

GREENS LIST

BARRISTERS



FELICITY GERRY QC

SILK: 2014 | BAR ROLL: 1994 | ADMITTED: 2015

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EXPERTISE

[Alternative Dispute Resolution](#) | [Appellate](#) | [Criminal Law](#) | [Environmental Law & Planning Law](#) | [Inquests, Inquiries, Tribunals & Commissions](#)

PROFILE

Felicity Gerry QC (Call 1994: Silk 2014) regularly appears in in the Supreme Court of Victoria and the Victorian Court of Appeal in contested hearings and conviction and sentence appeals. She has also appeared in the High Court of Australia. She largely defends in criminal matters, often with an international element. Since taking silk her practice has increasingly had an overlap with Administrative, Constitutional and International Law and she is often briefed to advise on legislative operation and transnational strategic litigation.

She is admitted to the list of counsel for the International Criminal Court (ICC) and the Kosovo Specialist Chambers and in England & Wales and in Victoria and had ad hoc admission in Hong Kong and Gibraltar. She has advised and appeared in major terrorism, international fraud and money laundering matters, multi claimant and multi defendant cases, administrative action to heritage list Aboriginal land, a Federal challenge for women and children in Syrian camps and in a potential class action relating to illegal logging. She has

also advised on a range of death penalty matters in ASEAN, including assisting in a successful reprieve.

Felicity is also Professor of Legal Practice at Deakin University where she lectures in Contemporary International Legal Challenges including Terrorism, Modern Slavery and Climate Change Litigation. She is a member of International Bar Association (IBA) and the Commonwealth Lawyers Association (CLA). Felicity is on the Executive Committee for ICJV Victoria and is appointed a Member of the Legal Practitioners Disciplinary Tribunal in the Northern Territory of Australia.

Felicity has a particular interest in the law on complicity, having led in 12 cases on this topic in 6 jurisdictions including an Amicus Curiae brief in the ICC in The Hague (*Radovan Karadžić Appeal* 2019), a successful petition for mercy in the NT (*Zak Grieve* 2018), an application for special leave to the High Court of Australia (*R v Spilios* 2016), in the Court of Final Appeal in Hong Kong (*Chan Kam-shing* 2016) and she led in *R v Jogee* [2016] UKSC 8, where the UK Supreme Court (formerly the House of Lords) held that extended common purpose (known there as 'joint enterprise') was an erroneous tangent of law. The BBC described the judgment as 'a moment of genuine legal history'. This was followed by a successful appeal on the law of joint principalship (*R v Lewis* 2018).

Felicity takes a keen interest in improving the law and has contributed to submissions to governments which have changed the law in Australia and overseas. Felicity has provided training / CPD and presented at conferences on a range of legal issues including War Crimes, Terrorism, Homicide and Sexual Offending as well as the use of science and technology in legal practice. She provided training to the Commonwealth Parliamentary Association Modern Slavery Project and the Bangladesh Judiciary Project and has developed a teaching module for UNODC on the linkages between human trafficking, smuggling of migrants and cybercrime. She is an Ambassador for The Advocate's Gateway (TAG) which produces toolkits for advocacy with vulnerable people. TAG pioneered the use of intermediaries. Her Publications include to Lexis Advance, *Bourke's Criminal Law Victoria*, (contributor) Chapters Sex Work and Children (December 2019).

NOTABLE APPEALS - HIGH COURT

- *Minogue v Victoria* [2019] HCA 31 Application to intervene. Led on behalf of ICJV.
- *Van Beelen v The Queen* [2017] HCA 48 - interpretation of legislation and

jurisdiction for second appeal.

- *R v Spilios* [2016] SASCFC 6 – Application for special leave on challenge to law on extended common purpose (refused).

NOTABLE APPEALS - VICTORIA

- *Brown v The Queen* [2019] VSCA 286 – first sentence appeal under the Standard Sentencing regime
- *DPP v Za Lian & Another* [2019] VSCA 75 – in company rape sentence appeal.
- *R v Honeysett v The Queen* [2018] VSCA 214 – Sentence appeal on jurisprudence and application of Koori conversation.
- *R v Finn* [2018] VSCA 228 – Conviction appeal on complicity issues and effect of prosecutor’s closing address.
- *Henderson (a pseudonym) v The Queen* [2017] VSCA 237 – interlocutory appeal on admissibility of tendency evidence.

NOTABLE TRIALS - VICTORIA

- *The Queen v Moukhaiber and others* [2019] – First completed terrorist act case in Australia (burning of Shia mosque) (on appeal).
- *The Queen v X* [2019] (Bendigo) – Multiple allegations of sexual abuse.
- *The Queen v Galea* [2019] – First right wing terror trial in Australia.
- *The Queen v Abbas and others* [2018] – Conspiracy to prepare and plan offences (Christmas Day bomb plot). Client with some special needs.
- *The Queen v Karl Hague* [2017] – Cold case murder trial and appeal.

Other notable cases - Victoria

- *In the matter of Victorian women and children in Syrian camps 2020* – pre-action advice.
- *In the matter of the Modern Slavery Act (2015) [2020]* – operational advice.
- *In the matter of the Voluntary Assisted Dying Act (2017)(Victoria) [2019]* – operational advice.
- *R v MC* [2018] – Federal Court of Australia – Appeal in an application for pre action discovery in high value alleged money laundering.
- *In the matter of the Australian Biosecurity Act (2015)[2017]* – operational advice.

Other notable cases - NT.

- *The Queen v Rodney Kenyon [2017]* - Rape and Serious harm trial.
- *J v Minister for Lands and Planning NT [2016]* - In the matter of Kulaluk community land, an appeal under the Heritage Act.
- *Law Society NT v W [2016]* defence of allegation of unlawfully engaging in legal practice.
- *Australian Health Practitioner Regulation Agency (AHPRA) v H [2016]* - Variation / removal of restrictive conditions on surgical practice.
- *M v AHPRA [2016]* - Challenge to a prohibition to psychological practice.
- *The Queen v BM [2015] NTSC 73* - Rape trial which included applications to exclude complainant's evidence and defendant's ROI based on non-compliance with police *Anunga* guidance. Young Aboriginal client.

To get in touch with Felicity Gerry QC | or for more information please contact the

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