Student Discipline: A Legal and Empirical Study of University Decision-Making

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Certification of originality

I hereby certify that the work undertaken and presented in this thesis is my original work.

Signed,
Bruce John Lindsay
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Abstract

This thesis argues that recurrent, if not systemic, shortcomings exist in university practice and procedure in the handling of student discipline. Such shortcomings especially (but not exclusively) relate to institutional adherence to norms of fair procedure. While these shortcomings may not be fatal to basic functioning of university discipline, the findings in this study advert to the need for serious, sustained and transparent attention to this area of quasi-judicial administration.

The thesis represents a legal and empirical investigation of student disciplinary decision-making in Australian public universities. It commences with contextual analysis of the history of the Australian university system and present public policy settings. The investigation then embarks on a study of the legal character of the student-university relationship, the nature of disciplinary action in respect of students in higher education (including its historical character), and reference to empirical literature on this subject-matter. Original findings on rates of student disciplinary action at selected Australian universities are also included.

The central part of the empirical research comprises analysis of institutions’ disciplinary measures and conduct as considered in respect of key legal standards applying to universities, notably the provision of procedural fairness to students. Additionally, the empirical analysis considers other issues of legality in disciplinary decision-making within the administrative law framework, as well as consideration of wider issues, such as the impact of university commercialisation on disciplinary systems.

The thesis concludes with an overview of findings and results, with proposals for reform to university disciplinary arrangements and to mechanisms for review of university decisions.
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