

Australian Institute of Administrative Law & Human Rights Law Association

26 March 2025

Proportionality Analysis: How to balance (and limit) human rights in Queensland

5.30pm (AEST), 26 March 2025

Online and Hemmant's List Centre, Level 6, Santos Place, 32 Turbot Street

Presenter **Dr Nicky Jones**, *Senior Lecturer, University of Southern Queensland*

Chair **Saul Holt KC**, *Barrister at Law, 8 Petrie Terrace*

In 2019, the Queensland Parliament took an important step on the pathway to human rights protection when it adopted the Human Rights Act 2019 ('HRA'), which came fully into force in 2020. The HRA recognises 23 human rights, provides accountability mechanisms that impose obligations on all arms of government and creates a procedure to manage individual complaints about human rights breaches. One such mechanism is proportionality analysis which applies a balancing process to assess whether government actions or legislation that limit human rights are proportionate to their intended purpose, and therefore whether a proposed limitation on a human right or rights does not lead to incompatibility and is justified under the HRA.

In this presentation, Nicky will talk about the HRA's structured approach to proportionality analysis, and the range of relevant factors which may be considered and balanced before a human right can be limited, with reference to provisions of the HRA and Queensland cases which have discussed and applied them.

Dr Nicky Jones is a former French lecturer and translator who now teaches public international law and human rights and anti-discrimination law at the University of Southern Queensland. While studying Law, Nicky undertook an internship at the UN Office of the High Commissioner for Human Rights in Geneva, where she worked with Brian Burdekin AO, former Australian human rights commissioner, in the National Institutions team. After graduating, Nicky worked as a judge's associate for the Hon Justice Margaret McMurdo AC FAAL (then President of the Court of Appeal in Queensland). Nicky worked briefly in private practice and Crown Law before returning to academia, and is admitted to practice in the Supreme Court of Queensland and Federal and High Courts of Australia. In 2023, Nicky's book *An Annotated Guide to the Human Rights Act 2019 (Qld)* (written with Peter Billings) was published by LexisNexis. Nicky has recently been appointed to the Queensland government's Human Rights Advisory Panel.

Saul Holt KC took silk in 2012. He was Chief Counsel at Victoria Legal Aid until 2013. He has appeared in leading human rights cases in Victoria and Queensland, including *Victoria Police Toll Enforcement v Taha* (2013) 49 VR 1, *SQH v Scott* (2022) 10 QR 215 and *Waratah Coal Pty Ltd v Youth Verdict Ltd (No 6)* [2022] QLC 21.

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Inquiries can be directed to the AIAL (Queensland Chapter) Secretary, Mr Matthew Paterson at aialqueensland@gmail.com

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