thank you all enough for your advice, belief and support. I hope to have made you proud.

Whilst many moments, particularly in the last year, have questioned the universality of human rights, I would like to leave our readers with a reminder that, like Pandora, we have not lost hope. It is ever-present in the fight against abuses of liberties and rights, moments of kindness, and our commitment to a better world, as reflected in the following articles. Such actions resonate with a more inherent power than any government — our shared humanity. When reading the articles enclosed in these pages, I encourage our readers to keep that in mind and embrace the message of hope.

- 1 Sarah Repucci and Amy Slipowitz, 'Democracy under Siege', *Freedom House* (Web Page) <<https://freedomhouse.org/report/freedom-world/2021/democracy-under-siege>>. See also Annie Kelly, 'Increased Repression and Violence a Sign of Weakness, Says Human Rights Watch', *The Guardian* (online, 13 January 2022) <<https://www.theguardian.com/global-development/2022/jan/13/increased-repression-and-violence-a-sign-of-weakness-says-human-rights-watch>>.
- 2 United Nations Office of the High Commissioner, 'Independent International Commission of Inquiry on Ukraine to the Human Rights Council: War Crimes Have Been Committed in Ukraine' (Press Release, 23 September 2022) <<https://www.ohchr.org/en/press-releases/2022/09/independent-international-commission-inquiry-ukraine-human-rights-council>>; 'Human Rights Watch Documents More Accounts of Russian War Crimes against Ukrainian Civilians', *ABC News* (online, 18 May 2022) <<https://www.abc.net.au/news/2022-05-18/hrw-report-on-russian-war-crimes-against-ukrainian-civilians/101078664>>.
- 3 410 US 113 (1973) ('*Roe*').
- 4 '*Roe v Wade*: What Is US Supreme Court Ruling on Abortion?', *BBC News* (online, 24 June 2022) <<https://www.bbc.com/news/world-us-canada-54513499>>.
- 5 Michael Kugelman, 'Sri Lanka's Economic Crisis Is Still Spiraling', *Foreign Policy* (online, 6 October 2022) <<https://foreignpolicy.com/2022/10/06/sri-lanka-economic-crisis-protests-imf/>>; Hannah Ellis-Petersen, 'Sri Lanka: President Agrees to Resign amid Unrest', *The Guardian* (online, 10 July 2022) <<https://www.theguardian.com/world/2022/jul/09/sri-lanka-protests-thousands-storm-presidents-residence-colombo>>.
- 6 Farnaz Fassihi and Cora Engelbrecht, 'Tens of Thousands in Iran Mourn Mahsa Amini, Whose Death Set off Protests', *The New York Times* (online, 27 October 2022) <<https://www.nytimes.com/2022/10/26/world/middleeast/iran-protests-40-days.html>>.
- 7 Bastian Herre and Max Roser, 'Human Rights', *Our World in Data* (Web Page) <<https://ourworldindata.org/human-rights>>.
- 8 Freedom House, *Freedom in the World 2022* (Report, February 2022) 1–2.
- 9 Amnesty International, *Amnesty International Report 2021/22: The State of the World's Human Rights* (Report, 2022) 16.
- 10 'The COVID-19 Pandemic Has Further Exposed Inequality in Australia', *SBS News* (online, 10 September 2021) <<https://www.sbs.com.au/news/article/the-covid-19-pandemic-has-further-exposed-inequality-in-australia/vnw8rlnc0>>.
- 11 (2010) 239 CLR 531.