

THE ANU COLLEGE OF LAW,  
AUSTRALIAN LABOUR LAW ASSOCIATION  
& INDUSTRIAL RELATIONS SOCIETY OF  
THE ACT PRESENT:



PUBLIC LECTURE

# THE FAIR WORK ACT – THE REFERRALS POWER COMES TO THE RESCUE ONCE MORE

Associate Professor Andrew Lynch  
University of New South Wales



Wednesday 24 March 2010, 5.30–6.30pm  
(followed by refreshments)

Sparke Helmore Theatre 1, ANU College of Law  
Fellows Road, The Australian National University

RSVP required for catering purposes (by 19 March)

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This lecture is free and open to the public

With the passage of the Fair Work Act 2009 (Cth), it is clear that the importance of State referrals under section 51(xxxvii) as a basis for Commonwealth legislation on topics of national significance continues unabated. This seminar will provide the audience with a general overview of the referral supporting this important Commonwealth law – what exactly is referred and on what terms; what topics were excluded from the referral by the States and what role the latter have now that the legislation has been passed. Discussion of the Fair Work Act will be placed in the broader context of lingering uncertainty over the referrals power of the Commonwealth Constitution more generally. Some of the perennial mysteries of the area will be discussed particularly those attending amendment of the Commonwealth legislation and termination of the States' referral. The great challenge for continued use of the referrals power is how the States may preserve the limited nature of their initial reference once the Commonwealth law has been created. The presenter will argue that an appreciation of the distinctive nature of s 51(xxxvii) as a means of federal co-operation must underpin the High Court's approach to its interpretation and the many questions to which it gives rise.

Andrew Lynch is the Director of the Gilbert + Tobin Centre of Public Law and an Associate Professor in the UNSW Faculty of Law where he teaches Federal Constitutional Law and National Security Law & Human Rights. Andrew's research in recent years has concentrated on the topics of judicial dissent in the constitutional law decisions of the High Court of Australia, federal reform and the intersection of public law and legal responses to terrorism. He is an author of *Equity and Trusts* (2001 and 2005), *What Price Security? Taking Stock of Australia's Anti-Terror Laws* (2006) and a co-editor of *Law and Liberty in the War on Terror* (2007) and *Counter-Terrorism and Beyond: The Culture of Law and Justice After 9/11* (forthcoming, 2010), as well as journal articles, conference and seminar papers in these and other areas. Additionally, Andrew has frequently been called before parliamentary and non-government inquiries to speak to submissions on matters of public law and Australia's counter-terrorism legislative scheme. He writes regularly on public law issues in the media.

The views expressed in this seminar are those of the presenter and do not necessarily represent the views of The Australian National University.

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