



# DLS Reported Research September 2020

## Recent Publications

### Books

**Samantha Hepburn**, *Principles of Equity and Trusts* (6<sup>th</sup> ed, Federation Press, 2020) 880pp

### Book Chapters

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### C1: Articles

**Benjamin B Saunders** and Simon P Kennedy, 'History and Constitutional Interpretation: Applying the 'Cambridge School' Approach to Interpreting Constitutions' (2020) 40(3) *Oxford Journal of Legal Studies* 591–618.

Alex Deagon and **Benjamin B Saunders**, 'Principles, Pragmatism and Power: Another Look at the Historical Context of Section 116' (2020) 43(3) *Melbourne University Law Review* 1033–1068

**Neera Bhatia** and Giles Birchley, 'Medical Tourism and the Best Interests of the Critically ill Child in the Era of Healthcare Globalisation' (2020) 28 (3) *Medical Law Review* 1-35 <https://doi.org/10.1093/medlaw/fwaa029>

Sue Milne, Cate Read, Eamonn Kelly and **Felicity Gerry**, 'Allegiance is a Bond of Protection Not a Means through which to Deliver a Punitive Moral Judgment' (2020) 16 *ANZSIL Perspective* 16.

**Felicity Gerry**, Eva Buzo and Anna McNeil, 'Genocide, the duty to protect and complicity: Is Australia sailing close to the wind in Myanmar?' (2020) 17 *ANZIL Perspective* 13.

**Vicki Huang**, 'Trade Marking Covid-19 in Australia: Issues and Implications' (2020) 42(9) *European Intellectual Property Review* 576-583

**Jane Kotzmann**, 'Recognising the Sentience of Animals in Law: A Justification and Framework for Australian States and Territories' (2020) 42(3) *Sydney Law Review* (published online advance access)

**Jane Kotzmann**, 'The Hunt for Clarity' (Sept 2020) *Law Institute Journal* 32-35

**Gabrielle Wolf**, 'In the Interim: Assessing and Managing Risk When Doctors are Accused of Sexual Misconduct' (2020) 49 *Australian Bar Review* 176

**Samantha Hepburn**, "Victoria quietly lifts its ban on onshore conventional gas development: it is bad news for the climate" (2020) 35(3) *Australian Environment Review* 78-81

## Other Research Activities

### Conference and seminar presentations

**Felicity Gerry**, Joseph Barr and Peter Shaw, 'Graph Theory – The Case for Investigating Corruption and Modern Slavery through Suspicious Employment Data' (Conference Presentation, *Transdisciplinary AI*, 23 September 2020).

### Media appearances

Paul McGorry, Jess Hill, Hayley Foster, **Marilyn McMahon**, Annabelle Daniel, 'Coercive Control is a Form of Intimate Terrorism and Must be Criminalised', *The Guardian* 6 October 2020.

**Marilyn McMahon** was interviewed for the article: 'Lupi e Corone, Forbici e Pesci Palla: Così Gang, Terroristi e Nazisti Usano le Emoji' '(Wolves and Crowns, Scissors and Puffers: That's How Gangs, Terrorists and Nazis Use Emoji)', *L'Espresso* 17 September 2020.

**Marilyn McMahon** was interviewed by Julian Morrow for *Sunday Extra* on ABC Radio National, 18 October 2020.

Patrick Durkin (with comments from **Felicity Gerry**), 'Judges, QCs raise alarm over Andrews' new emergency powers', *Australian Financial Review* (online, 22 September 2020) <https://www.afr.com/companies/professional-services/judges-qcs-raise-alarm-over-new-andrews-emergency-powers-20200922-p55xyc>

Damon Johnston and Rachel Baxendale (publishing text of letter signed by **Felicity Gerry**), 'Coronavirus: Key Victorian crossbenchers signal they will reject Daniel Andrews' hardline Omnibus' bill', *The Australian* (online, 23 September 2020) <https://www.theaustralian.com.au/nation/coronavirus-judges-qcs-call-on-daniel-andrews-to-drop-covid19-omnibus-bill/news-story/ed5d1771d7800d15ca5f96a14f2cc306>

'Lawyers say Emergency Measures bill endangers freedoms of Victorians', *ABC News Radio* (ABC News, 22 September 2020) (comments by **Felicity Gerry**)

**Neera Bhatia**, Invited Speaker: "From birth to death: The future of emerging technology" The Melbourne Clinic –'Academic Forum': Wednesday, 16 Sept 2020, 12.30- 1.45 pm

**Bruce Chen**, 'Our Human Rights Still Remain', Herald Sun (Melbourne), 17 September 2020

**Samantha Hepburn**, Interview: ABC Radio Sydney Tuesday 15th September, 7pm Evenings with Sarah McDonald discussing the proposed new gas plant in the Hunter Valley <https://www.abc.net.au/radio/sydney/programs/evenings/evenings/12643148>

**Samantha Hepburn** The Conversation: 'No Prime Minister, gas doesn't 'work for all Australians' and your scare tactics ignore modern energy problems', Tuesday, September 15, 2020 <https://theconversation.com/no-prime-minister-gas-doesnt-work-for-all-australians-and-your-scare-tactics-ignore-modern-energy-problems-146196>

**Samantha Hepburn** Interview: The New Daily, Tuesday, September 15, 2020, 'Dinosaur Policy to Resurrect Fossil fuels Doesn't Stack Up' <https://thenewdaily.com.au/finance/finance-news/2020/09/15/gas-recovery-dinosaur-policy/>

**Samantha Hepburn**, Live TV Interview with Gemma Veness, 22nd September [ABC TV News Channel](https://www.abc.net.au/news/2020-09-22/samantha-hepburn-interview-gemma-veness/12643148) discussing the federal government's energy roadmap: <https://fb.watch/1rfGSNHWi3/>

**Samantha Hepburn**, Radio Interview 2nd October, ABC Radio Capricornia with Paul Culliver discussing deferred royalties and the Adani project with Ian McFarlane, CEO of Minerals Australia. <https://fb.watch/1rfGSNHWi3/>

**Samantha Hepburn**, Radio Interview with Leon Byner, Radio 5aa, discussing gas, coal, climate change and the unions. Thursday 29th October, 11.35am <https://www.fiveaa.com.au/shows/leon-byner/>

**Felicity Gerry**, 'Australia must do more to ensure Myanmar is preventing genocide against the Rohingya', *The Conversation* (online, 29 October 2020) <<https://theconversation.com/australia-must-do-more-to-ensure-myanmar-is-preventing-genocide-against-the-rohingya-147451>>.

**Felicity Gerry** and J. Home 'Why it is time for an FGM Commissioner? Practical Responses to Feminised Issues', *Democracy, populism, coronavirus & enduring patriarchal traditions III*' (Conference Panel, 24 October 2020).

**Felicity Gerry** and Hatti Suvari, 'Human Trafficking & Modern Slavery - Part 1', *Get Legally Speaking With Hatti Suvari* (Get Legally Speaking, 5 October 2020) <<https://www.getlegallyspeaking.com/podcasts/5257636>>.

**Felicity Gerry**, 'Episode 05: Double victimization of trafficked persons: Technology, justice for the victims and ways forward', *Education for Justice Global Podcast Series* (United

Nations Office on Drugs and Crime, 30 October 2020)

<<https://www.unodc.org/e4j/en/tertiary/global-podcast-series/index.html>>.

Fiona Patten MP and **Felicity Gerry**, ‘LIVE with Felicity Gerry QC - Omnibus Legislation’,  
*Fiona Patten MP* (Webinar discussion, 8 October 2020)

<<https://www.facebook.com/events/1017693912025036/>>.

#### Other publications and research related activities

**Matthew Groves** was appointed to the Advisory Group for the Australian Law Reform Commission reference on judicial impartiality.

**Marilyn McMahon** and Paul McGorrery, “Submission to the NSW Parliamentary Joint Select Committee Examining Coercive Control”

**Jean Du Plessis** and Andrea Anastasi, “2020 vision: Current reflections and stakeholder governance in a post—COVID-19 world” (2020) 37 *Company and Securities Law Journal* 495-501

**Zehra Gulay Kavame Eroglu**, “Vale RBG” published (online) at the Centre for Commercial Law and Regulatory Studies (CLARS) of Monash University,  
<https://www.monash.edu/law/research/excellence/clars/news-events/role-and-effectiveness-of-asic-v-the-sec/vale-rgb>

**David Tan**, ‘Treating Algorithms Like Humans: A Sketch of Rational Functionalism’ on the Administrative Law Blog (8 September 2020)

**Tamsin Phillipa Paige**, Douglas Guilfoyle, and Rob McLaughlin, ‘The Final Frontier of Cyberspace: Ensuring that Submarine Data Cables are Able to Live Long and Prosper (Part I)’, *Opinio Juris*, 16 October 2020, <http://opiniojuris.org/2020/10/16/the-final-frontier-of-cyberspace-ensuring-that-submarine-data-cables-are-able-to-live-long-and-prosper-part-i/>

**Tamsin Phillipa Paige**, Douglas Guilfoyle, and Rob McLaughlin, ‘The Final Frontier of Cyberspace: Ensuring that Submarine Data Cables are Able to Live Long and Prosper (Part II)’, *Opinio Juris*, 16 October 2020, <http://opiniojuris.org/2020/10/16/the-final-frontier-of-cyberspace-ensuring-that-submarine-data-cables-are-able-to-live-long-and-prosper-part-ii/>

**Gabrielle Wolf**, ‘Machinations of the British Medical Association: Excluding Refugee Doctors from Queensland’s Medical Profession, 1937-42’, seminar presented for the Contemporary Histories Reading Group at Deakin University on 2 September 2020.

The South African Constitutional Court cited several articles by Pieter Badenhorst as authority for the proposition that transitional mineral rights are real in *Magnificent Mile Trading 30 Pty Ltd v Celliers* 2020 (4) SA 375 (CC). The articles were

- (a) PJ Badenhorst & H Mostert 'Revisiting the Transitional Arrangements of the Mineral and Petroleum Resources Development Act 28 of 2002 and the Constitutional Property Clause: An Analysis in Two Parts' (2003) 3 *Stellenbosch Law Review* 377 at 384 – 5;
- (b) PJ Badenhorst 'Ownership of Minerals in Situ in South Africa: Australian Darning to the Rescue' (2010) 127 *South African Law Journal* 646 at 651; and
- (c) PJ Badenhorst 'The Nature of New Order Prospecting Rights and Mining Rights: A Can of Worms?' (2017) 134 *South African Law Journal* 361 at 368 – 9.

**Samantha Hepburn**, Aboriginal Cultural Heritage Bill 2020 AHA Review, Western Australia Submission (27 pages) [https://consultation.dplh.wa.gov.au/aboriginal-heritage/aboriginal-heritage-bill-2020/consultation/published\\_select\\_respondent? b\\_index=120](https://consultation.dplh.wa.gov.au/aboriginal-heritage/aboriginal-heritage-bill-2020/consultation/published_select_respondent?b_index=120)

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