The Disintegration of Undue Influence

This dissertation attempts to provide a clearer understanding of the equitable doctrine of undue influence as it has developed in Australia. The scholarly literature is reviewed to discern the main theories about the doctrine’s rationale and operation. Several theoretical models of undue influence are identified. An examination and analysis of the pertinent case law is undertaken for the purpose of determining which of these models provides the most cogent explanation of undue influence in Australia. It is revealed that at least three different models of undue influence are operating concurrently. Indeed, it is demonstrated that, at least in Australia, undue influence does not exist as a single cohesive doctrine. Rather, it comprises a family of at least three distinct equitable claims. In light of this, recommendations are made about how best to advance doctrinal clarity within the undue influence family of doctrines and in the doctrinal neighbourhood that it inhabits.