

## EP06 Felicity Gerry

**voiceover** [00:00:06] This is William and Lonsdale, a podcast about the legal ecosystem in Victoria and the fascinating people and stories that make it tick. Today, we welcome Felicity Gerry QC to the show. As we'll see, Felicity has a dynamic and fascinating life in the law, taking her from Essex to Melbourne via Nottingham, Tenerife and Darwin, she has worked in areas as varied as terrorism, cyber crime and human trafficking. And all this from a young girl who dropped out of school at 15. But throughout all the incredible twists and turns of Felicity's career, the common thread has always been her passion and dedication to the law.

**Felicity Gerry** [00:00:40] I threw myself into everything I could possibly do, at what we called bar school. I joined Middle Temple, who gave me the scholarship, and they have a revel's night, so, it's all very medieval but you have to eat, at least in those days you have to eat 24 dinners in order to be admitted to the bar. It sounds really daft and I think they still have to do twelve, but what it does is it means you mix with judges and lawyers and you get to speak to them. So you not only learn how they behave and how you're expected to behave in all the rules and the unwritten rules. You do have conversations about legal issues. And I've enjoyed those types of dinners over the years very much. And for me, it was a window into how to.

**Michael Green** [00:01:48] Felicity Gerry, thanks for coming in today.

**Felicity Gerry** [00:01:51] You're welcome.

**Michael Green** [00:01:52] Now, Felicity, you are an English woman with an accent, which is clearly English, but I can't identify where it comes from. It doesn't sound like London to me or Yorkshire or one of the places that we know. Where are you from?

**Felicity Gerry** [00:02:05] Well, I was born in the London borough of Havering, but that's effectively Essex. And I grew up in Nottingham, so I have this really weird mix, I often say, I've got an Essex accent with a Nottingham timing, which is slower. But I still have to deal with the Essex girl jokes, you know.

**Michael Green** [00:02:22] Rowing up in Nottingham, you drop out of school at age fifteen. How does someone who left school at fifteen first to become a barrister and secondly become a Queen's Counsel?

**Felicity Gerry** [00:02:35] Ah that's a huge story. So dropping out of school at 15 has a long story and a short version. I suppose the short version is from the age of 12 I had a weekend job mucking out horses and eventually riding horses and eventually teaching people to ride horses. And that was way more fun than going to school. And particularly because and the longer version is I didn't particularly fit in. So, in fact, I got an email recently from a woman who I'd been at school with, effectively apologising for being mean to me at school. It was very nice email and we sort of corresponded for a bit. But what she said was, you know, we used to have a go at you and you used to have a go back. I remember you shouting back at us and stomping off and I thought, you know, I haven't altered much. So I suspect all of that, plus the divorce of my parents and all of those things just made mucking out, riding horses and being in the countryside far more fun, you know.

**Michael Green** [00:03:38] But then how did you get back to school and get back to education and study?

**Michael Green** [00:03:42] Well, all of that upset my mother and father, obviously, that I wasn't in school and I did drop out and I didn't get great grades. I did get some even though I wasn't going. And I tried sixth form college and dropped out of that completely. So I got a job as a nanny through some friend of my mother's in Tenerife and you end up nannying working behind a bar. And it does

focus the mind. You think, well, if I don't get some form of qualification, I'll be doing this for the rest of my life. So I came back to England, got into further ed college where you could redo stuff that you should have done at school. And that was great. I studied Russian history, went on a trip to Russia. English was just reading everything you'd like to read. And I got into Polytechnic that became a university.

**Michael Green** [00:04:33] And there was a law degree in that polytechnic?

**Felicity Gerry** [00:04:36] Yeah. The bit that I've probably missed out is that, so I thought, well, I'll do law because that must be a pathway to journalism. And then when you actually do law, all anybody ever talks to you about in England is are you going to be a solicitor or a barrister? There's no real fusion to the education or anything like that. So instead of talking about journalism, I was constantly talking about, well, what am I going to be whether I'm going to be a solicitor or a barrister? So I did work experience. I decided to go and see what's it like to be a solicitor or what's it like to be a barrister? Some of them were lovely. Some of them were really rude. And then a friend of my father's who was a solicitor at the time and became a barrister. Each of them gave me a week and the solicitors experience, I realised very quickly I didn't want to do. But once I saw people going into court wearing black robes and going to work for an argument every day, I actually thought that would suit me rather better than journalism.

**Michael Green** [00:05:36] How did you go about doing that? I mean, I'm assuming the UK even more so than Australia, it would often depend on having good connections.

**Felicity Gerry** [00:05:46] Well, I didn't have any. But I think in Australia it's way better, as far as I can tell among the young lawyers, they tend to do a lot of things before they go to the bar and they've been employed in Legal Aid or in the DPP or they've done Aboriginal legal services in the Northern Territory and so on, or they've worked in commercial law and then come out to be at the independent bar. So I wish I'd had more of those opportunities. But obviously along the way I'd had to I had a scholarship from Middle Temple to support me in my career. You have to go to London to go to school. In those days, there is only one place you could train to be a barrister, and that was the Ins of Court School of Law. So you called to the bar In your in of Court. So there were still four, it's very Dickensian, always worth a visit, go to the temple in London, it's the quietest place in London. It's looks the same as it's looked for centuries. My In of Court, which is Middle Temple, for example, is the first place that it's Much Ado About Nothing was performed or Twelfth Night, I think it's Twelfth Night actually was performed ever. So Shakespeare performed it in my In 400 odd years ago and it's been the same. So the tables are the same. One of the tables is made out of the ship that Francis Drake's ship. There's a whole birn on the wall, it's serious historical heritage. So you feel part of that and I loved it. They were the lamb and flag regalia is there everywhere, which is the emblem of the Knights Templar and this tradition of coming together and eating dinner, discussing what the law is or how it should be, and then going out and disseminating it to the world is what the common law was all about. So you feel like you're part of that amazing tradition of spreading the common law around the world, whether we're doing it properly or not, we'll come to later on in this conversation. But look, I was hooked in terms of being involved in the shaping of society that law can do and the professional camaraderie and the pomp of it all, I suppose.

**Michael Green** [00:08:08] But with that background, going back to even the Middle Ages, I guess with the Knights Templar and Shakespeare, how come you're sitting here in Melbourne talking to me?

**Felicity Gerry** [00:08:19] Oh, gosh.

**voiceover** [00:08:20] As with many elements of Felicity's career, the path to establishing her practice was not straightforward. Once she completed bar school in London, she had to gain pupillage through a set of chambers. After Seventy-Seven unsuccessful applications in London, Felicity eventually gained pupillage the Midlands, which meant moving back to Leicester and living off next to nothing for her early career years. In pupillage she was awarded two hundred and fifty

pounds a month, the same amount as her rent. But Felicity had a 10 year strategy to get back to London, which she did. After building a successful practice there, including some incredibly high profile cases, Felicity applied for Queen's Counsel. But before she even found out she was successful, Felicity's life and law took another unexpected turn.

**Felicity Gerry** [00:09:06] So I did the case called Joojee that I'm sure you're going to ask me about and we lost it at trial and we lost in the Court of Appeal. And I thought it was so unjust I thought, I'm not sure I want to do this anymore. The biggest challenge I think I ever had was the day that I thought do I really want to be a part of this terrible system? And at that point, my husband was offered a job in Australia for a year. My application for silk was in, I'd got these thoughts going around in my head - do I really want to do this? How do I internationalise myself? What do I do? And I said, look, well, you either come home because I've had enough of this is too hard or we all go. He said, well, I'd like us all to go. Children, were on the sofa and I said, "Would you like to go and live in Australia for a year?" And they just said "yay" and I went, right, we'll do it. So we went. I didn't even look to look at where we were going on a map. I just thought Australia's hot, it's only for a year. By that time, I'll know whether I've got silk or not if I've got it, fine, if I haven't got it I'll reflect on what I'm gonna do. And off we went for a year, which turned into five.

**Michael Green** [00:10:16] So, Felicity, you've decided that the whole of the family will shift to Australia and that, in fact, turns out to be Darwin in the Northern Territory, one of the remote parts of Australia. How does a London practice with all of that tradition and history translate to the outback of Australia?

**Felicity Gerry** [00:10:34] Well, that's a good question. So here's the picture; we go from minus five to plus thirty five in one flight. We arrived on the twenty third of December and plus 35 degree build up heat.

**Michael Green** [00:10:50] And humidity beyond belief.

**Felicity Gerry** [00:10:51] 90 percent humidity. It was just unbelievable. I'd never, ever known weather like it. And I'm really quite English. You know, I like the seasons. So it was really bonkers to only have a wet a dry season, and this was the wet season but before the rains come, so you get this buildup and buildup, it gets hotter and hotter and sweaty or sweaty and madder. Then it's Christmas Day and my husband likes to cook, and he done a massive Christmas dinner for us all because he hadn't seen us for months - he'd gone ahead. I ate Christmas dinner and I'm English so I said, well, why don't we go for a walk? And I've gone from air conditioned car to air conditioned shopping centre to air conditioned apartment, and I knew it was hot but I hadn't quite appreciated this was all the time. So we went for a walk. I didn't get very far. Somewhere along the way, I'd bought a nightie that was wearing as a dress because none of my clothes were suitable. Some wandering around Darwin in 35 degree humidity, heat and humidity in a nightie. And eventually I had to lie down, there were some benches and my husband said, shall I get and get the car? I said yes. And I went to bed for a week.

**Felicity Gerry** [00:12:06] So I obviously couldn't work straightaway and I wasn't sure I was going to get admitted because we were only planning to be there for a year. But I thought, well, why not while I'm here? So I worked towards that and went for an interview at Charles Darwin University and got myself a job as a lecturer while I was a waiting.

**Michael Green** [00:12:26] A law lecturer. But you then did work in Darwin you worked at a barrister in Darwin.

**Felicity Gerry** [00:12:29] I did. Yeah.

**Michael Green** [00:12:30] How long did it last for?

**Felicity Gerry** [00:12:32] Well, we lived there for five years. I mostly worked at the university, I didn't do a lot of barristering. I discovered very quickly that you're never going to change anything in Darwin by being a barrister. A lot of what happens is parliamentary law legislation is made and you have to make submissions to government to try and get anything to shift. You might get the odd acquittal, you might get the odd case that changes things, but actually you're more likely to get change by policy submission. So, for example, one of the things I did at the university was draft what was it in the end, the effective submission to change the law on reproductive rights. Now, didn't do that on my own, I did it with people from Menzies School of Health, so the health experts on women's reproductive rights, together with my legal research, created the submission that the campaigners relied on that caused the women in parliament, regardless of what side of parliament they were on, to understand that, you have to give women the best treatment when they make a decision to terminate a pregnancy. You can't just say, well, we're not gonna treat you in order to try and make you change your mind or keep it as a criminal offence. Those sorts of submissions to government that change the law that I found really valuable and I thought that was the skill that I could bring to Darwin. And I represented Aboriginal people. So I defended only and that was really rewarding and educational, that you learn so much about an historic culture and the way in which people are just about surviving as Aboriginal people in the Northern Territory, that I thought it changed my perspective on my work. I'd always worked in cases involving vulnerable people, but I learned as much as I did, I suppose, because I was doing this dual function of being an academic and being a barrister.

**Michael Green** [00:14:39] Well, now having a look at some of the work you did in the Northern Territory, takes us to the Don Dale Royal Commission. Don Dale is a notorious now juvenile detention centre in Darwin. Three or four years ago, there was a royal commission into child protection and Youth Detention in the Northern Territory, which arose out of a Four Corners program about the Don Dale Center. You had an involvement in that, I believe?

**Felicity Gerry** [00:15:09] Yeah, I joined what's called the Making Justice Work campaign, and we were trying to bring together groups of stakeholders who are interested in justice in the context of I suppose you'd call it Aboriginality. How is the system working or not working in relation to Aboriginal people and trying to identify what you could ask government to do? The same point about maybe one case can make a difference, but actually, what can you get government to do to make the position better? Because it's just disgusting up there. Eighty percent of the people in prison are Aboriginal, 100 percent of young people in prison are Aboriginal. It's such a shocking state of affairs. And when you're coming from the other side of the world without haven't even looked on a map as to where you're going to, it feels like an outpost of empire. It feels horribly colonial. So at the university I started a small exoneration project a bit like the Innocence Project. So I joined the Making Justice Work campaign with legal services and social services, particularly focused on Aboriginal people in the Northern Territory, coming into contact with the justice system. And part of that, others broke the story and Don Dale, by going in and visiting and asking questions and finding out that there were these solitary confinement cells, that there was this hosing down, that they were using these spit hoods and tying children to chairs, and so it wasn't just anecdotal. Others within our group collected the evidence that got Four Corners interested in involved and for which we, as a group Making Justice Work campaign, won a human rights award. Which is all very nice and it was lovely to be part of an organisation that wins a human rights award but I'm not sure what's changed. And so when I say I felt you could make more of a difference from a policy perspective, ultimately, you don't make much difference at all because then the government doesn't implement the recommendations of the commission and has, of course, has failed to implement recommendations in all the previous reports and commissions that they'd been before. You know, aren't when they built the big new prison for adults, it was because the adult prison, Berrimah Hotel, as it was known as the Berrimah prison, had been condemned when they built the big prison for the adults and moved all the adults out they put the children in it, in the building that had been condemned.

**Michael Green** [00:17:47] Australia's got a very sad history with dealing with our indigenous people, haven't we? And it doesn't seem to change.

**Felicity Gerry** [00:17:54] Well, look, I only know my little bit. And I saw what I think everybody should see. If I could do one thing for the Australian legal profession, I would say it was compulsory as part of your training to go and do something in the Northern Territory. Six weeks of lawyering or providing some form of service. Six weeks isn't very much, but something in the Northern Territory of Australia, I think would be, ought to be compulsory just to see significant disadvantage and the effect of how laws that are either not fair of them themselves or not applied fairly. If every single lawyer in Australia went to the Northern Territory like I did, they would be better lawyers. I'm a better lawyer as a result of going.

**voiceover** [00:18:45] William and Lonsdale is brought to you by Green's List, one of the leading multidisciplinary barristers lists in Australia. Greens List believe in promoting conversation around the ideas and issues that shape not only our legal system but our wider community.

**Michael Green** [00:19:01] Moving to the international part of your practice and your career, Felicity. You were involved in a case involving a woman named Mary Jane Veloso in the Philippines. As I understand it, she is reprieve from execution in Indonesia, whilst her status as a human trafficking victim in the drug trade was investigated. You were involved, you are the subject of an ABC Foreign Correspondent documentary called Saving Mary Jane. Could you tell us about that case? And how did the whole thing work out?

**Felicity Gerry** [00:19:36] I mean, that was just a fantastic opportunity that again, demonstrates what I think is the useful overlap between being an academic and being a barrister. So I'd gone to Darwin, I'd got the job in the university. I cross my fingers a little bit that I knew what I was doing as a teacher. And if you work in a university, they also want you to do research and I was really interested in victims of human trafficking who commit crime. So I defended a guy who was accused of a conspiracy to import illegal immigrants into the UK via South Africa from India. And it was clearly a case of indentured servitude.

**Michael Green** [00:20:16] Felicity, please tell us, what does indentured servitude mean?

**Felicity Gerry** [00:20:20] Well, when you owe a debt some, you have to go and work off a debt. So you're given a job and you work off the debt and it's now a crime.

**Michael Green** [00:20:26] As often happens to women who are made to work in the sex industry to work off a debt.

**Felicity Gerry** [00:20:31] Yeah. And I did that case and thought, well, we won, I was the only one to be acquitted out of 26 client defendants. And then I represented a woman who was accused of human trafficking, it became a crime. She was being prosecuted for being part of a group who imported very vulnerable women into the UK. And they were raped and treated utterly appallingly and forced into the sex industry and she was accused of trafficking them. And I took the view that she'd probably just climb the ladder and got up the chain a bit in order to survive. She was a real survivor. She was fantastic. And we didn't win. We tried to sort of get that across and it wasn't exactly the issue in the trial. I won't bore you with the details. So these cases stayed with me. I end up in the Northern Territory, what am I going to research? Well, how are these commitments that we make at international level to protect victims of human trafficking working in the criminal justice system? That's a really interesting question. And I got an email that said, Help Mary Jane - sign this petition. And I read it and instead of signing the petition, I thought what you should do is share your knowledge. If you know something you should, as a lawyer, just tell them. Don't wait for the brief to come to you, tell the other lawyers, tell anybody you know, if you know the answer it could help. So I replied to the email, I said, look, I'm not going to sign the petition, but I think I can help, can you put me in touch with her lawyers? The next day I was speaking to the lawyers who were in the Philippines. So she's on death row in Indonesia, having traffic drugs from the Philippines to Indonesia in a suitcase that was given to her by recruiters. And she thinks she's going off to be a maid. Their new lawyers in the Philippines, fantastic human rights lawyers with virtually no funding,

doing everything on a shoestring and amazing. They were trying to deal with what you would call the last ditch attempt to save her before she was gonna be shot. By this time, she's been flown to the island, she's on the same Island as Chan and Sukumaran and 30 minutes before she was due to be shot, she was reprieved, temporarily, reprieved and taken off the island. She'd said goodbye to her mum, the lawyers had gone over to her children and then she was put it back into prison and back on death row pending the investigation. Which is still going on and very complicated and I'm currently doing some more research. But look the lawyers in the Philippines did it but it was a bit of magic because I happened to have been looking it up and I happened to take the time to reply to an email.

**Michael Green** [00:23:08] But it's interesting, the moral of the story is share your knowledge. Be generous.

**Felicity Gerry** [00:23:12] Yeah absolutely, every time. But coming back to, you know, a woman on death row, I've now got, what is it, 18 women and children in the camp in Syria and it seems to me that's exactly the same. What are our duties to our own citizens, Australian citizens abroad? What do we do for them? And this time I'm instructed by solicitors to run a federal challenge. And hopefully we won't have to run it because the government will see sense that it's their responsibility to their citizens to work out who's a civilian, who's a foreign fighter, who's a victim, who's a criminal, and who might be a victim, who's also committed a criminal offence.

**Michael Green** [00:23:57] Felicity, one of the cases that you did in the U.K., The Queen and Jogege has been described by the BBC as a genuine moment in legal history. Very few lawyers ever get to be involved in a genuine moment in legal history. What was Jogege about and why was it a genuine moment in legal history?

**Felicity Gerry** [00:24:23] So it was a very ordinary stabbing in a town called Leicester in England. Two people had gone to someone's house and sort of spent the evening with her, and also drug dealing from her address. Her boyfriend came home. One of them was still there and behaving badly. My client had gone away. He was asked to come back and collect the other one, which he did. And initially they left and then the other one went back, went inside the house, picked up a knife and stabbed to the boyfriend to death, he died within two minutes straight through the heart. My client at all times was outside in the garden, not behaving particularly well. He waved a bottle, shouted, "come on", kicked the car, and then at some point was texting someone's come and give them a lift. But the law had developed to the point that if you were accused of embarking on crime A and you foresaw that your cohort was going to commit crime B, you were guilty of what he'd done, even though you had no intention, just foresight. And it was an error of law. Now, for me to give you hundreds of years of law will take us far too long. But over time, over 30 years, you've got prisons full of people who are really accessories where you should be testing whether they intended to aid, abet, counsel and procure, but are now being prosecuted on the basis they're guilty because they foresaw us that someone else might do something was appalling.

**voiceover** [00:26:10] In 2015, after years of appeals, research and persistence, Felicity and her colleagues were granted leave to appeal to the UK Supreme Court, formerly the House of Lords. And in 2016, they won the appeal.

**Felicity Gerry** [00:26:24] And there's this fantastic video of the hand down of the judgment when the president of the UK Supreme Court. So that's basically the head of what used to be the House of Lords saying...

**Michael Green** [00:26:33] The equivalent of our chief justice of the high court?

**Felicity Gerry** [00:26:36] Yeah, absolutely if the chief, Susan Kiefel, was sitting there and saying we got it wrong. The you know, there was an era of law, and there's a audible gasp because the court is saying whoops, and whoops with hundreds of people in prison. He then went on to say,

we're not gonna let anybody out but that's a longer story. And that's why it's a genuine moment of legal history, because it was a miscarriage of law that created a fundamental miscarriage of justice.

**Michael Green** [00:27:06] Felicity, your career has taken us from the U.K. to the Northern Territory, the Philippines, Indonesia, Europe, Hong Kong, New Zealand. Heard nothing about Melbourne where we currently are, where do you live, where you practice and where we're having this conversation. So why are you in Melbourne and what's happening here in Melbourne with you?

**Felicity Gerry** [00:27:30] Well, again, thanks to my wonderful husband and family, we stayed in Darwin for five years. He got more work, I got more work, it was all great, everybody was happy. But we were always going back. Every year it was "Oh alright we'll stay a bit longer". We were and I was still running a practice in London, so flying in and out. And he was offered a job in Melbourne. So I said, all right, you go ahead, we'll finish up here, children have got to finish school, I'll come down in the holidays. And he was phoning because he had come ahead saying, I think you will like it here. I think you'll like it here. Yeah yeah all right we'll come down to the holidays. I'm jsut tired, we're packing up. Anyway, so I fly down, turn up and say, "why am we lived here?!" It's got cafes and art galleries and theatre and musical theatre and everything I love. And so here we are. And we've been made very welcome. My children are very happy at school and uni. He's got a great job. I've got a great opportunity, thanks to you. And that's great.

**Michael Green** [00:28:35] So we're here connecting you to the Melbourne bar for the city. I remember getting a call as a Barristers Clerk, which I then was, from a justice of the Supreme Court member, the Court of Appeal, Mr Justice Joseph Santamaría telling me that there was an English criminal law barrister, silk, who I should meet and talk to, and he thought it'd be to my benefit. Did you have a conversation with him?

**Felicity Gerry** [00:29:05] That;s nice to know. Yes, I did. And so I was invited for lunch at the Court of Appeal. Typical me. First time I go through a court in Melbourne, I'm going for lunch with all the Court of Appeal judges because I did the case of Jogee and they knew about it and they discovered that I was in Melbourne and I was invited for lunch. And so I went and survived. And afterwards I was invited to speak to the judge further about what my plans were in terms of my career in Melbourne. And I said, well, I don't know, I understand I've got to join a list. And I've really only just arrived. And I said, I've had a look on the Internet. I've got no connections in Melbourne again - me and my no connections, you know. I've had a look on the Internet, so I've seen some names of these lists. And he says, well, which ones? So I said, well, the one I like best, you'll think it's a bit silly. And they said, Well, what do you mean by silly? I said, Well, my father's my late father's best friend, his whole life, was a man called Michael Green, and there's a Greens List, run by you, a man called Michael Green. I said, I can't not find out, it seems to me to be a bit of serendipity. And he says, Oh, that's good. I went to school with him and because the phone up. So obviously, I had to pass the test of being interviewed by you in the head of the list and that is how I happened to be on Green's list with a very good practice that I'm very grateful for in Melbourne.

**Michael Green** [00:30:42] Isn't that a nice piece of serendipity? I like that as well.

**Felicity Gerry** [00:30:46] Yeah, you see my dad did that.

**Michael Green** [00:30:49] The only two Michael Green's In the world.

**Felicity Gerry** [00:30:50] Yeah, absolutely. At least the best to Michael Green's in the world.

**Michael Green** [00:30:55] Now, one thing that I'd done with us. This has occurred since you've come to Melbourne or had previously been a part of your career. But another international part of your career, in fact, has been in the area of terrorism. And you've been involved in terrorist cases, I know, here in our Supreme Court. How has it come about? Have you been involved in terrorist cases in the UK or in Asia, or is it a new part of your practice which has occurred here in Melbourne?

**Felicity Gerry** [00:31:24] A bit of both, really. I've done some cases in England and Wales that were labeled at the time domestic extremism. And separately, I developed this practice of taking on challenges. And in my life at the bar, really, I would say that everybody else thinks that all my clients are abominable. So if you've got a case that involves a client that the whole world would consider to be abominable, I'm your barrister and it's happened to me my whole career, people would say, this one's got your name on it and it would either be a difficult point of law or a difficult client. But more often, both. But I was really keen to do that type of work, partly because I knew I could. And also because I think it's really, really important to have senior women appearing in the most significant cases for the world to see women doing what I do rather than sitting in the dock, being vulnerable, giving evidence, being victim, vulnerable victims. In that particular case, the client had some special needs. And I've got a long history of publishing my works on vulnerable defendants. And so I think I was the right person for the job and haven't gotten that one over the line, then I was given another one and then a different set of solicitors, a new instructor has now giving me the third one. So you need an opportunity at the bar, you really do. And you don't necessarily win. But everybody else would consider my client to be abominable. Eventually we got the headline, you know, fish brain terrorist and the reports were pretty good in terms of the news reports, thinking about getting the general public to think about people with special needs involved in these circumstances.

**Michael Green** [00:33:10] Felicity, you've acted for terrorists, and terrorism is a highly emotional topic in our society and all societies around the world. And it's made me wonder whether terrorists or people accused of terrorism can get a fair trial in the way we expect everyone else to get a fair trial, who come before the criminal justice system?

**Felicity Gerry** [00:33:33] Well, that's a really complex answer that would need reflection on substantive law, procedural fairness and numerous issues in the whole of the criminal justice system. And I think the only way to answer it here, is to think about it as the only area of law where we label it by the way that we feel. We call it terror. Before you even go into the courtroom, we've labeled it terror. It used to be, you know, murder, rape and so on. We call it terror to reflect that politicisation. And what it does is it makes the courtroom political, it makes it all the adversarial system, almost militaristic. It makes governments have knee jerk reactions without proper consideration of our basic principles of fairness, balance and justice. Obviously, everybody would agree that there's got to be significant punishment for people who have done these terrible atrocities that we know about. But the labelling of terror does, in my view of itself, unbalanced the system.

**Michael Green** [00:34:49] Just to finish off Felicity, I would like to get a little bit personal and talk about the balance in your life. We have heard of a career which has gone from Leicester to Darwin to Melbourne. Constant travel between here and Europe to run your practice and run your trials and run your cases. Taking on difficult and high profile cases because of a belief in the system needs to be maybe fine tuned to for the benefit of the accused person. With all of that happening in your life. Have you got a balance? And if you have, how do you maintain it?

**Felicity Gerry** [00:35:31] Nobody has balance. I don't think. Resilience, I think is in a word that's newly come into our lexicon, I find better. Because I might be full on working for eight weeks, solid on a trial, doing everything else outside of that trial, juggling absolutely everything outside of that trial. I might have a sick baby, grumpy teenager dog that needs walking, horses that need feeding. And then I might take two weeks off where I only do the home stuff. So it really is juggling more than balancing and that's just making lists diarising and trying not to let people down too often.

**Michael Green** [00:36:16] Felicity, thank you for a most fascinating insight into a life in the law.

**Felicity Gerry** [00:36:20] You're welcome. Thank you.

**voiceover** [00:36:24] As always, show notes, useful links and a transcript of today's episode can be found at [greenslist.com.au/podcast](https://greenslist.com.au/podcast). We've also included a link to the book *Accessorial Liability After Jogee*, to which Felicity has contributed a chapter. We're keen to know what you think, so please reach out by all the usual channels. Let us know the questions you'd like us to ask, topics you'd like explored or ideas for future guests. If you're enjoying lives in the law, please tell your networks and subscribe, rate and review the show. It really helps others find out about us. Our show is produced by me, Catherine Green, recorded and mixed by Alex McFarlane, who also wrote and performed all the music for the series. We are coming to you this week and every week from the iconic County Court of Victoria on the corner of William and Lonsdale Streets in our beautiful city of Melbourne. We acknowledge the Wurundjeri People of the Kulin Nation as the traditional custodians of this land and pay our respects to their elders past, present and emerging. There is no doubt that conversations about justice have been taking place on this land for thousands of years, and we are privileged to continue this discussion here today.