



AUCKLAND LAW SCHOOL

AOTEAROA NEW ZEALAND CENTRE FOR INDIGENOUS PEOPLES AND THE LAW

The Aotearoa New Zealand Centre for Indigenous Peoples and the Law is a new centre at Auckland Law School dedicated to research, advocacy and teaching related to the law and Indigenous peoples globally, but with a special emphasis on Aotearoa. To find out more about the Centre visit [HERE](#).

Tēnā koutou, tēnā koutou, tēnā tātou katoa,
Ngā mihi nui o te tau hoū.

Greetings for the new year!

The last year has been a busy one for the Aotearoa New Zealand Centre for Indigenous Peoples and the Law (the Centre). We wanted to take this opportunity to highlight some of the mahi the Centre and its members have been up to and to thank you all for your support for the Centre.

CENTRE HIGHLIGHTS

- Associate Professor Andrew Erueti was appointed to the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions - Te Kōmihana Karauna mō ngā Tūkinō o Mua ki te Hunga i Tiakina e te Kāwanatanga i Tiakina hoki e ngā Whare o to Whakapono in November 2018.

- Auckland Law School student, Tanira Fisher Marama, won the national kaupapa Māori mooting competition at Te Hunga Roia Māori hui-ā-tau in 2018, mooting in te reo Māori.
- The Centre has secured funding from the Michael and Suzanne Borrin Foundation and the University of Auckland Vice-Chancellor's Strategic Development Fund to run an exciting new "Indigenous Impact Programme" starting in 2019 under the leadership of Associate Professor Claire Charters and Natalie Coates, with the support of Maia Wikaira.
- Dr Fleur Te Aho, with Dr Katherine Doolin and Judges Tremewan and Aitken, hosted a large conference on the Future Directions of the Adult Alcohol and Other Drug Treatment Courts – Te Whare Whakapiki Wairua in Aotearoa with the support of a grant from the Michael and Suzanne Borrin Foundation in January 2019.



The Future Directions of the Adult Alcohol and Other Drug Treatment Courts (AODTC) Conference in January 2019.

NEW APPOINTMENTS FOR 2019

The Centre is excited to announce several new appointments to the Law School in 2019:



The Centre welcomes new co-director **Natalie Coates**, who joins Associate Professor Claire Charters, to direct the Centre. Natalie Coates LLB (Hons) and LLM (Harvard) returned to Auckland Law School and Te Tai Haruru as a part-time Lecturer in 2018 while continuing to practice. Natalie takes over the co-directorship from Fleur Te Aho – thank you Fleur for your mahi as co-director in 2017-2018.



Dr Andrew Erueti has been promoted to an Associate Professor.



Tracey Whare and **Jayden Houghton** have joined Auckland Law School as Lecturers. Tracey and Jayden were formerly Kaiwhakaako (Māori Teaching Fellows) at the Law School.



Maia Wikaira LLM (Stanford), a Director of Whāia Legal, joins the Centre to oversee the clinical arm of the new Indigenous Impact Programme on a part-time basis.



Grace Abbott, a 2018 graduate from Auckland Law School, joins us as our new Pouāwhina Māori to provide cultural, pastoral and academic support to our Māori law students.



Dr Fleur Te Aho has been appointed as Tumuaki/Associate Dean Māori.



Tallulah Parker and **Jack Potaka** have been appointed as the co-Tumuaki for 2019 for Te Rākau Ture, the Māori Law Students Association.

DEPARTING

- **Associate Professor Amokura Kawharu** is on research and study leave at the University of Cambridge for the most part of 2019 based at the Lauterpacht Centre for International Law but will be back with us later in the year.
- Our wonderful Part 1 Māori student mentor, **Jessika Tuhega**, has taken up an amazing opportunity in Melbourne after completing her BA/LLB (Hons) in 2018.
- **Natanahira Herewini** and **Dexter Rapana** have completed their term as co-Tumuaki for 2018 for Te Rākau Ture. Congratulations to Dexter who has been appointed as co-Tumuaki for 2019 for Ngā Taura Māori, the University of Auckland Māori Students Association.
- With much sadness we farewell **Kathryn Arona**, our incredible Pouāwhina Māori, in February 2019 after almost three years of providing exceptional cultural, pastoral and academic support to our Māori law students and invaluable support to Te Tai Haruru (the Law School's group of Māori legal academics, professional staff and student leaders).

Tribute to Kathryn Arona, our Pouāwhina Māori



Kathryn Arona went above and beyond in her care and support for our Māori law students in her role as Pouāwhina Māori, and in her support for Te Tai Haruru. Kathryn brought a deep knowledge of the law and the demands of the Law School to the role - she graduated with a law degree from the Law School herself in 2016. She also brought a huge heart and commitment to the well-being and flourishing of our taura (students) and the Law School's Māori academic programme.

Kathryn leaves the Pouāwhina Māori position to devote more time to her precious whānau and to undertake the Professional Legal Studies Course in order to gain admission to the bar. Kathryn's main areas of interest lie in Family Law, Relationship Property Law, and Youth Law, particularly Ngā Kooti Rangatahi (the Rangatahi Courts) and the Pasifika Youth Courts. We know Kathryn will be an excellent addition to the legal profession in whatever field she settles on. Thank you Kathryn for your fantastic contribution and guidance to us, our taura and the Law School over the years.

We are very lucky that Kathryn will not be completely disappearing from the Law School - she will join us in a different role for 2019, as our part-time Part One Māori student mentor.

2018 IN REVIEW

Associate Professor Andrew Erueti appointed to Royal Commission of Inquiry into abuse in care

In November 2018 Andrew Erueti was appointed as one of five commissioners to the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions – Te Kōmihana Karauna mō ngā Tūkinō o Mua ki te Hunga i Tiakina e te Kāwanatanga i Tiakina hoki e ngā Whare o to Whakapono (the Royal Commission). The abuse of children in care has disproportionately affected Māori. The Royal Commission will be an important vehicle for understanding the full scale of the abuse experienced by Māori and other survivors and whether the current systems are sufficient to protect against abuse. The Royal Commission is expected to take several years. It is the largest to be undertaken in Aotearoa. Prior to his appointment Andrew was actively involved in seeking justice for Māori survivors of abuse while in care.

Centre co-convenes Law Foundation funded hui on terms of reference for Royal Commission of Inquiry

In February 2018 the Centre, through Andrew Erueti, co-convened a successful hui in Wellington to consult on the terms of reference for the Royal Commission. The hui was co-convened with Rosslyn Noonan (New Zealand Centre for Human Rights Law, Policy and Practice, Auckland Law School), Elizabeth Stanley (Institute of Criminology, Victoria University of Wellington) and Sonja Cooper (Cooper Legal, Wellington). More than 50 survivors, activists, academics, professionals, and community-leaders participated in the hui, including Sir Anand Satyanand, the Chair of the Royal Commission. The hui came up with important suggestions for how the Commission should operate to be survivor and whānau-led, which were provided to the Chair of the Royal Commission as well as government Ministers. The hui was sponsored by the Law Foundation.

Borrin Foundation and University funding secured for the Centre's Indigenous Impact Programme

The Centre has secured funding from the Michael and Suzanne Borrin Foundation and the University of Auckland Vice-Chancellor's Strategic Development Fund to run a new

“Indigenous Impact Programme”. The funding, to the value of \$230,000 over 3 years, is to operate an impact programme targeting three key areas of relevance to indigenous peoples (in particular Māori): 1) law reform; 2) unmet community legal needs; and 3) public interest litigation. The programme will be supported by Auckland Law School academics and students and will also contribute to the development of clinical legal education in Aotearoa. Natalie Coates and Claire Charters will lead the programme and Maia Wikaira, a Director of Whāia Legal and LLM (Stanford), will oversee its clinical arm on a part-time basis. The programme will launch early in 2019 with several exciting projects planned. If you would like to learn more about the Centre’s project and its work or have ideas for ways it can contribute to Indigenous law reform and advocacy in Aotearoa please contact:

nr.coates@auckland.ac.nz

Large conference on adult drug treatment courts held in January with Borrin Foundation support

Fleur Te Aho, with Auckland Law School colleague Katherine Doolin and Judges Lisa Tremewan and Ema Aitken, hosted a large conference on the Future Directions of the Adult Alcohol and Other Drug Treatment Courts – Te Whare Whakapiki Wairua (AODTC) in Aotearoa in January 2019. The two pilot AODTC in Aotearoa incorporate a Pou Oranga (the Courts’ cultural advisor and recovery role model), a move that has been widely celebrated, and integrate Māori cultural practices into the Court process. Amongst other topics, the conference examined these innovations and the Courts’ responsivity to Māori. The conference was supported by a \$60,000 grant from the Michael and Suzanne Borrin Foundation. Some of the conference presentations are available for free download from the conference website [HERE](#).

New Te Tai Haruru e-Journal published

In 2018 the Centre published the new e-version of our Te Tai Haruru: Journal of Māori and Indigenous Legal Issues. The 2018, Volume 6, edition showcases three articles by talented Auckland Law School students:

- Caitlin Anyon-Peters “*Protecting Taonga Works: Does the Wai 262 Report Measure Up?*”
- Sid Dymond “*Treaty-Based Judicial Review: The Treaty Settlement Negotiation Process and Legitimate Expectation*”
- Jessica Fenton “*Relational Sovereignty Under a New Constitution: International Examples of the Models of Matike Mai*”

Copies of the e-Journal are available for free download [HERE](#). The 2018 edition was edited by Claire Charters and Fleur Te Aho. Jayden Houghton takes over editorship of the journal from 2019.



Centre hosts symposium on Supreme Court's Wakatū decision

In February the Centre hosted a one-day symposium on the judgment of the Supreme Court in *Wakatū v Attorney-General*.

Wakatū is a groundbreaking decision on Māori rights. The Court found, for the first time in New Zealand, that the Crown was subject to fiduciary duties to Māori customary owners of land with respect to land dealings that took place in the early 1840s. Participants in the symposium included Auckland Law School colleagues together with national and international visitors, including Professor Dwight Newman from the University of Saskatchewan. It was especially enlightening to have kaumatua Rore Stafford present as well as other senior members of Wakatū Incorporation.

There are a number of connections between Auckland Law School and the Wakatū case including that Kerensa Johnston, now CEO of Wakatū Incorporation, was a former lecturer here, Professor David Williams provided expert evidence on historical dimensions of the case, and Claire Charters supported the litigation team in the Supreme Court on the international and constitutional dimensions of the case.

Papers from the workshop will be published in a special edition of the *New Zealand Law Review* in early 2019.

Andrew Erueti 2018 Fulbright-Ngā Pae o te Māramatanga Scholar

Andrew Erueti was the recipient of the 2018 Fulbright-Ngā Pae o te Māramatanga Scholar Award. The award is for lecturing or research to be conducted at a United States institution. Andrew was based at the University of Colorado Boulder. During the award Andrew researched the effects of the New Zealand government endorsing the UN Declaration on the Rights of Indigenous Peoples, working alongside Professor James Anaya, the former United Nations (UN) Special Rapporteur on the rights of indigenous peoples.

Thought-provoking Nin Tomas Lecture 2018 from Judge Fox

Deputy Chief Judge of the Māori Land Court Caren Fox delivered an excellent and thought-provoking 2018 Nin Tomas Lecture on “The Role of A Māori Land Court Judge – Stories and Reflections after 18 years” at the Auckland Law School on 8 November. The annual lecture has been established in honour of Dr Nin Tomas, our first Māori Associate Professor and Aotearoa/New Zealand’s first Māori PhD in law, who passed in February 2014. If you missed the lecture, Judge Fox’s paper will be published in the 2019 e-version of our Te Tai Haruru: Journal of Māori and Indigenous Legal Issues so watch this space.



Judge Caren Fox (middle) with Natalie Coates and Claire Charters at the 2018 Nin Tomas Lecture.

Claire Charters takes up Rutherford Discovery Fellowship

Claire Charters took up her Rutherford Discovery Fellowship in July, which focuses on constitutional change to better accommodate Māori. Her project — *Constitutional Transformation to Accommodate Māori in Aotearoa/New Zealand: Lessons from Around the Globe* — investigates the ways Indigenous peoples’ rights are constitutionally recognised throughout the world with the aim of informing potential reform in Aotearoa.

Centre members present at Law and Recognition Workshop

Claire Charters, Andrew Erueti and Natalie Coates presented at a workshop on Law and Recognition: persons, institutions, and plurality, hosted by Associate Professor Nicole Roughan from the Auckland Law School, on 10 and 11 September 2018. The interdisciplinary event brought together leading international and local scholars to examine the relationships between inter-personal, political, legal, and inter-systemic practices of recognition. Other participants in the workshop included Justice Joe Williams of the Court of Appeal, Māmari Stephens from Victoria University of Wellington's Faculty of Law and Professor Kirsty Gover from Melbourne University's Faculty of Law.

Centre partnering with University of British Columbia on Indigenous rights

The Centre, along with a collection of academics focused on Indigenous peoples' rights, has agreed to partner with the University of British Columbia (UBC) in a funding application to the main Canadian academic funding organisation for CAD\$2.4 million (over 4–7 years) to focus on academic activities associated with implementing Indigenous peoples' rights, including a network of Indigenous centres in universities. The Centre was represented by Associate Professor Claire Charters at the scoping workshop for the partnership held at UBC.

Natanahira Herewini Inaugural Borrin-Ngā Pae o te Māramatanga Legal Research Intern 2017-2018

Natanahira Herewini, a current BA/LLB student at Auckland Law School, was the inaugural recipient of the Michael and Suzanne Borrin Foundation-Ngā Pae o te Māramatanga Legal Research Internship Award for 2017-2018. The project Natanahira participated in concerned the over-representation of Māori mothers among those charged and convicted with negligent parenting practices in Aotearoa. Natanahira's research paper contributed to a mātauranga Māori centred critique of those prosecutions and convictions by examining the roles of extended whānau in child rearing in Māori society. Natanahira was supervised by Fleur Te Aho (the work forms part of a larger collaborative research project between Fleur, Professor Julia Tolmie and Kate Doolin).

Natalie Coates wins the 2018 John Te Manihera Chadwick Community Award

Natalie Coates won the 2018 John Te Manihera Chadwick Community Award for her contributions in the law with and for the community, including as a lawyer working for iwi, whānau and Māori over the country and as a lecturer in law. The honour is awarded jointly by Te Hunga Roia Māori o Aotearoa (the NZ Māori Law Society) and Ngā Kaiāwhina Māori Hapori o te Ture (National Community Law Māori Caucus).

Tracey Whare wins the 2018 Legal Research Foundation award for her LLM

Tracey Whare received the Legal Research Foundation's Unpublished Postgraduate Paper Award for her LLM dissertation, completed at Auckland Law School, titled: *Why Meetings*

Matter to Indigenous Peoples: Decision-Making in International Fora. This award, which carries a prize of \$1,000, recognises the best-submitted paper between 8,000 and 18,000 words. The adjudicators said "This was an excellent paper, very well researched, beautifully written on an important original topic. Which makes an important contribution to literature." Tracey received an A+ for her LLM dissertation from her examiners.

Tanira Fisher Marama wins the national kaupapa Māori mooting competition

Auckland Law School student, Tanira Fisher Marama, won the national kaupapa Māori mooting competition at Te Hunga Roia Māori hui-ā-tau in 2018. Tanira, who mooted in fluent te reo Māori, impressed the judges, including Justice Joe Williams from the Court of Appeal, with his detailed, concise and accurate answers to questions, etiquette and composure. Te Rākau Ture (the Māori Law Students Association at Auckland Law School), and Kathryn Arona (the Pouāwhina Māori), are acknowledged for the wonderful support they provided Tanira.

In further news for 2018:

- **Amokura Kawharu** was appointed as a **Fellow of the Arbitrators' and Mediators' Institute of New Zealand**. This is the Institute's highest award. The award was bestowed without requiring the normal examination, which only occurs where there is a highly respected individual who the Institute is assured meets all the Fellowship requirements. Amokura's award is a testament to her reputation and standing in the profession and is a wonderful achievement.
- **Dylan Asafo**, a Susuga Faiako (Pacific Teaching Fellow), has been preparing the first draft of the **UN Expert Mechanism on the Rights of Indigenous Peoples' report on reparations to Indigenous peoples** as part of a research collaboration the Centre has with the Expert Mechanism and the University of Manitoba.
- **Tracey Whare** has been completing a **Guide to Indigenous Advocacy at the UN** for the UN Voluntary Fund for Indigenous Peoples.
- **Amokura Kawharu** gave a paper on the **Arbitration of Treaty of Waitangi Settlement Disputes** at the AMINZ-ICCA International Arbitration Day in Queenstown in April 2018.
- **Andrew Erueti** gave expert evidence in the Waitangi Tribunal in Stage 2 of the National Freshwater and Geothermal Resources Inquiry.
- One of our **former Māori law students** has been accepted into the **University of Arizona LLM/SJD in the Indigenous Peoples Law and Policy Program with full scholarship**, as part of Auckland Law School's partnership with the University of Arizona.
- **Jayden Houghton** and **Claire Charters** have been providing **expert advice on Māori claims to mātauranga Māori and taonga Māori** for an expert and high-level Māori group pushing for law reform in this area. The mahi of the group included a large conference, *Ngā Taonga Tuku Iho: A Conference on Māori Cultural and Intellectual Property Rights*, held in Nelson on 16–18 September. Ministers and many of the nation's leaders on this kaupapa

(issue) participated in the conference.

- **Natalie Coates** has been **providing training to all levels of judges**, including at the appellate level, and **law commissioners**, on “things Māori” (especially tikanga).
- **Claire Charters** and **Tracey Whare** have been working with the **Iwi Chairs’ International Monitoring Mechanism on the UN Declaration on the Rights of Indigenous Peoples (IMM)** to convince the government to develop a national action plan for implementation of the Declaration. The UN Expert Mechanism on the Rights of Indigenous Peoples will be conducting a visit to New Zealand to support the IMM and the government in their development of the national plan of action in April 2019.
- **Natalie Coates** was a member of a select **advisory group to the New Zealand Minister of Crown-Māori Relations** in regards to the scope of Te Arawhiti, the new Office for Māori Crown Relations.
- **The Centre** made a **submission to the Minister for Māori Crown Relations** with proposals for constitutional reform to better accommodate Māori.
- **The Centre** made a **submission to the New Zealand Law Commission** on its Review of the Evidence Act 2006.
- **Jayden Houghton** was a featured **panellist** at **Ngā Taonga Tuku Iho: A Conference on Māori Cultural and Intellectual Property Rights**. The panel discussed whether the Waitangi Tribunal’s WAI 262 report provides a blueprint for protecting Māori intellectual property rights and interests in the future.
- **Fleur Te Aho** participated in a panel discussion on “**Retribution vs Restoration: what is the future of the prison system in New Zealand?**” as part of the Equal Justice Project’s symposium programme alongside panellists including Justice Christian Whata of the High Court.
- **Tracey Whare** presented at the **Tai Pari Wānanga** in Gisborne on intellectual property issues and concerns with the commercialisation of taonga species.
- **Ngāti Whātua Ōrakei**, supported by **Chapman Tripp**, including a former star student, had a big win in the Supreme Court which, we hope, will mean the Crown might act more fairly in its dealings with Māori, especially in Treaty settlement negotiations. **Claire Charters** provided expert advice to the legal team.
- **Jayden Houghton** served for the fifth consecutive issue as the **managing editor of the Public Interest Law Journal of New Zealand**. The 2018 issue of this annual, refereed journal features nine articles on a range of public interest issues, including the role of parliament in New Zealand’s treaty-making process and the impact of New Zealand’s housing legislation on Pacific peoples.
- **Andrew Erueti** and **Claire Charters** participated in the **International Law Association’s Committee on Indigenous Peoples** meeting in Sydney in August.
- **Claire Charters** continues her role as trustee on the **UN Voluntary Fund for Indigenous Peoples**, supporting Indigenous peoples to bring their issues to UN human rights bodies. She was appointed the Chair for 2019.
- **Fleur Te Aho** joined the **Royal Commission Forum** as a representative of the Centre. The Forum brings together academics, non-profit organisations, and other stakeholders to

promote justice for survivors of historic abuse in Aotearoa in relation to the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions. For more information see: <https://www.royalcommissionforum.org/>

- **Claire Charters, Andrew Erueti and Fleur Te Aho** participated in a research roundtable hosted by the International Law Research Program of the **Centre for International Governance Innovation (CIGI)** in partnership with the Indigenous Law Centre of the University of New South Wales in Sydney in August. The roundtable brought together academics from Canada, Australia and Aotearoa to consider *Comparative Perspectives on Implementing the United Nations Declaration on the Rights of Indigenous Peoples*. Papers from the roundtable will be published through CIGI in 2019.
- **The Centre** is supporting the initiative for the appointment of an **Indigenous Rights Commissioner** within the New Zealand Human Rights Commission.
- **Centre members** have had numerous invitations to attend and/or papers accepted for presentation at conferences around Aotearoa and the globe relating to Indigenous peoples and the law.
- **Centre members** have also been engaging with the Māori legal community in our mahi, including during our Te Hunga Rōia Māori o Aotearoa hui-ā-tau 2018 in Rotorua, and especially with our colleagues working in practice, government and for iwi, hapū and whānau.

THE YEAR AHEAD

The Centre is looking forward to another rewarding year in 2019, with many exciting opportunities, mahi and events planned.

Indigenous scholarship researching for the UN

Looking ahead, we will be launching an Indigenous scholarship in 2019, which will involve an Indigenous scholar researching for the UN Expert Mechanism on the Rights of Indigenous Peoples (expanding from our current programme, which Dylan Asafo is leading), attending the Expert Mechanism session in Geneva, Switzerland, and undertaking 5 weeks of UN training on Indigenous rights in international law and policy.

Stellar line-up of speakers coming

The Centre has a stellar line-up of speakers set to speak in the next 12 months and beyond:

- **Justice Whata** of the High Court in May 2019.
- **Justice Susan Glazebrook** of the Supreme Court in September 2019.
- **Professor Val Napoleon** of the University of Victoria in Canada in July/August 2019.
- **Professor Rob Williams** of the University of Arizona in 2020.

More details on these events will follow. The talks are open to all who are interested so please feel free share the details amongst your networks.

Intensive LLM on Indigenous peoples and the law with Professor Robert A Williams Jr

We are delighted to welcome Professor Robert A Williams Jr as a visitor to the Centre and to teach an intensive LLM course on Indigenous peoples and the law at Auckland Law School in 2020. Professor Williams is based in the James E Rogers College of Law at the University of Arizona where he is the Regents' Professor, E Thomas Sullivan Professor of Law and Faculty Co-Chair of the renowned University of Arizona Indigenous Peoples Law and Policy Program. Professor Williams is a world leading scholar in the field of Indigenous peoples and the law and a celebrated advocate for Indigenous peoples' rights. We are excited to welcome Professor Williams in 2020.

On behalf of the Centre, we thank you for your support in 2018 and hope to see you all again soon.

Ngā mihi,
The Aotearoa New Zealand Centre for Indigenous Peoples and the Law