



# New Zealand Centre for Human Rights Law, Policy & Practice

## Auckland Law School

### University of Auckland

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### National update: policy and legislation (click titles for full story)

#### [A written Constitution for Aotearoa/New Zealand](#)

Constitutional lawyers Geoffrey Palmer and Andrew Butler have initiated a conversation about developing a written Constitution for Aotearoa/New Zealand. They are inviting feedback by September 2017. >>

#### [Pay Equity - Equal pay for work of equal value](#)

On 18 April 2017, the Government announced a \$2 billion pay equity settlement for 55,000 care and support workers in NZ aged and disability residential care and home and community support services. On 20 April, MBIE released a draft Employment (Pay Equity and Equal Pay) Bill and commentary for public consultation. >>

#### [New Zealand Intelligence and Security Bill](#)

The Foreign Affairs Defence and Trade Committee has reported back on the New Zealand Intelligence and Security Bill. The legislation will replace the four Acts that currently apply to the GCSB, NZSIS and their oversight bodies. >>

#### [Domestic Violence - Victims Protection Bill](#)

The Domestic Violence - Victims Protection Bill had its first reading on 8 March 2017. It has been sent to the Justice and Law Reform Committee. >>

#### ["A question of restraint"](#)

The Chief Ombudsman released his report, "A question of restraint", in early March 2015, which found Corrections to be in breach of the Convention against Torture, the Corrections Act and Corrections regulations. >>

#### ["Never Again" petition](#)

The Commission is spearheading a call for a comprehensive inquiry and public apology to people who were abused as children while in state care. This took the form of an open letter addressed to the Government, in support of a "Never Again" petition. >>

#### [Rights to their Records while in state care](#)

The Human Rights Centre co-hosted a workshop with the Archives and Records Association of New Zealand and the Records Continuum Research Group to begin a national conversation about child-centred and rights-based recordkeeping and archiving frameworks, policies, processes and systems. >>



## International update

(click above for full story)

### *New Zealand on the international front*

- In March, New Zealand is to submit its response to recommendations made by the Human Rights Committee on New Zealand's performance under the **Covenant on Civil and Political Rights**. >>
- On 18 May, the New Zealand Government will submit its 4<sup>th</sup> periodic report on the **Covenant on Economic, Social and Cultural Rights**. >>
- In August, New Zealand will be examined by the **Committee on the Elimination of Racial Discrimination** on the combined 21<sup>st</sup> and 22<sup>nd</sup> periodic reports of New Zealand's performance under the Convention. >>
- In August, the **Committee on the Elimination of All Forms of Discrimination against Women** will decide on the list of issues to focus on for New Zealand's examination in 2018. >>

### *Internationally*

- In Canada, the Trudeau government has restored the **Court Challenges Program** which enables community groups to challenge issues relating to language and equality rights under the Canadian Charter. >>

## Recent cases

(click titles for full story)

### [Harlen v Chief Executive of the Ministry of Social Development \[2016\] NZCA 648 \(22 December 2016\)](#)

This case shows the implications of MSD's decision to recover a debt from a beneficiary. >>

### [Chief Executive of the Department for Corrections v Douglas \[2016\] NZHC 3184 \(21 December 2016\)](#)

This case illustrates the criteria that a court will take into account in deciding whether an order should be made. >>

### [McGougan v DePuy International Limited \[2016\] NZHC 2511 \[20 October 2016\]](#)

The case indicates if patients can make a claim for compensatory damages in relation to medical products and devices manufactured overseas if they have received compensation in New Zealand under ACC law. >>

### [MacGregor v Craig \[2016\] NZHRRT 6](#)

This case concerned a number of decisions which culminated in the successful defamation action against Colin Craig. >>



## National update: policy and legislation

### A written Constitution for Aotearoa/New Zealand

Last year constitutional lawyers, Geoffrey Palmer and Andrew Butler, initiated a conversation about the possibility of developing a **written Constitution for Aotearoa/New Zealand** which was both accessible and clearly defined the powers of government and rights of individuals. The concept is set out in a book published by Victoria University Press entitled (perhaps self-evidently) “A Constitution for Aotearoa/New Zealand”. The authors are inviting feedback by September 2017 which will be reflected in a second edition of the book to be released later in the year. Comment can be made at [www.constitutionaotearoa.org.nz](http://www.constitutionaotearoa.org.nz).

### Pay Equity – Equal pay for work of equal value

In 2013, Kristine Bartlett and the Service and Food Workers Union were successful in their case against Terranova Rest Homes on the interpretation of the Equal Pay Act (EPA)<sup>1</sup>. The following year Terranova appealed the decision to the Court of Appeal<sup>2</sup> which largely upheld the findings of the Employment Court on the right to use external comparators to assess what amounts to equal pay for equal work. In December 2014 the Supreme Court refused Terranova leave to appeal endorsing that Court’s view that the next step was that the Employment court should set out principles under s.9 of the EPA and in 2015 the government established the **Joint Working Group on Pay Equity** to develop universally applicable equal pay principles. The group reported in May 2016. For a summary of the government’s responses, go to [www.beehive.govt.nz/sites/all/files/summary](http://www.beehive.govt.nz/sites/all/files/summary). In November 2016 the Government announced it will update the Act and amend the Employment Relations Act to implement the recommendations of working group.

On 18 April 2017, the Government announced a \$2 billion pay equity settlement for 55,000 care and support workers in New Zealand’s aged and disability residential care and home and community support services. On 20 April MBIE released a copy of the draft Employment (Pay Equity and Equal Pay) Bill and commentary for public consultation. The Ministry was seeking comment by the 11th May. The document can be found at [www.mbie.govt.nz/info.../exposure-draft-employment-pay-equity-and-equal-pay-bill](http://www.mbie.govt.nz/info.../exposure-draft-employment-pay-equity-and-equal-pay-bill)

### New Zealand Intelligence and Security Bill

The Foreign Affairs Defence and Trade Committee has reported back on the **New Zealand Intelligence and Security Bill**. The legislation is the Government’s response to the Report of the First Independent Review of Intelligence and Security in New Zealand: “Intelligence and Security in a Free Society” and will replace the four Acts that currently apply to the GCSB, the NZSIS, and their oversight bodies. The Committee has recommended amending the Bill to restrict NZSIS’s ability to act in relation to New Zealanders by limiting certain types of intelligence warrants to those relating to national security and removing those that cannot be justified by operational need.

<sup>1</sup> *Service and Food Workers Union Nga Ringa Toa Inc v Terranova Homes and Care Ltd* [2013] NZEmpC 157

<sup>2</sup> *Terranova Homes and Care Ltd v Service and Food Workers Union Nga Ringa Toa Inc* [2015] 2 NZLR 437 (CA)



A warrant will only be able to be obtained against a New Zealander in circumstances involving international relations or economic well-being if the person is acting as an agent of a foreign power. The prohibition on the ability of the GCSB to intercept the private communications of a person who is a New Zealand citizen or permanent resident of New Zealand is to be removed, and replaced by a stricter authorisation regime. The bill will also provide the Inspector-General of Intelligence and Security with the means to exercise her oversight role more effectively. The intention of the Committee is to improve the efficiency of the oversight of the agencies, while at the same time improving operational effectiveness to ensure that the human and rights of New Zealanders are appropriately protected. The Bill was the subject of considerable debate on its introduction as a result of its implications for human rights particularly privacy. While changes to the Bill address some of these concerns, there is a residual belief that it overinflates and misconstrues the fear of terrorism both internationally and domestically. See comments by the Green Party at [www.parliament.nz/.../bills.../bills...BILL6971](http://www.parliament.nz/.../bills.../bills...BILL6971)

### Domestic Violence – Victims Protection Bill

A Private Members bill designed to protect the victims of domestic violence was drawn out of the ballot in December and had its first reading on 8th March. The Domestic Violence – Victims Protection Bill is an omnibus bill that would amend the Domestic Violence Act 1995, Employment Relations Act 2000, Health and Safety at Work Act 2015, Holidays Act 2003, and Human Rights Act 1993 to enhance legal protection (including in the workplace) for victims of domestic violence. The Bill has been sent to the Justice and Law Reform Select Committee.

### “A question of restraint”

At the beginning of March the Chief Ombudsman released his report, “A question of restraint”, on the care and management of prisoners considered to be at risk of suicide and self-harm. He found that Corrections had breached the Convention against Torture, the Corrections Act and Corrections regulations. The report can be accessed at <http://www.ombudsman.parliament.nz/newsroom/item/a-question-of-restraint>. A further report by an independent expert engaged by the Human Rights Commission on restraint and seclusion practices across a wider range of detention facilities has just been released and can be read at [www.seclusionandrestraint.co.nz](http://www.seclusionandrestraint.co.nz).

### "Never Again" petition

The Commission is also spearheading a call for a comprehensive inquiry and public apology to people who were abused as children while in the care of the State. In an open letter to the Government, 29 signatories supported a "Never Again" petition. The letter and relevant background material, including the opportunity to add a signature to the petition, can be found at [www.neveragain.co.nz](http://www.neveragain.co.nz). Pending the government's decision about whether to hold an inquiry, the Commission is developing an archive on the rights of children who were in the care of the State.

### Rights to their Records while in state care

The Human Rights Centre co-hosted a workshop with the Archives and Records Association of New Zealand and the Records Continuum Research Group that brought together recordkeeping and archives professionals with responsibility for the records of children in out-of-home care, archival researchers,



experts in human rights law, advocates for people who have been in care as children and others with an interest in this area, including, representatives of the people most affected as a way of beginning a national conversation about child-centred and rights-based recordkeeping and archiving frameworks, policies, processes and systems. The workshop had its genesis in the research programme and summit based in Melbourne, Australia, “Setting the Record Straight for the Rights of the Child” and extends its influence to the New Zealand environment, where the different cultural context, and expectations could lead to different issues and suggestions for future actions. Notes of the workshop can be found at [www.law.auckland.ac.nz](http://www.law.auckland.ac.nz)<sup>3</sup>

## International update

This year promises to be an eventful one for New Zealand internationally.

- In March New Zealand is to submit its response to the recommendations made by the Human Rights Committee on New Zealand’s performance under the Covenant on Civil and Political Rights. The Committee’s recommendations can be read on the OHCHR’s home page at [www.ohchr.org](http://www.ohchr.org);
- By May 18<sup>th</sup> the government is expected to have submitted its 4<sup>th</sup> periodic report on the Covenant on Economic, Social and Cultural Rights (again the recommendations that it is asked to address is accessible through the OHCHR; The list of issues that New Zealand is expected to answer can be found on the site of the Office of the High Commissioner for Human Rights at [www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx](http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx)
- In August New Zealand will be examined by the Committee on the Elimination of Racial Discrimination on the combined 21<sup>st</sup> and 22<sup>nd</sup> periodic reports of New Zealand’s performance under the Convention. The Report can be found at [www.converge.org.nz/pma/nz-icerd-draft2015.pdf](http://www.converge.org.nz/pma/nz-icerd-draft2015.pdf)
- In August the Committee on the Elimination of All Forms of Discrimination against Women will decide on the list of issues to be the focus for New Zealand’s examination in 2018. New Zealand’s eighth periodic report can be found at <http://women.govt.nz/documents/cedaw-eighth-periodic-report-government-new-zealand-2016>

Meanwhile in Canada the Trudeau government has restored the Court Challenges Program which made it possible for community groups to challenge issues relating to language and equality rights under the Canadian Charter. On 7<sup>th</sup> February the Liberal government not only reinstated the fund - which had been repealed by the former Conservative government - but said that it would expand the scope beyond the fund’s original mandate. Starting in autumn, the program will also fund challenges to legislation based on the right to life, liberty and security, which was at the heart of the fight over Canada’s prostitution laws, for example. For more see [www.cacl.ca/news-stories/blog/government-canada-court-challenges-program-reinstatement](http://www.cacl.ca/news-stories/blog/government-canada-court-challenges-program-reinstatement)

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<sup>3</sup> The Supreme Court has just dismissed an application for leave to appeal against the Court of Appeal’s refusal to hear an appeal from the High Court which declined an application for the suppression of the names and identifying characteristics of witnesses who were to give evidence for the applicant in his claims against the Crown for abuse and ill-treatment he alleges he suffered which in the care of MSD. Although the case had settled by the time it reached the SC the applicant sought to advance the appeal because it raised issues of importance: *Y v Attorney-General* [2017] NZSC 26 [7 March 2017]





## Recent cases

### DIFFERENT STANDARDS FOR WELFARE FRAUD AND TAX EVASION?

Recent research carried out at Victoria University demonstrates that 10 times more welfare fraudsters are prosecuted than tax evaders even though tax evasion costs the economy 33 times more. Tax evasion amounts to at least \$1 billion a year while welfare fraud accounts for \$30 million, but the courts are much harsher in their treatment of welfare fraudsters. It would seem that society has less sympathy for people on benefits than white collar criminals: [www.stuff.co.nz/dominion-post/news/88924330/Benefit-fraud-v-tax-avoidance-why-is-one-dealt-with-more-harshly-by-courts](http://www.stuff.co.nz/dominion-post/news/88924330/Benefit-fraud-v-tax-avoidance-why-is-one-dealt-with-more-harshly-by-courts).

### **Harlen v Chief Executive of the Ministry of Social Development [2016] NZCA 648 (22 December 2016)**

This case provides an example of the implications of MSD's decision to recover a debt from a beneficiary. The facts were as follows. Ms Harlen received the Domestic Purposes Benefit from 1994 till 1999. Mr Egen, who was charged with sexually abusing Ms Harlen's children while they were in a de facto relationship, subsequently reported her for receiving the benefit while in a relationship in the nature of marriage. Ms Harlen was prosecuted and convicted under s 127 of the Social Security Act 1964 and s 299A of the Crimes Act 1961 and sentenced to 15 months' imprisonment. She unsuccessfully appealed both the conviction and the sentence.

In 2012, Courtney J found that the Authority had erred in a number of respects when dismissing Ms Harlen's appeal about the circumstances under which the chief executive could recover the debt including whether he or she was required to take into account the relevant international instruments - in this case ICESCR and UNCROC - relating to the adequacy of the beneficiary's standard of living and the impact of collecting the debt<sup>4</sup>. While it was a factor that should be considered, Justice Courtney recognised there was an inherent tension between recovering a debt from people living in straitened circumstances and the need to administer public funds carefully and discourage fraud. However the fact that "hardship may result from an exercise of the discretion will not necessarily preclude recovery"<sup>5</sup>. The Authority reconsidered their decision as a result but said that the debt was still to be recovered.

Ms Harlen then sought leave to appeal to the Court of Appeal against a judgment of Faire J under s 12Q of the Social Security Act 1964 which allows for an appeal from determinations of the Social Security Authority on questions of law. Faire J concluded that the decision relating to the chief executive's discretion to recover the money was not whether it should occur or the amount or the frequency of recovery, as Ms Harlen had claimed. Many of the questions posed by Ms Harlen were not questions of fact and did not satisfy the threshold for leave to appeal. Faire J was correct to draw a distinction between the decision to recover and the time when it should commence and at what rate. It was a question of fact not law how the discretion should be exercised.

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<sup>4</sup> *Harlen v Ministry of Social Development* [2012] NZHC 669, [2012] NZAR 491

<sup>5</sup> *Ibid.* at [68]



Further the court found that even if Mr Egen was aware of the Ms Harlen's offending - and knowingly benefited from it - this, too, was a question of fact. The final issue, namely whether the Authority had been correct in deciding that the benefit money had been mixed with other money and was therefore unable to be recovered, also came nowhere near to establishing that there was a question of law that, 'by reason of its general or public importance or for any other reason, ought to be submitted to the Court of Appeal for decision.' The Court of Appeal was bound to apply a statutory scheme that, quite deliberately, sets narrow limits on the kinds of appeal that could be brought to the Court<sup>6</sup>. The argument that the rights afforded by the ICESCR required a balance to be struck between government spending and individual needs of persons was again unsuccessful.

### FIRST PUBLIC PROTECTION ORDER

In December the High Court in Christchurch made the first Order (PPO) under the Public Safety (Public Protection Orders) Act 2014. The orders are designed to protect the community from future harm by the most dangerous offenders. In doing so - and to avoid allegations of double jeopardy - individuals subject to such orders are detained in a civil facility rather than in prison and entitled to the same rights as ordinary citizens allowing as much autonomy as possible provided they do not endanger others, themselves, or the orderly functioning of the residence where they are living.

Although arguably the Act raised serious human rights issues relating to the New Zealand Bill of Rights Act 1990 (NZBORA), the Attorney-General stated in his section 7 report that the Bill was NZBORA compliant as any restrictions on an individual's rights needed to be justified by the danger posed to the public if they were not managed securely. The Working Group on Arbitrary Detention which visited New Zealand in 2014 was critical of the legislation, emphasizing that in such circumstances preventive detention needed to be justified by compelling reasons and the grounds for implementing it defined with sufficient precision to avoid overly broad or arbitrary application. Regular periodic reviews by an independent body were also necessary to determine whether it continued to be justified and those detained under the legislation should be treated differently to convicted prisoners serving a punitive sentence and aimed at rehabilitating detainees and reintegrating them into society.<sup>7</sup> Arguably the legislation satisfies most of these conditions.

### **Chief Executive of the Department for Corrections v Douglas [2016] NZHC 3184 (21 December 2016)**

is interesting because it illustrates the criteria that a court will take into account in deciding whether an order should be made. The case involved a repeat offender who was at risk of committing serious offences against pubescent and pre-pubescent boys. At the time the Court was asked to consider making the order he was no longer a serving prisoner but detained in the Otago Corrections Facility. The Chief Executive applied for a PPO which Douglas opposed on the grounds that an Extended Supervision Order (ESO) was less invasive and would satisfy the interests of public protection. But while conceding that the respondent

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<sup>6</sup> Partly in response to the *Harlen* decision, the Government introduced an amendment to the Social Security Act to strengthen MSD's ability to recover debt more efficiently by making spouses and partners, as well as beneficiaries accountable for fraud. It also increased the reasons available to the chief executive for exercising the discretion whether to recover a debt.

<sup>7</sup> A/HRC/30/36



presented a “well- made case” for the less restrictive option, the court found that he nevertheless continued to pose a very high serious and imminent risk to the public justifying an order.

The Judge canvassed the statutory wording in some detail, describing the language employed as the “hallmark of the Act” and acknowledging the implications of the severe constraints on liberty involved in making an order<sup>8</sup>. He then described how to decide whether the characteristics in s.13(2) were satisfied and went on to consider if there was a high risk of imminent offending for the purposes of s.13(1). The evidence must leave the Court satisfied that the person exhibits a “severe disturbance in behavioural functioning ...to a high level”. It is instructive to compare this case with that of **Chief Executive of the Department for Corrections v Wilson [2016] NZHC 1081 (18 May 2016)** in which Venning J declined to make an order noting that the imposition of a PPO was only for rare or extreme cases where the offender was certain to offend again and the magnitude of the risk justified it. He observed that:

*While in certain circumstances Mr W has a drive or urge to commit violent offending, it is driven by conflict or confrontation. If the circumstances of conflict and confrontation do not arise then Mr W's desire to offend will not be engaged:* at [84]

It was also relevant that while W's offending was violent and of a serious nature it did not necessarily involve sexual offending: at [69].

## THE HIGH COST OF HIP IMPLANTS

The importance of the following case is that it indicates if patients can make a claim for compensatory damages in relation to medical products and devices manufactured overseas if they have received compensation in New Zealand under ACC law.

### **McGougan v DePuy International Limited [2016] NZHC 2511 [20 October 2016]**

This case involved the question of whether claims for compensatory damages could be brought by plaintiffs in New Zealand for personal injury suffered here and for which they are covered under the Accident Compensation Act, where the conduct giving rise to the claim had its origins in another country. This depends on the scope of the bar against proceedings for personal injury in s. 317(1) of the Act which states that:

*No person may bring proceedings independently of this Act, whether under any rule of law or any enactment, in any court in New Zealand, for damages arising directly or indirectly out of –*

- (a) personal injury covered by this Act;*
- (b) personal injury covered by the former Acts*

The case involved prosthetic hip implants manufactured in the UK but used in New Zealand. After implantation issues emerged about their effectiveness and safety, they had to be replaced. The plaintiffs argued that the manufacturer had been negligent by not undertaking a proper risk assessment before distributing the implants and failed to adequately monitor them after they had been implanted. They

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<sup>8</sup> At [11]





sought a declaration that DePuy had been negligent in unlawfully distributing the implants and sought compensatory and exemplary damages.

The High Court agreed with the English High Court that the New Zealand patients could not claim compensatory damages from DePuy because of the prohibition on proceedings for damages in relation to personal injury covered by s.317(1). This was not altered by the fact that DePuy's conduct in manufacturing the implants occurred in England and not New Zealand. The bar was clear and unequivocal. The plaintiffs re-pleaded their claim as a breach of the Consumer Guarantees Act. The effect of the decision is that the plaintiffs' claim for compensatory damages is barred because of the effect of the ACC Act. They cannot continue unless the decision is overturned on appeal. The plaintiffs have appealed the judgment. In a parallel judgment, **McGougan v Depuy International Limited (No.2) [2016] NZHC 3170 [20 December 2016]** addressed the issue of whether the plaintiffs who were unsuccessful in suing DePuy in the United Kingdom, were prevented from trying to sue again in New Zealand. DePuy sought to have the issue resolved in case the ACC bar judgment was overturned by an appellate court. The Court found that the plaintiffs were estopped<sup>9</sup> from bringing a claim for compensatory damages in New Zealand because they had effectively been parties to the UK litigation. The Judge considered it would be an abuse of process to allow the plaintiffs to continue with their claim in New Zealand. The plaintiffs have also appealed this decision. Clearly if the plaintiffs are successful in appealing the effect of the ACC bar, it would be galling for those who had failed on the issue in the UK to see it succeed domestically.

## CONFIDENTIALITY IN HUMAN RIGHTS PROCEEDINGS

### MacGregor v Craig [2016] NZHRRT 6

This was one of a number of decisions relating to the very public dispute between members of the Conservative Party that culminated in the successful defamation action against Colin Craig. In this case the Tribunal was dealing with an allied issue, namely the outcome of allegations of sexual harassment by Rachel MacGregor against Mr Craig. The parties had attended a mediation at the Human Rights Commission and the resolution of their differences was recorded in a confidential settlement agreement which was subsequently breached by Mr Craig. Ms MacGregor commenced proceedings in the HRRT seeking a declaration that he had breached the terms of the settlement, an order resting from committing further breaches and damages for humiliation, loss of dignity and injury to her feelings. Mr Craig counterclaimed arguing that he was justified in breaching the terms of the settlement because Ms MacGregor made misrepresentations during the mediation and had herself disclosed confidential information covered by the settlement. The Tribunal emphasised that the issues before it was not whether Ms McGregor had been sexually harassed, but whether the terms of the settlement agreement should be enforced.

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<sup>9</sup> In *New Zealand Social Credit Political League Inc v O'Brien* [1984] 1 NZLR 84(CA) Somers J explained estoppel as follows:  
*... a matter once determined may not again be litigated ... a matter which could and should have been raised in proceedings which have been determined should not be allowed to be raised subsequently, and ... a collateral attack upon a final decision in other proceedings will not be permitted. The dual objects are finality of litigation and fair use of curial procedures.*



The Tribunal found there was a clear causal link between the humiliation, loss of dignity or injury to feelings suffered by Ms McGregor and Mr Craig's conduct. In relation to the level of damages, the Tribunal noted that breaches that undermine the statutory protection provided under the Human Rights Act were particularly reprehensible because of the effect of stripping away the protection afforded by the Act on victims. As a result the case was at the "most serious" end of the scale and justified a high award. The features of the case which justified an award of \$120,000 were:

- The relentless exposure of Ms MacGregor to adverse media attention.
- The stigmatisation of Ms MacGregor as a consequence of her sexual harassment claim.
- The fact that Ms MacGregor sought to avoid exactly those consequences by using the confidentiality protections available through mediation under the Human Rights Act.

The decision is useful not only for indicating that a significant level of damages may awarded where there is a serious breach of the Human Rights Act but also because it clarifies aspects of the mediation process and concepts such as emotional harm. However, this was not the end of the matter. In **MacGregor v Craig (Rescission of Confidentiality Orders) [2016] NZHRRT 23**, the Tribunal rescinded interim confidentiality orders made the previous year under ss. 95 and 107 of the Human Rights Act and as part of the substantive decision reinforcing the importance of the open justice principle as having "particular resonance in the context of legislation which provides a remedy for the violation of the right to be free from discrimination". Mr Craig appealed the decision to the High Court arguing that the Tribunal had failed to give sufficient weight to the defamation proceedings that were about to commence, prejudicing his right to a fair trial. The High Court referred the matter back to the Tribunal for further consideration. In **MacGregor v Craig (Limited Extension of Confidentiality Orders) [2016] NZHRRT 30**, the Tribunal therefore had to balance the right to a fair trial under the Covenant on Civil and Political Rights and the right to justice under s.27 of the New Zealand Bill of Rights Act raised by Mr Craig's submissions and the right to freedom of expression raised by Ms MacGregor. The Tribunal recognising its limitations eventually opted for a compromise position by continuing the non-publication orders till the second week of the trial by which time the trial Judge would be in a position to determine whether a non-publication order should be made by the High Court and, if so, its terms and conditions.

## CONTRIBUTORS

This e-Bulletin was compiled and edited by Visiting Research Fellow Sylvia Bell, co-edited by Director Rosslyn Noonan and designed by LawGenrl 405 student Shirley Shen.

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