Contempt In the Face of the Court in Australia: Ensuring the Due Administration of Justice and Respect for Human Rights for People with Mental Health Issues

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A thesis submitted in partial fulfilment of the requirements of the Doctor of Legal Science (SJD) degree of Bond University

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This thesis reviews and critically analyses the Australian law and procedure relating to the offence of contempt in the face of the court and, in particular, its impact on people with mental health issues. The fundamental argument advanced in this thesis is that the law and procedure of contempt in the face of the court should be reformed in order to take into account the mental health of people accused of contempt. The thesis proposes reforms to the legal principles and procedures governing contempt in the face of the court that are designed to achieve that objective. The thesis also examines judicial administration, particularly the dynamic between judge and alleged contemnor. It recommends continuing improvement in mental health literacy among members of the judiciary, along with new policies and programs to build and reinforce referral pathways from the courts to mental health services for contemnors. It also examines the issue of judicial stress and, in some instances, mental ill-health among members of the judiciary, to highlight that the power to commit for contempt can be abused by judicial officers experiencing work-related stress and/or mental ill-health. It is then demonstrated that the reforms proposed in the thesis are not only consistent with Australia’s human rights obligations, but also will help to ensure the due administration of justice.

The law in this thesis is stated as at 10 April 2016.
DECLARATION

This thesis is submitted to Bond University in partial fulfilment of the requirements of the degree of Doctor of Juridical Science. This thesis represents my own original work towards this research degree and contains no material that has been previously submitted for a degree or diploma at this University or any other institution, except where due acknowledgement is made.

Signed __________________

Suzanne F O'Toole

Date ________________
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