CONTENTS

REGULAR

Aboriginal and Torres Strait Islanders are advised that this publication may contain images of deceased persons.

EDITORIAL

Welcome to the final edition of the *Indigenous Law Bulletin* for 2015.

In this edition, we publish a detailed and contextual analysis of the High Court of Australia's decision in *North Australian Aboriginal Justice Agency Ltd v Northern Territory* [2015] HCA 41 by Jonathon Hunyor. In the first seven months of the paperless arrest regime's operation in the NT, over 70 per cent of the 1295 people locked up under the laws were Aboriginal. In *NAAJA v NT*, the plaintiffs argued the laws were invalid either because they gave punitive powers to police, contrary to the separation of powers under Chapter III of the *Constitution*; and/or that the laws undermined the institutional integrity of the courts. The majority of the Court found against the plaintiffs, although the approach to construction does perhaps mean that the regime's operation is more constrained that it may otherwise have been. It is Hunyor's position, and the ILB agrees, that even though the High Court upheld the validity of the laws, they remain bad policy.

In this edition, we also publish an article exploring how legal pluralism operates in Ecuador, with the conclusion drawn that the framework is there but that its application is falling short. Mayra Tirira Rubio breaks down the *La Cocha* case, where questions of double jeopardy were raised and decided on after the Constitutional Court of Ecuador proceeded with prosecuting offenders who had already had sanctions imposed on them through Indigenous justice processes.

We also have a piece about superannuation accessibility and Indigenous disadvantage by ASIC's Alya Gordon and Nathan Boyle; and a comparison of Australia's 'right to negotiate' with Canada's 'duty to consult' by Kate Madden. We have reproduced the transcript of Paul Keating's landmark Refern Park speech in this edition, to commemorate its 23rd anniversary on 10 December. With discussions regarding recognition, constitutional reform and treaty currently in the spotlight, it is incredible—and concerning—how relevant the words of Keating's speech still are 23 years on. Much thanks to the Hon P J Keating for permission to publish the speech in this edition of the *ILB*.

Thank you for your support throughout 2015. We look forward to continuing to provide you with the highest quality Indigenous law analysis througout 2016.

Emma Rafferty
Editor