

Editorial

JOURNAL OF LAW AND GOVERNANCE

(FORMERLY THE JOURNAL OF BUSINESS SYSTEMS GOVERNANCE AND ETHICS)

This year, 2015, the Journal of Law and Governance, (formerly the Journal of Business Systems, Governance and Ethics), celebrates its tenth anniversary. The first issue of the journal examined board effectiveness; this second issue is focused on the relationship between the law and governance standards for accountability. Accountability and transparency depend on adequate disclosure of information. Of course, this raises the potential conflict between government security and transparency of information, an issue addressed in this journal.

The papers for Volume Ten of the Journal were sourced from papers presented to the Governance and Law Conference held at Victoria University in 2015. Papers were both invited and peer reviewed. The papers in this issues form a nice contrast between those speakers involved in ensuring public integrity standards and the views of those endorsing public disclosure of governance information.

Invited papers reproduced here were presented by the Commonwealth Ombudsman, Mr. Colin Neave and Ms Karen Volpato from the Australian Institute of Superannuation Trustees.

Mr. Colin Neave's paper argues that governance and good leadership are related and that the two public sector organisations, the Commonwealth Ombudsman's Office and the Merit Protection Commissioner, are responsible for ensuring that the APS values, employment principles, and ethical standards are adopted by the APS leadership. He describes the Ombudsman's role, what he means by good governance and effective leadership and why that leads to good governance.

While the Ombudsman investigates complaints from people who believe they have been treated unfairly or unreasonably by an Australian Government or Agency, the Merit Protection Commissioner investigates breaches of the APS Code of Conduct.

Changes to superannuation regulation is an Australian Government priority. Karen Volpato's paper emerged as a consequence of the response of the Australian Institute of Superannuation Trustees (AIST) to The Australian Government's recently issued discussion paper on the Superannuation Industry in Australia. She argues that superannuation trusts do not have shareholders, and therefore the application of governance practices such as those espoused by the ASX are not appropriate. In particular, independent directors are not required and that the present board of superannuation trusts, comprising representatives of employers and employees(members) should not be changed. she argues that more important than the independence of the Trustees are their skills and competence.

The following peer reviewed papers addressed international issues of whistleblowing and transparency in international trade relations and budget documents. Following the disclosures by Julian Assange of WikiLeaks and Anthony Snowden in the US, whistleblowing and its consequences have become major local and international issues. A paper by Rix, questions the extent to which the Australian Security Intelligence Organisation's (ASIO) approach to corporate governance, that is its lack of transparency, emulates that of an organisation in the wider public service. ASIOs main role is to gather information and produce intelligence that will enable it to warn the Government about activities or situations that might endanger Australia's national security. Rix argues that "The little information available regarding corporate governance is evidently part of an exercise in glib public relations". He believes that secrecy may be necessary, but that an effective and comprehensive approach to corporate governance is essential for a high performing and ethical organisation. Such an approach requires high standards of leadership and management, disclosure and a culture and

commitment to integrity, ethical conduct and accountability. But, ASIO is governed by secrecy and secrecy precludes the opportunity to evaluate it against these criteria. Instead, Rix assesses the degree of disclosure by examining the ASIO strategic plan, annual reports and ASIO's response to Snowden. His conclusion was that ASIO lacks a comprehensive robust oversight and accountability framework.

Dussuyer, Armstrong and Smith reported the results of their research into whistleblowing in Australia that was made possible by a grant from the Australian Institute of Criminology and the help of STOPLine, an independent provider of services for the receipt of disclosures relating to corruption, criminal activity, serious misconduct or improper behaviour in the workplace. Their paper reports the results of interviews conducted with a self-selected sample of whistleblowers who contacted STOPLine. The preliminary results indicate that for whistleblowers the experience is usually negative. They become the 'victims' of a range of harms, including loss of employment, bullying and harassment and emotional distress. The results have implications for the successful operation of the new disclosure laws introduced by the Australian and State Governments.

Legislation to encourage whistleblowing in Asia is still a new and sensitive area for investigation. In this next paper, Suyarto, Armstrong and Thomas describe a framework for investigating the 'intention to whistleblow'. Drawing on previous research and the Theory of Planned Behaviour they developed a model which investigates the relationships between individual values, attitudes and perceived behavioural control, corporate culture and a person's intention to whistleblow should misconduct occur. They also are interested in how confidential or anonymous a disclosure should be and what should be the preferred whistleblowing process.

Wang and Ranaswamy take up the issues of transparency in international trade. They argue that transparency is a fundamental principle of international trade, and an antidote to corruption and the distortion of trade. The authors introduced the APEC Model Charter on transparency and analysed transparency provisions in both the World Trade Organisation (WTO) and Asia-Pacific trade agreements. Their conclusion was that transparency in these trade agreements play a significant role in building confidence, trust and trade.

The four 2015 issues of the journal address board effectiveness, governance issues within the private sector, public sector governance and corporate social responsibility and ethics. The Editorial Board hopes that the inclusion in Issue number 1, of a paper in Chinese and English, will extend the range of the Journal and the contributions from our readers.

Comments from our contributors are welcome as are applications to join the Editorial Board. My sincere thanks are extended to the Board Members, reviewers and especially to Dr. Kumi Heenetigala for her assistance in managing the journal and its publication.

Professor Anona Armstrong AM
Editor