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Judicial Review is Dead – Long Live Judicial Review! – Justice Rachel Pepper

Recent studies confirm that judicial review proceedings often result in unsatisfactory environmental outcomes. This article canvasses the efficacy of judicial review as a mechanism to challenge complex environmental decision-making by governments. It focuses on the inherent limitations of its scope, especially within the Australian constitutional context, and examines various legislative attempts to limit the availability of judicial review, while questioning what role, if any, remains for judicial review in an era of dangerous climate change in the Anthropocene age. 207

Cyber-insecurity: Data Breaches, Remedies and the Enforcement of the Right to Privacy – Rose Dlougatch

With organisations storing troves of valuable user data electronically, the risk of a large scale data breach occurring is higher than ever before. This article examines the remedies available to Australian data breach victims and considers to what extent victims can access effective redress. The *Privacy Act 1988* (Cth), contract law and tort law are currently the primary avenues of redress for data breach victims, though they are inadequately equipped to provide appropriate and consistent remedies. Many data breach victims are currently unable to access adequate compensation, which is inconsistent with the high value of personal data to both businesses and individuals as well as the intrinsic value of personal privacy. This article proposes that the *Privacy Act* should be amended to provide data breach victims with an explicit right to compensation as well as proposing the introduction of a cause of action allowing data breach victims to pursue remedies directly through a court or tribunal. By introducing a robust remedial framework, the balance of power will shift further towards the benefit of individuals and will provide claimants with a direct path to enforce their right to privacy. 219

What Probuild Says about Statutory Interpretation – Steven Gardiner

The High Court of Australia’s conclusion in *Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd* (2018) 92 ALJR 248 that the *Building and Construction Industry Security of Payment Act 1999* (NSW) excludes certiorari reveals a great deal about statutory interpretation. This article argues that Probuild reflects the lack of assistance “text, context and purpose” provides in explaining how issues of statutory interpretation are resolved, especially where the “principle of legality” is involved. The article suggests that a more explicitly functionalist approach focused on the value of accountability would have provided a more compelling explanation of the conclusion reached. Furthermore, the article argues that Probuild reflects the many methodological questions that the High Court still have not addressed as to how the rules of statutory interpretation change. 234

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