

Australian Law Reform & Drone Regulation



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Law reform is required to address the regulation of drones, also referred to as unmanned aerial vehicles (UAV), in order to protect privacy. Drone regulation is explored through a comparative analysis between Australia and the US. Examination of statutory legislation and common law reveals similarities between the US and Australia in terms of their regulatory approach. An innovative aspect of this project is considering common law and how the courts regard the use of drones in the context of privacy protection. The current federal level *Privacy Act* 1988 is limited in its scope, in relation to drone use, and how drones collect and use information. This research project aims to safeguard 'fairness' while the justice sector embraces various technological innovations.

The problem

There is an emerging need for law reform in response to evolving technological advancements in order to protect privacy. There is a variety of legal issues raised by drone use considering the multitude of uses - from military use in public international law to individual recreational use. Comparative study with the US and Australia aims to analyse the way the US has regulated drones, with reference to common law features rather than focusing solely on state legislation. Findings are comparable to the Australian context which is a common law country (law that is derived from custom and judicial precedent rather than statutes). However, the project also aims to look at how each Australian jurisdiction approaches the regulation of drone use.

A preliminary study within the Chinese context titled 'Legal Governance of Unmanned Aerial Vehicles in China Balancing between Public Safety and Industry Growth' published in the *Issues in Aviation*



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Law and Policy in 2019 provides valuable insight. Dr Bin Li reveals that, legal governance is lagging and that regulatory documents that are not adopted into legislation lack enforceability. Whilst, there are legitimate concerns caused by UAV including disruptions to civil aviation flights, damages and injuries and privacy concerns. The application of traditional civil aviation legislation requires strict application and approval processes including; application for flight operation, application for flight airspace and application for flight plan. This imposes strict restrictions on recreational UAV activities enjoyed by the public and further stifles the UAV industry. Thus, exacerbating the need for appropriate law reform.

Research Focus

As technology is a largely evolving area, the law often lags behind new innovations. Comparative analysis is valuable, as it provides insights into how the US has regulated the use of drones so that their lessons and experiences can be drawn to support law reform in the Australian context. There is very limited research on the common law aspect in the US and how the courts regard the use of drones in the context of privacy protection.

- Primary concern is privacy protection
- There is a need for Australian law reform
- Comparative analysis between the US and Australia is valuable as they are both common law countries

Research impact

This project aims to fill these research gaps and provide reference for Australian law reform. Further impactful evidence through collaboration with Tania Sourdin into the co-edited book 'Research into Legal Innovation and Outputs of Digital Technology and Justice Apps' published in 2020. Research has resulted in increased discussion on law reform roll out in Australia and has improved the awareness and significance of harnessing the legal technology so that justice is achieved without sacrifice on the part of justice itself.

Major Milestones

Member of the Advisory Council, Filling Space, the USA

2017: Article published in *The Conversation* titled 'The Economic Reasons Why Australia Needs a Stronger Space Industry'

2019: Journal article titled 'Legal Governance of Unmanned Aerial Vehicles in China Balancing Between Public Safety and Industry Growth' in the *Issues in Aviation Law and Policy*

2019: Article published in *The Conversation* titled 'India Destroys its own Satellite with a Test Missile, Still says Space is for Peace'

2020: Co-author of 'Digital Technology and Justice: Justice Apps Book'

2020: Article published in *The Conversation* titled 'Australia has Long Valued an Outer Space Shared by all. Mining Profits Could Change This'

2020: Article published in *Filling Space* Democratizing Engagement with Space titled 'How can Space Law Address Space Militarization?'

To learn more about this research project:

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