Announcements

Privacy: Selected Papers by Nicole Moreham, Associate Professor of Law: Victoria University of Wellington

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"Privacy in Public Places"
Victoria University of Wellington Legal Research Paper No. 111/2015

N. A. MOREHAM, Victoria University of Wellington - Faculty of Law
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This article challenges the orthodox view that there can be no right to privacy in a public place. It explains why it is theoretically sound to regard things which happen in public as private. It then presents a fresh analysis of English case law demonstrating first, that the courts are well-placed to protect public privacy interests (as required by the ECtHR) and secondly, that many of the criteria for ascertaining a reasonable expectation of privacy have already been articulated in the common law. It concludes that, as a minimum, individual privacy should be protected if a person experiences a traumatic or humiliating event in a public place or retreats to a secluded place.

"Privacy in the Common Law: A Doctrinal and Theoretical Analysis"
(2005) 121 Law Quarterly Review 628
Victoria University of Wellington Legal Research Paper No. 112/2015

N. A. MOREHAM, Victoria University of Wellington - Faculty of Law
This article examines the new English privacy action from a theoretical and doctrinal perspective. It begins by arguing that three different tests emerge from the post-Human Rights Act privacy cases. It then uses an original theoretical definition of privacy to examine the effectiveness of each of these tests and to suggest how the information-based privacy action should develop. The discussion then extends to the non-informational privacy cases and explains, firstly, why the theoretical definition of privacy must include physical privacy interests and secondly, how the English action could be extended to cover them.

"Why Is Privacy Important? Privacy, Dignity and Development of the New Zealand Breach of Privacy Tort"


Victoria University of Wellington Legal Research Paper No. 113/2015

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This chapter explains why privacy is important and how the answer to that question should inform the development of the New Zealand law of privacy. The chapter challenges the oft-held view that in order to establish a breach of privacy, a plaintiff must show that the publicity given to the information would be highly offensive to a reasonable person. It begins by examining why privacy is important on a theoretical level, showing that privacy is an integral aspect of human dignity. It then demonstrates how this conclusion should inform legal doctrine, arguing that actions protecting dignitary interests should be actionable per se and that it is inappropriate to require proof of 'offence' or of tangible harm.

"Privacy and Horizonlality: Relegating the Common Law"

(2007) 123 Law Quarterly Review 373

Victoria University of Wellington Legal Research Paper No. 114/2015

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This piece analyses of the English Court of Appeal decision of McKennitt v Ash [2006] EWCA Civ 1714. It considers the Court's approach to the horizontal effect of the Human Rights Act 1998, arguing that it allowed the Act and the jurisprudence of the European Court of Human Rights to exert too great an influence of the development of the common law. The article also highlights several aspects of the decision which impact on the development of the English privacy action including the Court's rejection of the argument that a person who has revealed some information from a particular 'zone' of their lives will have a reduced expectation of privacy in relation to any other information that falls within that zone.
Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

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