

Workshop: The Climate Future of Law. How will climate change affect the future development of the cognate areas of law, specifically the law of property, contract and tort?

Keynote Abstract: ‘The Climate Future of Property Law’: Private property consists of a bundle of rights comprising three primary powers of choice: use, exclusivity, and disposition. These three rights allow their holder to choose how to use, who to exclude, and how to dispose of whatever good or resource, tangible or intangible (from land, to shares, to trademarks and patents, to money, to reputation), is said to comprise the subject-matter of property. All common law systems provide two avenues for preventing the unfettered exercise of choice pursuant to property in ways suiting only personal preferences: (i) the law of tort, particularly nuisance, trespass and negligence; (ii) environmental legislation providing remedies for those harmed by the actions of those exercising choice pursuant to private property. In both cases, the issue of damage is paramount to success, and actions are typically founded upon harm retrospectively caused. Climate change, though, may force us to reconsider whether an action may lie only for harm already suffered, or can be brought in respect of harm that may occur at some future time. The decision of the United States District Court of Eugene, Oregon, in *Kelsey Cascade Rose Juliana et al v The United States of America* suggests that both common law and legislation could develop so as to allow claims on the basis of future climate harms. While the *Kelsey* litigation is far from over, it is unclear whether that case will mean that corporations or others are liable for future harm in the case of climate change choices. This keynote will explore the climate future of property in light of the *Kelsey* litigation.

Bio: Paul Babie holds a Personal Chair of Law in the Adelaide Law School of The University of Adelaide. He is currently Associate Dean of Law (Research) of the Adelaide Law School, and Associate Dean (Research) of the Faculty of the Professions. He holds a BA in sociology from the University of Calgary, a BThSt from Flinders University, a LLB from the University of Alberta, a LLM from the University of Melbourne, and a DPhil in law from the University of Oxford. He is a Barrister and Solicitor (inactive) of the Court of Queen’s Bench of Alberta (Canada), and an Associate Member of the Law Society of South Australia. His primary research interests are legal theory, especially the nature and concept of property and the relationship between law and theology, and law and religion, especially the relationship between constitutions and religious freedom. He has published extensively in both fields. He teaches property law, tort, property theory, law and religion, and Roman law.