



Results in Brief: The Future of Law Reform — Constitutional and Immigration Issues

On 18 June 2019, the Australian Law Reform Commission and the University of Melbourne hosted a conversation on the future of law reform in Australia. Justice John Middleton chaired an insightful conversation focusing on issues relating to both the Australian Constitution, and Immigration Law. This was the third seminar in a series asking about areas of Australian law that may benefit from reform.



Professor Cheryl Saunders observed that many proposals for constitutional change may have failed because the reform process was too “top down”. She noted the establishment of ‘citizen assemblies’ in some other countries, and suggested that the ALRC could play a role in educating the public about options for change. Perhaps section 44 of the Constitution could helpfully be reviewed using such a process.



Professor Adrienne Stone argued that legal protections for freedom of expression could be the subject of careful reform. She argued that the right to freedom of political communication implied in the Australian Constitution could in fact be equally as strong as express rights found in other countries’ constitutions, and urged a deliberative “bottom-up” approach to reform. Legislative protections for journalists and whistleblowers could be improved in the meantime.

Professor Susan Kneebone highlighted the political nature of many issues in Immigration Law, often involving broad ministerial discretion. She suggested that the constitutional power to make laws relating to ‘naturalization and aliens’ had fostered a culture of control and exclusion which had infused the Migration Act. A review could consider a new constitutional power relating to ‘citizenship and nationality’, and more inclusive legislative objects and language. Temporary migrant workers could also benefit from a review of their family rights.

Ms Katie Robertson advocated for review of legal processes such as claiming asylum, applying for citizenship, and sponsoring family members to come to Australia. She noted that immigration detention conditions are not currently regulated, and that many other immigration issues require political or cultural change, rather than a law reform inquiry.

Attendees voted as their priority law reform topics: establishing citizen assemblies, protecting freedom of expression, and reviewing offshore immigration processing.

The ALRC is running an online survey until 30 June 2019 to capture your ideas. More details are available at: www.alrc.gov.au/inquiries/where-next-law-reform.

Which proposed law reform topics would you prioritise? (Select up to 3)

