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Articles

Regulating the Automation of Employment through Redundancy Law: A Comparative Policy Approach
— *Eugene Schofield-Georgeson* 263

This article investigates redundancy law as a policy option for regulating the rapid increase in the automation of employment and automation-led unemployment predicted to occur within the Global North by the mid-21st century. It critically examines these predictions before contextualising redundancy law as a policy strategy within a resurgent literature on full employment and the importance of work to human social development. The article then embarks on a substantive discussion of the current legal framework surrounding Australian redundancy law and its shortcomings. The focus here includes the definition of redundancy, the amount of redundancy compensation and the labour market coverage of current redundancy law. In response, three reforms are proposed, namely to (i) amend the statutory conception of redundancy by reviving the former legal distinction between intentional and unintentional redundancies; (ii) increase the amount of redundancy pay; and (iii) extend the coverage of redundancy protections to precarious workers. These proposals are informed by the evolution of Australian redundancy law in statute and industrial tribunals and courts between the 1960s and 80s, as well as German policy responses to automation in the automotive industry in the 1980s and 90s.

Horizontal Censorship? Restriction of Socio-Political Expression by Employers
— *Graeme Orr and Alexandra Wells* 290

Censorship is generally understood as the use of state power to prohibit expression. Yet, private power may also be used to restrain or punish speech. This article explores one aspect of the way in which the law in Australia balances private power and freedom of expression, focusing on how it polices the delicate equilibrium between an employer's interests in dissociating itself from problematic speech, and an employee's interest in free socio-political expression. It concludes that whilst the law is developing in a way that recognises and balances these competing rights, in practice, employers are apt to misuse their powers to curb employee expression, to protect their 'brand' reputation, beyond that which is necessary to protect their legitimate interests.

Commentary

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The Course of Conduct Exception in s 557(3) of the Fair Work Act
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In the recent decision of the Full Court of the Federal Court in the *Hutchison Ports Appeal*, one of the considerations which prompted the majority to conclude that s 557(3) of the Fair Work Act 2009 (Cth) operated to render sub-s (1) inapplicable where a penalty had been imposed on the particular contravenor in respect of an earlier contravention of the same section at any time in the past was the unlikelihood of the legislature having contemplated the prospect of a later contravention being part of the same course of conduct as an earlier contravention which had been the subject of court proceedings prosecuted to finality. In this case note, it is argued that, considering the context against which the earliest legislative antecedent of s 557(3) was enacted, it is likely that the legislature had just such a prospect in mind.