

# *Eden Crescent*

Auckland Law School Annual 2018  
Te Kerehiniti o Itena



**Eight Years as Dean**

---

**Faculty lead government inquiries**

---

**Major research awards**



THE UNIVERSITY OF  
**AUCKLAND**  
Te Whare Wānanga o Tāmaki Makaurau  
NEW ZEALAND

## Editorial

Andrew Stockey, Scott Optican, Maggie Zhang, Miranda Playfair

## Designer/Production

Sonia Tenreiro, Authentic Works Ltd

## Editorial Contact Details

Eden Crescent, Auckland Law School  
The University of Auckland  
Private Bag 92019  
Auckland 1142  
New Zealand

If alumni wish to update their details or be removed from the subscription list, please email: [edencrescent@auckland.ac.nz](mailto:edencrescent@auckland.ac.nz)

[law.auckland.ac.nz](http://law.auckland.ac.nz)

## Copyright

Articles reflect personal opinions and are not those of the University of Auckland. No parts of this publication may be reproduced without prior consent of the University of Auckland.

All rights Reserved.

©The University of Auckland 2018

# Contents

From the Dean ..... 3

## FEATURES

Eight Years as Dean ..... 4  
Penelope Mathew becomes Dean in March ..... 15  
Faculty members lead major government inquiries ..... 16  
David Williams and the power of the pen ..... 17  
New Distinguished Fellow: The Hon. Tony Randerson QC ..... 19  
Distinguished Fellow Retires: Ted Thomas's Valedictory Lecture ..... 20  
New First Year Law Course: Legal Foundations ..... 22  
Exciting new postgraduate opportunities for 2019 (LLM programme) ..... 23  
2019 Postgraduate Timetable ..... 24

## FACULTY NEWS

New Academic Staff ..... 25  
New Academic Staff in 2019 ..... 31  
Promotions ..... 32  
Academic Staff Farewells ..... 36  
Craig Elliffe wins New Zealand Law Foundation International Research Fellowship ..... 38  
Exciting new opportunities for early career Academics ..... 39  
Law School staff dominate Legal Research Foundation awards ..... 39  
The Future of Class Actions Symposium ..... 41  
Major Land Law Conference at the Law School ..... 42  
Borin Foundation grant for Aotearoa drug courts conference ..... 43  
Launch of NZ Centre for Legal Theory ..... 44  
Human Rights Law Centre ..... 45  
Faculty award recognises ground-breaking research ..... 46  
Inaugural winner of Bernard Brown prize ..... 47  
Law School initiative to promote understanding of Equity ..... 48  
Professional Staff Retreat: "Diversity and Inclusion" ..... 50

## RESEARCH

Research highlights ..... 52  
2017 Research Publications ..... 53  
2018 Research Publications ..... 55  
2018 Books ..... 58

## VISITORS

Sir Geoffrey Palmer calls for bold overhaul of 'unjust and discriminatory' ACC ..... 60  
Law Foundation's Distinguished Visiting Fellow ..... 62  
Top Practitioners Lecture Series ..... 63  
Staff Seminars ..... 65  
LLM Visitors to the Law School in 2018 ..... 65

## MĀORI AND PACIFIC

Indigenous Peoples and the Law Centre ..... 66  
Olive Malienafau Nelson: a Pioneering Samoan Woman ..... 67  
'Alu ā Helena! ..... 68  
Pacific Issues Moot 2018 ..... 69  
Pacific Student Conferences ..... 70

## STUDENT SUCCESS

Mooting ..... 71  
Mediation ..... 74  
Best and brightest celebrated at Law Awards ..... 75  
America's Cup PhD ..... 77  
2018 Student leaders ..... 78

## ALUMNI NEWS

Auckland alumna appointed Chief Justice ..... 79  
Fulbright and Ethel Benjamin Scholarship Winners ..... 80  
Victoria Brownlee: An Aucklander in New York ..... 82  
Top scholar drawn to complex and imperfect narratives ..... 83  
Philanthropy ..... 84  
Appointed Queen's Counsel in 2018 ..... 85  
Judicial and decanal appointments ..... 85  
Graduates studying overseas ..... 85  
Donor Wall ..... 86

# From the Dean

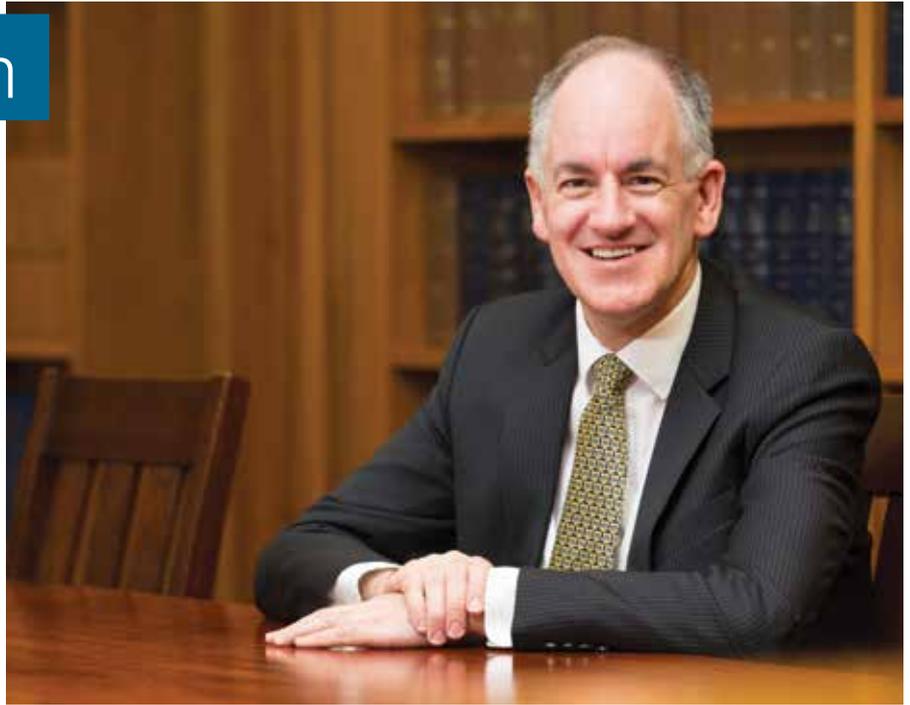
Welcome to the 2018 edition of *Eden Crescent*. As you will see, there has been a lot happening during the last year. New staff have been appointed at all levels from Professor to Lecturer, a new research centre has been established, and Faculty members have won major research grants and awards and published important books and articles.

Craig Elliffe won the 2018 New Zealand Law Foundation International Research Fellowship. This is New Zealand's premier legal research award, valued at \$125,000, and will allow him to investigate tax issues created by the digital economy. Chris Noonan, Scott Optician and Tracey Whare won three of the four awards given in 2018 by the Legal Research Foundation for the best legal writing. Other awards included two significant Borrin Foundation grants, to hold a major international conference on the future directions of the Alcohol and Other Drug Treatment Courts and to establish an Indigenous Peoples' Rights Impact Programme.

The Auckland Law School organises a wide range of conferences, symposia and public lectures each year and 2018 was no exception. Events included a Future of Class Actions Symposium, attended by members of the Law Commission and a large number of judges, practitioners, academic and other experts, and the New Horizons for Torrens conference, organised to provide a better understanding of the Land Transfer Act 2017 and the major reform this represents.

Auckland Law School staff were appointed to lead and assist with major government inquiries, Ron Paterson chairing the Inquiry into Mental Health and Addiction, Craig Elliffe serving as a member of the Government's Tax Working Group, Rosslyn Noonan chairing the Family Courts Reforms Review Panel, and Anaru Erueti being appointed a member of the Royal Commission of Inquiry into Historical Abuse in State Care (chaired by Distinguished Fellow Sir Anand Satyanand).

David Williams retired at the end of 2018 but will continue to be involved in the life of the Law School as a Research Fellow. He was elected a Fellow of the Royal Society of New Zealand, a recognition of the national and international significance of his work.



All of these achievements are profiled in more detail in this magazine. There is also an article about the new first year law course, Legal Foundations, which was successfully introduced in 2018. This sits alongside the Law and Society and Legal Method courses and introduces students to fundamental legal concepts in private law underpinning core courses later in the degree and ensures that all students are aware of the importance of dispute resolution and the impact of international and comparative law at the outset of their legal studies.

The Auckland Law School benefits from a wide range of student clubs and societies that help foster a strong sense of community and provide a wealth of opportunities for students to participate in national and international competitions, to study abroad, and to contribute to law reform and access to justice. The Women in Law group won the 2018 award for the best new club in the University. Auckland students continued to do extremely well in national and international contests, again winning the New Zealand Law Students' Mooting Competition. This is the eighth time in the last ten years that we have won the national moot. Auckland reached the quarter-finals in the 2018 Vis International Commercial Arbitration Law Moot, competing against 360 teams from around the world.

The Auckland Law School has been ranked as New Zealand's leading law school and as one of the top law schools in the world ever since the QS World University Rankings for Law were introduced in 2011. It is currently ranked as the

29th best law school in the world, a significant achievement given the much higher levels of funding available to the very best American, British and Asian law schools.

To maintain our position as New Zealand's globally-ranked law school, we will continue to grow our staff numbers over the next decade, giving us a larger research footprint and making us a more comprehensive faculty. Auckland is well placed to achieve the scale and impact of the very best Australian law schools. A Ten Year Academic Plan has recently been approved and provides for managed growth in staff and student numbers through to 2029. Auckland and New Zealand's population have significantly increased and this will enable more high-achieving students to study law at Auckland. The University is giving the resources to increase opportunities for Māori and Pacific students and the support and assistance provided for all students.

This is a strong and vibrant law school that continues to change and develop to meet the needs of its time and to build on its international reputation for outstanding research and teaching.

The advice and generosity of our alumni and friends are critical to all we do and I am very grateful for all the contributions that have supported what has been a very busy and successful year, as reflected in the pages of this magazine.

---

**Andrew Stockley**  
Dean of Law



LEADING  
THE WAY

# Eight Years as Dean

## Dean of Law

February 2011 to January 2019

**Professor Andrew Stockley has been Dean of the Auckland Law School for the last eight years. This makes him one of the longest-serving deans. The last dean to serve more than five years was Professor Jack Northey, who retired in 1983.**

Dean Stockley has held office for longer than any of the other New Zealand law school deans. He is now also the longest-serving faculty dean at Auckland University.

Professor Stockley is stepping down to become Dean of The City Law School at the University of London. The City Law School is based at Gray's Inn and at Islington in London, where a new Law School Building is currently being constructed. It counts many of the City of London's judges, barristers and solicitors among its alumni. The oldest part of The City Law School was originally the Inns of Court School of Law and provides training for the bar and for becoming a solicitor. City was the original provider of the 'conversion course' for graduates in other disciplines becoming lawyers and is a leading provider of the professionals course for law graduates. City now also teaches the LLB, LLM and PhD in Law and attracts large numbers of international students.

Dean Stockley was previously a member of the Law Faculty at Oxford University, where he was the Senior Tutor and a Fellow of Brasenose College. Before that he was Head of the Canterbury Law School and Principal of College House in Christchurch.

He has been appointed an Honorary Professor at the Auckland Law School and looks forward to retaining a strong connection with the University.

The Deputy Dean, Professor Warren Swain, will be Acting Dean from mid January to late March, when the new Dean, Professor Penelope Mathew, arrives.



### Professor Stockley, you have been Dean of the Auckland Law School for eight years. What has been your most important achievement during this time?

The Dean's role is to foster and develop outstanding research and teaching and to try to make a real difference in the student experience. To do this you need the best staff possible. I have now appointed 60 percent of the permanent Faculty. I think they have added to what was already a very strong law school. I have made many more overseas hires and think there are significant benefits of having academic staff who have worked in law schools with different approaches to research and teaching and in societies with different legal systems and ways of answering legal questions. Half the hires in the last three recruitment rounds have come from overseas and I think this is a testament to the standing and reputation of the Auckland Law School. I have been able to bring a good number of younger, high-achieving academics into the Law School who are already making their mark as great teachers and outstanding scholars.

When I began we had a need for more corporate and commercial law academics and I am pleased to have been able to make some very strong hires who have added considerably to our teaching and research. When I started there were three full-time Māori members of the academic staff.

There are now six. We have been able to use fixed term lecturer and teaching fellow positions to bring younger Māori and Pacific scholars into the Faculty, to involve them in our Māori and Pacific academic programmes, and to encourage them to consider careers as academics.

The number of junior faculty members has increased more generally in recent years. In 2014 and 2015 there was one fixed term lecturer. In 2018 there were five fixed term lecturers, four Māori and Pacific teaching fellows, and a doctoral fellow. The holders of these positions have made substantial contributions, including lecturing, tutoring, supervising tutorial programmes, and taking clinics-workshops of up to 50 students in compulsory courses. They have also been giving one on one academic assistance, marking, researching, presenting papers at conferences, publishing, obtaining research funding, organising conferences and workshops, co-ordinating courses, and overseeing mootings and other competitions. They have been successful and enthusiastic participants in all aspects of the life of the Faculty and we should continue to make these sorts of hires.

We have hired several full-time practice faculty, former practitioners who can teach skills-based subjects and help with relations with the legal profession. I have appointed new hires to run our legal research, writing and communication course, and to help manage the Master of Taxation programme, which one of our professors brought across from the Business School.

---

### Hiring such a significant number of new staff has increased the diversity of the Faculty.

---

Our new hires represent a broad spectrum of research and teaching interests and approaches. Some have come from leading PhD programmes, others have significant experience of legal practice. Some have more experience of writing collaboratively, of obtaining research grants, and of administration and leadership, and this will strengthen the Faculty going forward.



### You mentioned wanting to foster outstanding research. How do you do this?

#### Who you appoint and how you support their research are the most important factors.

Our teaching and marking workloads compare favourably with other law schools and it is important that this is maintained so that research time is protected.

A lot has been done in recent years to strengthen the Law Faculty's research culture. Some of the new hires I mentioned have taken the lead in developing and expanding Faculty research workshops and lunches. I have provided more 'as of right' research support, including for research assistants, and have increased support for external research funding applications. We have recently hired dedicated research support staff to help Faculty members find and apply for research funding.

During my time as Dean Faculty members have won five Marsden awards, two Rutherford Discovery Fellowships, two Borrin grants and a Fulbright Ngā Pae o te Maramatanga Scholarship. A Faculty member has recently won the New Zealand Law Foundation International

Research Fellowship, New Zealand's premier legal research award. These sorts of awards allow academic staff to pursue major research projects and add considerably to the impact and reputation of the Law School.

I am incredibly proud of the research being carried out by the academic staff at the Auckland Law School. Our staff won three of the four Legal Research Foundation awards given in 2018 for the best legal writing in New Zealand. Auckland has done extremely well in these awards in recent years, winning two of the four in 2014 and 2017, three of the four in 2012, 2013, 2015 and 2018, and all four in 2016. The calibre of research here has also been recognised by the number of staff who have been promoted to professor during my time as Dean.

Important research is being carried out by groups of staff as well as individual staff members. I have established five new research centres, all with the aim of encouraging research collaborations between staff and with other faculties and parts of the profession. The Aotearoa New Zealand Centre for Indigenous Peoples and the Law, the New Zealand Centre for Law and Business, the

New Zealand Centre for Human Rights Law, Policy and Practice, the New Zealand Centre for ICT Law, and the New Zealand Centre for Legal Theory, have joined the already-existing New Zealand Centre for Environmental Law, and the New Zealand Centre for Law and Business replaced the Research Centre for Business Law, which had become inactive.

All of our research centres have 'New Zealand' in their names to signify that they aim to be national centres of legal excellence and to reflect the Auckland Law School's ability to bring together academics and other interested parties from across the country. The centres have begun winning grants and research awards and have been holding major conferences, symposia and other research events. One recent example is the funding won by the Aotearoa New Zealand Centre for Indigenous Peoples and the Law to establish an Indigenous Peoples' Rights Impact Programme. This will include providing input into law reform that impacts Māori and Pacific rights and enabling academic staff and students to provide expert advice and advocacy support in relevant test cases.



**There are also now more opportunities for some of our best law students to participate in international advocacy competitions.**

These provide an intensive legal research, writing and advocacy experience over several months and can be transformative for the students selected, many of whom later assist with the Law School's internal competitions and help coach and train our teams. Auckland has achieved significant international success in recent years, including twice being runner-up at the International Chamber of Commerce International Commercial Mediation Competition and reaching the semi-finals of the Vis International Commercial Arbitration Moot (a competition with over 370 teams). In 2017 Auckland law students were named the best and third best speakers at the world's most prestigious moot competition, the Jessup International Law Moot, a truly exceptional achievement.

It has been wonderful to be able to support the establishment of a Mooting Society at the Law School and to see it flourish and become incredibly successful. More than 700 students join each year.

## What other opportunities for students have been developed while you have been Dean?

Students at the Auckland Law School have a wealth of co-curricular opportunities and I have done everything I can to support and encourage this. This has included helping support the Auckland University Law Review and the Law School's Equal Justice, study abroad, and competition programmes.

**One fifth of our final year students take part in a study abroad opportunity, the highest uptake of any of the faculties, and we have broadened the range of student exchange possibilities.**

Early in my deanship I prioritised forging closer ties with the top law schools in China, given the significantly increased importance of China for New Zealand companies and law firms. I signed student exchange agreements with the top five Chinese law schools, including Peking and Tsinghua, China's two leading universities. These links are important for the Auckland Law School and our students. In recent years I have provided funding so that students can take up a range of international internship opportunities, including at the UN Mission in Geneva and at the War Crimes Tribunal in Cambodia.

## FEATURES

It has set up new first year and intermediate level mooting competitions that have proved very popular. It is no coincidence that Auckland has won the New Zealand mooting competition for eight of the last ten years.

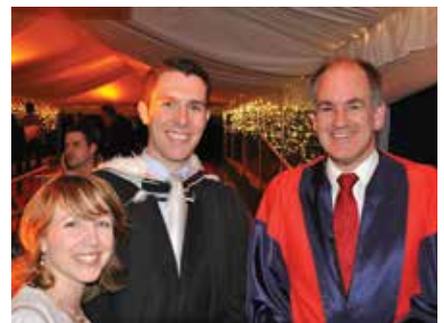
I have tried to use my position to help foster an inclusive sense of community in which all law students can feel that they belong and are known. The Auckland University Law Students Society, Te Rakau Ture (the Māori Law Students Society), and the Pacific Islands Law Students' Association are well-established and are responsible for a wide range of events throughout each academic year, which enhance the student experience. My role has been to support their respective student leaders and to encourage them to work more closely together. I have enjoyed supporting the annual Law Revue, which showcases students' acting, singing and musical talents (and ability to satire) and have been pleased to see the Revue become significantly more inclusive of the Law School's Pacific and Māori students.

I have supported the establishment of a raft of other student clubs, societies and projects that can make other students feel at home and contribute to their sense of belonging at the Law School. Early in my deanship, and with the encouragement of Justice Michael Kirby from Australia, I helped establish Rainbow Law to provide support for LGBT+ students at the Law School. A number of clubs have since been established for students of different ethnic backgrounds and from overseas, including the Law Association for International Students, the Chinese Law Club, the Korean Law Students' Association, and the South Asian Law Students' Association. There are new social clubs, such as the Law School's Running Club and the Not the Average Law Student Club (for mature students). The Women in Law group was established last year and won the award for the best new club in the University. The Malosi Project seeks to inform Pasifika communities about the law and what it can achieve and to encourage young Pasifika students to study law.

More support is being given to international students and to students who first came to New Zealand to attend high school, including by developing the international student clubs mentioned and through orientation and welcome programmes. One quarter of the Auckland Law School's students are Asian and more is being done to recognise and celebrate the diversity of the student cohort.



Some of the Law School's successful mooting teams.



### What else is being done to assist student well-being and inclusion?

This has been an important issue for the Law School and in 2013 I established a working group on student well-being to look at initiatives taken elsewhere in the University and at other law schools. A wide range of student well-being initiatives have been progressively introduced. More has been done to provide careers counselling and support. Legal employment has become more competitive and is a cause of stress for many law students. I have worked to establish a more extensive career mentoring programme as exists in many North American law schools. Dedicated law careers counselling was successfully introduced in 2014 and I initiated an annual Law Careers Handbook (compiled by students) showing the broad range of careers taken up by law students. In 2017 I established the first careers office in a New Zealand law school, which has already made a significant difference for our students. One of the top Australian law firms interviewed here for summer clerk positions for the first time in 2018. The Employment Engagement Manager's weekly newsletter to students, listing internships, employment opportunities, careers seminars and other events, is widely read.

**There has also been a lot of work to maintain and enhance the Law Faculty's Māori and Pacific academic support programmes.**

Auckland has the largest numbers of Māori law students and Pacific law students in New Zealand and has a pivotal role in developing more Māori and Pacific law graduates for the legal profession and society as a whole.

I have very much enjoyed working with our Māori and Pacific student leaders, academic and professional staff to ensure our new students find welcoming and supportive Māori and Pacific student communities at the Law School. In recent years we have been able to provide better common room and study space, to employ senior Māori and Pacific students to act as academic mentors, and have created Māori and Pacific Teaching Fellows Ngā Kai Whakaako and Susuga Faiako to give more academic support for Māori and Pacific law students.

The Law Faculty is also doing more to support other equity groups. I created the position of Associate Dean (Equity) to help make the Law School's support for LGBTI students, students with disabilities, and students from low socio-economic and refugee backgrounds more visible and effective. Additional tutorials are arranged for law students from refugee backgrounds and for some of our students with disabilities. There was a very successful Substantive Equality Month held in 2018.

In May last year I convened a meeting of the major law firms and the other law deans to discuss how to ensure a safe and appropriate environment for students undertaking summer clerkships and other forms of work placement in law firms. There has been considerable work on these issues, with all students being advised of how to seek support in the event of bullying or sexual or other harassment, including in the Law School, at events organised by student clubs, and in law firms.

### What changes have been made to the teaching programme while you have been Dean?

On becoming Dean I established working groups to review and update the undergraduate curriculum. This included involving students, engaging with judges and lawyers, and looking to best overseas practice. As a result we introduced a comprehensive legal research, writing and communication programme, taught in small groups. This is now going into its fourth year and has helped improve our students' ability to write for and communicate with different audiences. All second year law students participate in two hour classes every fortnight with 11 other students and a legal writing instructor.

I am also proud of the new first year law course, Legal Foundations, which was introduced in 2018. It provides coverage in the compulsory curriculum of subject areas that have become more important for legal practice, including alternative dispute resolution and international and comparative law. It also introduces students to fundamental legal concepts in private law that underpin core courses in second year and beyond, as well as an understanding of tikanga Māori.

Workshop clinics have been successfully introduced into another first year law course, Legal Method, and into two of the second year compulsory courses and lead tutors are being trialled in two of the other compulsory courses to provide greater consistency between the large group lectures and small group tutorial programme.

The Auckland Law School offers 50 different electives for students who have completed their compulsory courses, with 20 in corporate and commercial law alone.

---

**It is a reflection of the strength of our faculty and the depth and breadth of our specialisations that we can offer many more papers than any other New Zealand law school.**

---

We have strengthened our postgraduate programme, restructuring the taught Master of Laws programme to reflect changing patterns of demand, including shorter courses to meet the

needs of practitioners. We continue to attract academics from top overseas universities to teach intensive LLM courses, and we have the most extensive postgraduate programme with substantially more graduate students than all the other New Zealand law schools combined.

In addition to these curriculum and programme changes, I should also mention some of the significant teaching and learning changes that are beginning to impact on our students. The Law Faculty's Ten Year Academic Plan commits to moving the Faculty's teaching model from one that is primarily based on lectures and tutorials to one that incorporates much more active learning and use of technology. Many Auckland academics already incorporate significant elements of active learning into lectures, asking questions, setting quizzes, and having students break into discussion groups and report back. A working group has recently considered and reported on how lectures and classes across the Law School can involve less transmission of material and more opportunity for discussion and deeper learning and how technology can assist. This is an area in which we can already point to change occurring but where there is a lot more to come.

Alongside this, a variety of improvements have been made to student assessment and feedback. Assessed coursework has been introduced in all law courses so that students are not assessed solely on examinations, as was occurring in some courses, and so that they receive feedback before their final assessment. We now require all coursework to be anonymised and submitted electronically. I have advocated for students being able to sit examinations on computers and these being marked electronically (as occurs in North American law schools) and the Law School has been trialling this for the University.

We have recently reviewed grading practices although further work continues to be needed in this area. In 2017 a total of 4 A+ grades were awarded from over 2000 scripts in compulsory second and third year law courses. Law conjoint students typically have a law grade point average a full grade lower than in their non-law degree. Introducing more first year law has had the effect of lowering the grade point average for entry into second year. Law students are disadvantaged when applying for University doctoral scholarships. The Law Faculty's Ten Year Academic Plan notes the need to reconsider grading practices and this is reinforced by comparing the much better grades given in other professional degrees such as Engineering and Medicine.

### Could you explain more about the Ten Year Academic Plan and the increase in student numbers this includes?

A Ten Year Academic Plan for the Faculty of Law was approved in principle by the Vice-Chancellor in 2018. It followed significant discussion and consultation with Faculty members and it was pleasing that it received substantial Faculty support.

---

**The Ten Year Academic Plan provides for managed growth in staff and student numbers through to 2029.**

---

The academic staff will increase from 52 (full-time equivalent) in 2018 to 82 in 2029, an increase of an additional three academic staff each year. The professional staff will grow from 25 in 2018 to 40 in 2029. The staff-student ratio will remain the same. Student numbers will grow from 1551 (full-time equivalent) in 2018 to 2358 in 2029.

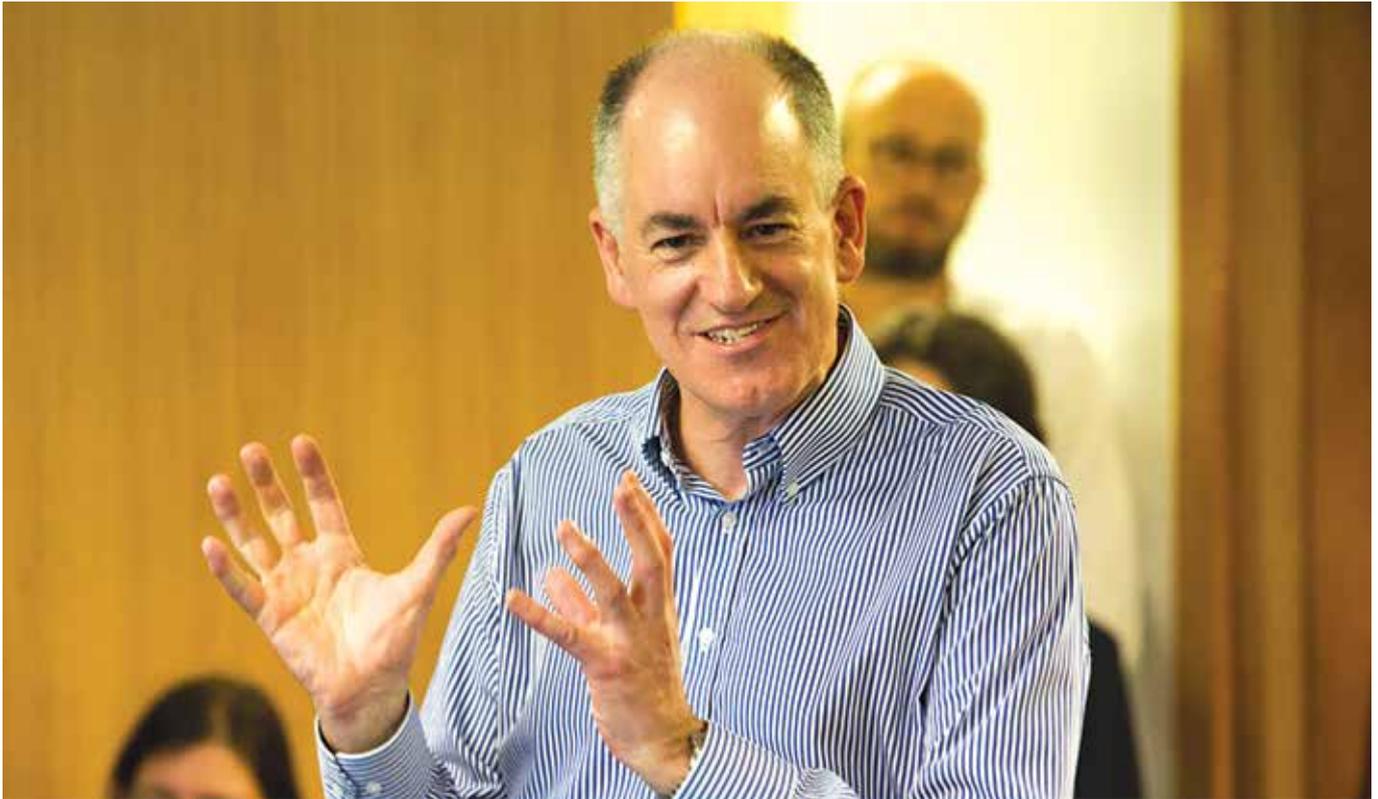
The increase in staff will give us a larger research footprint and make us a more comprehensive faculty. Auckland and New Zealand's population have significantly increased and this will enable more high-achieving students to study law at Auckland. As now, they will become leaders in the law, in government, business and a wide variety of other sectors.

The Auckland Law School will much more closely resemble the top Australian law schools. Its student revenue will grow from just under \$20 million in 2018 to just under \$40 million in 2029. This will allow for funding the academic programme, research, teaching and learning, and student experience and support initiatives detailed in the Ten Year Academic Plan. I agree with one of my colleagues who said that resources matter because they widen the scope of what we can hope to do and can aspire to be.

---

**A better resourced law school will be able to raise all its students to a higher level.**

---



### The small group legal writing programme we have introduced is already making this sort of a difference for all levels of our cohort.

As part of these changes, the Law School will be moving to new buildings on the central campus in several years' time. The Law School will be occupying a landmark heritage building, Old Government House, which together with the complete refurbishment of the northern part of the Thomas Building, will provide the classrooms, offices and common spaces befitting a leading law school.

This will align with what has been achieved the last few years. During my time as Dean we have been allocated significantly more space for the Law School, providing better facilities for students, faculty, visitors, and student clubs and societies. Among other benefits, this has enabled us to create a Student and Admissions Centre, co-locating Law's student advice and support staff, and to provide offices and common rooms for many of our student clubs and societies. Having gained three additional floors in the building at the corner of Short Street and Eden Crescent, the Law School has almost 50 per cent more space than it did in 2011.

The size of our professional staff has increased over the same period, allowing us to employ more student advisers, to have a dedicated student adviser for Part I students and for our Pouawhina Māori and Pacific Student Adviser to be able to focus exclusively on assisting our Māori and Pacific students. We have more administrative support for our co-curricular programmes, such as mootings and community placements, and for the new student well-being initiatives we have introduced. We have also gained more course work and examination processing capacity, allowing us to assist and support our students better.

### Did you expect to be responsible for this amount of change when you became Dean?

The New Zealand tertiary sector was more fragile than I expected when I returned after a period of time working in Oxford. The best American, British, Asian and Australian universities can access much higher levels of funding and this is also true of their law schools. In New Zealand our income per student is about half that of the leading Australian universities in equivalent purchasing power terms. We face increased competition from better resourced law schools. Many universities have had to make cuts in

modern languages, the humanities, creative arts, and education.

My successor will have the advantage that some of the difficult decisions have been made that are needed for the Auckland Law School to thrive in this environment.

### Our student numbers, international student income, external grant revenue, and philanthropic gifting are all critical to our success, and this has meant giving attention to these areas if we are to be able to fund the research activities, teaching programmes, and student experience that can make us world-class.

There are challenges and difficulties in progressing change in any institution. But there are opportunities and benefits as well as challenges. Auckland is becoming an even stronger and better law school. None of this is the work of any one person. I have built on the work and achievements of my predecessors. I have been assisted by some wonderful academic and professional staff colleagues. A key part of my job has been supporting the initiatives of others in the Law School and providing the encouragement and resources to make these happen.

### How important are the Law School's alumni and other members of the profession?

I have been incredibly grateful to the judges, lawyers and alumni who have appreciated that to remain a top-ranked law school we need to be ambitious, to aim high and to make transformative changes, and who have been providing ideas and support as we go forward.

The Auckland Law School's alumni and external engagement has significantly increased during the last eight years. A higher proportion of Law School alumni donate to the University than from any other faculty.

In 2012 I hosted the largest New Zealand law school alumni function to date, using this to launch a major new fundraising campaign. I have since spoken at a large number of overseas alumni events and the Law School has benefited from more than \$1 million pa in philanthropic giving. Put in context this is the equivalent of about 5% of our operating budget. Alumni donations have funded new scholarships and prizes, student teams travelling to international competitions, visits by overseas scholars, and grants to students facing hardship, among many other activities. The John and Marylyn Mayo Chair in Health Law represents the Auckland Law School's largest gift to date.

Several years ago I negotiated a sponsorship agreement with Air New Zealand to fund a course in Aviation Law and to sponsor Auckland's participation in aviation law competitions. I have secured sponsorships from barristers' chambers for some of our mooting teams. Law firms and practitioners teach free of charge into several courses, including electives in Iwi Corporate Governance, the Law of Takeovers, and Construction Law. I negotiated an agreement with the Auckland Crown Solicitors to teach courses in trial and appellate advocacy.

The support we receive from our alumni and other members of the profession has been critical. In 2013 I established a major new awards ceremony for the Faculty's top students, which has helped increase the number of prizes and scholarships given by law firms and relevant professional bodies. Over 450 people attend each year. The Auckland District Law Society has been a key partner, setting up a work experience programme for Auckland law students with smaller local firms and the establishment of a students and young lawyers mentoring scheme. We have also developed legal internships with a range of organisations, including the Wairoa District Council and Rocket Lab.





With Justice Chambers, Lord Phillips and Justice Winkelmann

## You have been a member of the University Senior Leadership Team throughout your time as Dean. What does this involve?

The Senior Leadership Team sets priorities and policies and makes the most important management decisions affecting the University. There are weekly Senior Leadership Team meetings and regular retreats and strategic planning days. This has meant taking an active part in discussions and decision-making on a wide range of issues that are fundamental for the University and tertiary education in New Zealand.

I have been a steering group member for a variety of significant university-wide projects, have represented the Vice-Chancellor in negotiations with the Tertiary Education Union on new collective agreements, and have been a member of and chaired a range of University appointment panels. I have very much enjoyed hosting visitors to the University and representing Auckland on numerous occasions.

Auckland is a world-class university and I have been proud to lead such a strong and successful law school. I am very grateful for all the support and assistance I have received from staff, students, alumni and friends of the Law School over the last eight years. To offer the sort of opportunities and operate at the level of excellence required to be one of the world's best law schools, we have had to be ambitious and to advance on a number of fronts. It has made for interesting work and I look forward to seeing the Auckland Law School continue to stand tall into the future.



With Lady Arden, Lord Mance, Chief Justice Elias, Professor Paul Rishworth and Associate Professor Caroline Foster



With the US Attorney-General, Eric Holder



With Sir Owen Woodhouse, Professor Ted White (University of Virginia) and Sir Geoffrey Palmer



With Sir Jim McLay at New Zealand's UN Mission in New York

# Auckland Law School Highlights 2011 to 2019

- Consistently ranked the top law school in New Zealand and one of the best law schools in the world. Currently ranked the 29th best law school in the world.
- 60% of the permanent academic staff of the Faculty appointed during the last eight years. This includes more overseas hires, junior faculty, corporate and commercial lawyers, and Māori academics.
- Five new research centres established: the Aotearoa New Zealand Centre for Indigenous Peoples and the Law, the New Zealand Centre for Law and Business, the New Zealand Centre for Human Rights Law, Policy and Practice, the New Zealand Centre for ICT Law, and the New Zealand Centre for Legal Theory. Holding major conferences and research events, winning grants and research awards.
- Doctoral fellowship programme established, Faculty research seminars and workshops expanded, increased support for external research funding applications.
- Significant success in external funding rounds with Faculty members winning Marsden Awards, Rutherford Fellowships, Borrin Awards, and the New Zealand Law Foundation International Research Fellowship.
- Student well-being initiatives, including publishing an annual careers handbook showing the wide range of employment opportunities available. Established the first careers office in a New Zealand law school.
- Obtained almost 50 percent more space for the Law School, providing better facilities for students, faculty, visitors, and law student clubs and societies. Established a Student and Admissions Centre, co-locating Law's student advice and support staff.
- Māori and Pacific academic support programmes extended. Māori and Pacific Teaching Fellows appointed.
- More student clubs and societies established and supported. The Law School's support for international students, LGBT+ students, students with disabilities, and students from low socio-economic and refugee backgrounds made more visible and effective.
- Mooting Society established and new competitions for first year and intermediate students created. Significantly increased participation in international law student competitions. Auckland is achieving consistently outstanding competition results, assisting its reputation overseas and providing transformative experiences for the students involved, many of whom in turn assist with the Law School's internal competitions.
- Strong links and student exchanges with the top law schools in China negotiated and developed.
- 20% of the Law School's final year students take part in the study abroad programme, the best result of any of the faculties.
- Established a comprehensive legal research, writing and communication course, taught in small groups with fortnightly writing and presentation exercises.
- Established a new first year law course providing coverage in the compulsory curriculum of subject areas that have become more important for legal practice, including dispute resolution and international and comparative law.
- The taught Master of Laws programme restructured, including shorter courses to meet the needs of practitioners. Auckland has more LLM students than the other New Zealand law schools combined.
- Internal assessment introduced in all courses and electronic submission of all coursework initiated. The Auckland Law School has piloted students sitting examinations on computers with these being marked electronically.
- Established Faculty Teaching Excellence Awards to recognise and promote teaching excellence and innovation and assist Faculty members apply for University and national teaching awards.
- High profile international visitors to the Law School, including UK Supreme Court judges and the US Attorney-General.
- The largest New Zealand law school alumni function to date held in 2012, launching a major new fundraising campaign. Alumni events held overseas with more than \$1 million pa in philanthropic gifting. The Law School's largest gift to date with the John and Marylyn Mayo Chair in Health Law.
- A major new awards ceremony for the Faculty's top students attended by over 450 people each year with an increased number of prizes and scholarships given by law firms and relevant professional bodies.
- Law firms and practitioners teaching specialist electives free of charge. The Auckland District Law Society has established a work experience programme for Auckland law students with smaller local firms and a students and young lawyers mentoring scheme.





### Penelope Mathew becomes Dean in March

Professor Penelope (Pene) Mathew has been appointed as the new Dean of the Faculty of Law. She holds degrees in Arts and Law from the University of Melbourne and an LLM and JSD from Columbia. She was Freilich Foundation Professor of Law at the Australian National University from 2009 to 2014, Dean of the Griffith University Law School from 2014 until 2018, and is currently a Research Professor at Griffith. During 2018, she consulted to the UN High Commissioner for Refugees in Geneva, assisting with the planning for the academic network to support the Global Compact on Refugees.

Professor Mathew has published extensively in the fields of refugee, asylum and human rights law. She was the recipient of the 2008 ACT Government's International Women's Day award for outstanding contributions to human rights and social justice, and has served as the Legal and Policy Advisor to the ACT Human Rights Commission.

**Professor Mathew will join Auckland University as Dean of Law on 25 March 2019. Professor Warren Swain, the Deputy Dean, will be Acting Dean from the middle of January until then.**



## Faculty members lead major government inquiries

From left to right: Craig Elliffe, Ron Paterson, Rosslyn Noonan, and Anaru Erueti

**Professors Ron Paterson and Craig Elliffe, Distinguished Fellow Sir Anand Satyanand, Associate Professor Dr Anaru Erueti, and Director of the New Zealand Centre for Human Rights Law, Policy and Practice, Rosslyn Noonan, were appointed to lead and assist with major government inquiries.**

Professor Ron Paterson was appointed to chair the **Inquiry into Mental Health and Addiction** and presented his report to the Government at the end of November. The catalyst for the inquiry was ongoing widespread concern about mental health services within the health sector and the broader community. Professor Paterson was Parliamentary Ombudsman (2013–2016), Health and Disability Commissioner (2000–2010) and Deputy Director-General, Safety and Regulation, Ministry of Health (1999–2000). He teaches Health Law and Legal Ethics at the Law School and is Chair of the Advisory Board of the New Zealand Centre for Human Rights Law, Policy and Practice, one of the Auckland Law School's research centres.

Professor Craig Elliffe has been serving as a member of the **Government's Tax Working Group**. Chaired by Sir Michael Cullen, the Working Group was established to look at the structure, fairness and balance of New Zealand's tax system. Professor Elliffe has been the Deputy Dean of the Faculty in 2018 and is the Director of the New Zealand Centre for Law and Business, one of the Auckland Law School's research centres, as well as Director of the Master

of Taxation programme at the Law School. He was previously a tax partner at KPMG and at Chapman Tripp. He publishes on international tax, corporate tax, and tax avoidance.

Sir Anand Satyanand was appointed to chair the **Royal Commission of Inquiry into Historical Abuse in State Care**. The Commission will listen to stories about the experiences of people in state care and examine what lessons can be learnt. Sir Anand is one of the Auckland Law School's most distinguished alumni, having served as Governor-General, Parliamentary Ombudsman, and a District Court Judge. He is a Distinguished Fellow at the Auckland Law School, visiting regularly to give lectures, judge moots, and participate in the life of the Faculty.

Dr Anaru Erueti has been appointed as one of the commissioners serving alongside Sir Anand on the Royal Commission. Dr Erueti is an Associate Professor in the Auckland Law School whose primary area of research is in indigenous customary law and legal pluralism, and indigenous peoples' rights in domestic and international law. In early 2018 he and Rosslyn Noonan organised a symposium on holding a



Sir Anand Satyanand

royal commission into the neglect and abuse of children and vulnerable adults in state and out of home care, including a call for an urgent inquiry by the Waitangi tribunal into the state's institutionalisation of Māori children.

Rosslyn Noonan is the Director of the New Zealand Centre for Human Rights Law, Policy and Practice, one of the Auckland Law School's research centres. She was Chief Human Rights Commissioner for ten years. She has recently been appointed to chair the **Family Court Reforms Review Panel**. This is an independent panel to examine the changes made to the family courts and justice system in recent years and to consider what reforms may be appropriate.

# David Williams and the power of the pen

In 1978, young brown men were being arrested. With unemployment rising and the economy faltering, blame drifted through the streets of central Auckland looking for a home, and it found one with immigrants. Not all immigrants, though, just the ones from the Pacific Islands, particularly Sāmoa and Tonga. Immigrants whose temporary visas had expired were being arrested and deported. The dawn raids - early morning police raids on Pasifika homes in search of overstayers - had begun in 1974 and escalated in 1976. 'Random' checks were being conducted on those suspected of being in the country without a valid work permit.

In the early 1970s, the Polynesian Panthers, an activist group formed to fight for racial equality in Aotearoa, printed 1500 copies of a booklet written by their legal adviser, a young lawyer by the name of David Lange.

---

**Among the many pieces of advice, the booklet instructed young Pasifika that, if stopped and questioned by police, "Do not go with him! Only go if arrested."**

---

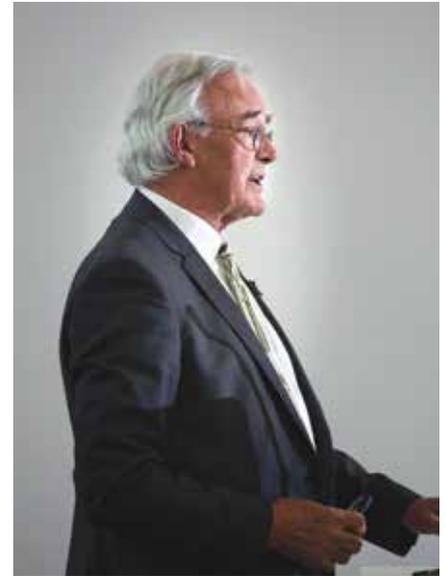
Adding "go quietly - otherwise they might add more charges." Sage advice that, even if followed to the letter, didn't guarantee a positive outcome.

On a Tuesday night in March 1978, seventeen-year-old Niue man Iki Toloa was heading home after a day of work at Consolidated Plastics on Symonds St. After working late, he had missed his last bus, so was walking home along Karangahape Rd when he was stopped by a police officer. The officer asked to see a work permit. Toloa replied that he didn't have one as he didn't need one. He was Niuean and Niuean people are New Zealand citizens. Then, according to reports published in the Auckland Star later that week, the officer "asked about three identical combs which were protruding from his pocket." Toloa handed them over to the officer and explained that one was his own and two were from his work. The officer arrested him for theft from his employer. The combs were valued at 20 cents each.

Young Pacific Island men being arrested was nothing out of the ordinary at the time. One of the original members of the activist group Polynesian Panthers, Tigilau Ness, who was expelled from Mt Albert Grammar in 1971 for refusing to shave his afro, remembers it as a time when being brown and poor was a crime. "Back then there were charges like 'idle and disorderly', where brown people stood out," he says. "If we were hanging around in the streets, which was a common thing to do, we'd be stopped and questioned and asked for identification. If we didn't have money in our pockets, then we were suspected of casing a place out or attempting to case a place or we were up to no good."

Following his apparent confession and subsequent arrest, Toloa was convicted of theft from his employer and awaited sentencing. The police had failed to contact Toloa's employer and when they eventually did, after his conviction, they were told that Toloa had taken the two 20 cent combs from the reject bin at the factory. This was a common practice among employees and one that management allowed.

While Ness and the Polynesian Panthers tried to figure out how to fight the conviction, the rest of Auckland, including the Pasifika community, accepted the judicial process as it played out. This came as no surprise to Ness. In the time of the dawn raids, Pasifika people were "more or less a religious lot who felt that the government was right." Despite the monocultural system that was being enforced, there was a hesitancy to fight back "even though it was oppressive to the Pacific Island people. I think a majority of them were ashamed of the stigma put on us being Pacific Islanders." For many Pasifika people, particularly recent immigrants, those in charge couldn't be wrong. It took the first generation children, many of whom were secretly participating in Polynesian Panthers protests, to show their parents that being arrested didn't always mean you'd committed a crime.



David Williams

---

**Those who saw the 'random checks' and dawn raids for the racial discrimination they were joined activists groups. For Pasifika, it was the Polynesian Panthers.**

---

Other predominantly Pākeha groups included the People's Union, Halt All Racist Tours (HART), and the Citizens Association for Racial Equality (CARE). In 1978, the secretary for CARE was David Williams, a young law lecturer at the University of Auckland who was providing free legal advice to the Bastion Point protest groups.

Williams read about Toloa's arrest and conviction in the paper and called a friend who, in his frustration, said "I mean for heaven's sake! Even if he did steal it it's not worth more than a university pen." And at 20 cents, it wasn't, which gave Williams an idea. He called the reporter from the Auckland Star who'd written the original story and told her that the next morning he'd be at the downtown police station, handing himself over for arrest after confessing to stealing from his employer. The stolen goods? A single University of Auckland pen.

---

**As promised, the next morning Williams took a university pen from his home and confessed to the officer on desk duty at the Auckland police station his crime of stealing from an employer, a serious offence.**

---

As Williams recalls, the following exchange took place:

**Williams:** I've come to provide you evidence of a serious crime called theft from my employer, which is punishable by ten years' imprisonment. Seeing that I'm confessing it, you have got sufficient evidence to arrest me and prosecute me.

**Officer:** What's going on here? Why should I be bothered with you?

**Williams:** Well you were bothered with Iki Toloa yesterday, weren't you?

**Officer:** Oh, this is political, is it?

**Williams:** Whether you call it political or not, the fact is that I am giving you a confession to having committed a crime which is a serious crime in the Crimes Act.

**Officer:** Well, you were probably doing work with it at home.

**Williams:** No, I wasn't doing any work with it at home. If you look at the end of that pen you'll see it's got green chalk in it. That's my four-year-old son playing with it and he banged the pen into the chalk and the chalk is still there. I wasn't using it for any work at home. I stole it.

**Officer:** We better ring up your employer and find out whether they want you prosecuted.

**Williams:** You didn't do that for Iki Toloa.

**Officer:** Well we're going to do it for you.

So they rang the vice chancellor of the university, who rang up the dean of the law faculty, Dr Jack Northey. Northey said to the vice chancellor, "for Christ's sake don't get him arrested, that's what he wants."

And it was what Williams wanted, but he didn't get it. The police refused to arrest him because his employer didn't want to press charges. For Williams the hypocrisy was clear. "Here's me, I confessed to having committed this same offence with an item of about the same value, and yet my employer gets approached and I don't get prosecuted. Whereas a young Niue man working in an Auckland factory does get prosecuted without reference to his employer."



David Williams pen in the collection of Auckland Museum Tamaki Paenga Hira, 2015.52.1 (Photo: Haru Sameshima).

The arrest of Toloa had absolutely nothing to do with theft or criminal activity, says Williams. It was simply an excuse to prosecute yet another brown person in a decade marred by racial inequalities. "Basically anyone who was brown on the streets was liable to be stopped, especially people from Sāmoa and Tonga. They called it random, but it wasn't really all that random. It was quite targeted."

Following a front page story on Williams' visit to the police station the police commissioner agreed to refer the case back to court. Once there, the police offered no evidence and so the conviction was vacated. Toloa never finished up with a conviction, which Williams considers a bittersweet victory for human rights. "The good part of the story is he got off in the end. The bad part of the story is that he was treated like that in the first place."

Watching it unfold, Ness knew that only a "hard headed white person who has empathy for brown people" could not only follow through, but get away with what Williams did. The fact that Toloa was stopped and questioned at all proves his point. In a New Zealand where overstaying immigrants were being blamed for all societal ills, the selective targeting of certain immigrants was increasingly hard to ignore. As Williams remembers, the supposedly random checks "always wound up finding brown people to check on and not all of the British or Canadian overstayers."

In a time when few were standing up for human rights for all, David Williams joined the Polynesian Panthers and other activist groups in following up sentiment with real action and tangible results. While the Panthers used charity work and protests, Williams used a pen. It's not a special pen. The University of Auckland pen looks much the same as any other. But it's also an artefact, a piece of history. In 2015 the pen was acquired into the Auckland Museum's Pacific/Ethnology collection, and it will be on display to the public as part of the museum's renovation and exhibition refresh over the next two years.

I got to see it in the basement of the museum. Its ink is blue and there's plenty still left in it. The chalk Williams' son mashed into the pen is still visible 40 years later. Whatever historical weight it may hold, it's still just a pen. And though it's often quoted that the pen is mightier than the sword, Williams took such a statement literally. But he also knows, and stresses to this day, that it was privilege that allowed him to enact change with only a pen. And those who share his privileges have no excuses for not doing the same.

---

**"Silence is a form of condoning. If you've got a chance to stand up, you should be willing to do so. For me to stand up and make a fuss, what are the consequences going to be? Actually not very serious. It's quite important that people who are given a certain status by society do try to speak truth to power at times."**

---

**By Madeleine Chapman**

This article previously appeared on The Spinoff on 26 July 2018 and was created in partnership with Objectspace.



## New Distinguished Fellow: The Hon. Tony Randerson QC

The Hon. Tony Randerson QC joined the Faculty of Law as a Distinguished Fellow this year. This represents a return to his alma mater, having completed his LLB degree at the University of Auckland in 1968 and graduated LLB(Hons) in 1972.

His career in legal practice began with Wallace McLean Bawden and Partners in 1968, where he became a partner in 1972. The firm later merged to form Kensington Swan, where he remained a senior litigation partner until commencing practice as a barrister sole at Shortland Chambers in 1989. His experience at the bar included a wide range of civil litigation and resource management. In 1991, he also chaired the committee tasked by the government with reviewing what was then the Resource Management Bill.

He was subsequently made Queen's Counsel in 1996, and was appointed to the High Court in October 1997. He was appointed the Chief High Court Judge in December 2004. He served in that office until being appointed in February 2010 to the Court of Appeal, where he served until his retirement in May 2017.

He now brings the benefits of his insights and experience from 30 years of legal practice and 20 years on the bench to the students and staff at the Faculty of Law. Since becoming a Distinguished Fellow, he has assisted the Faculty by chairing a session at the August conference on the Torrens system and participating as a panel member at a March symposium on class actions. He has given guest lectures on a multitude of subjects — privacy and tort, the Personal Property

Securities Act and enforcement under the Resource Management Act — and has assisted students by presiding over mock proceedings in the trial advocacy course, giving guidance on appellate advocacy, and judging the final of the Greg Everard Memorial Moot. As well, he has been a sounding board for the *Auckland University Law Review*, having himself been a contributor to the storied sophomore issue.

# Distinguished Fellow Retires: Ted Thomas's Valedictory Lecture

The Right Honourable Sir Edmund Thomas KNZM QC, who has been a Distinguished Fellow at the Law School for 16 years, delivered his valedictory lecture earlier this year to a large, appreciative audience. A Patron of the Equal Justice Project, his topic was Reflections on Justice, and its message, that judges should give overt and transparent attention to the justice of a case as part of their reasoning in their judgments. His talk is redacted below:

---

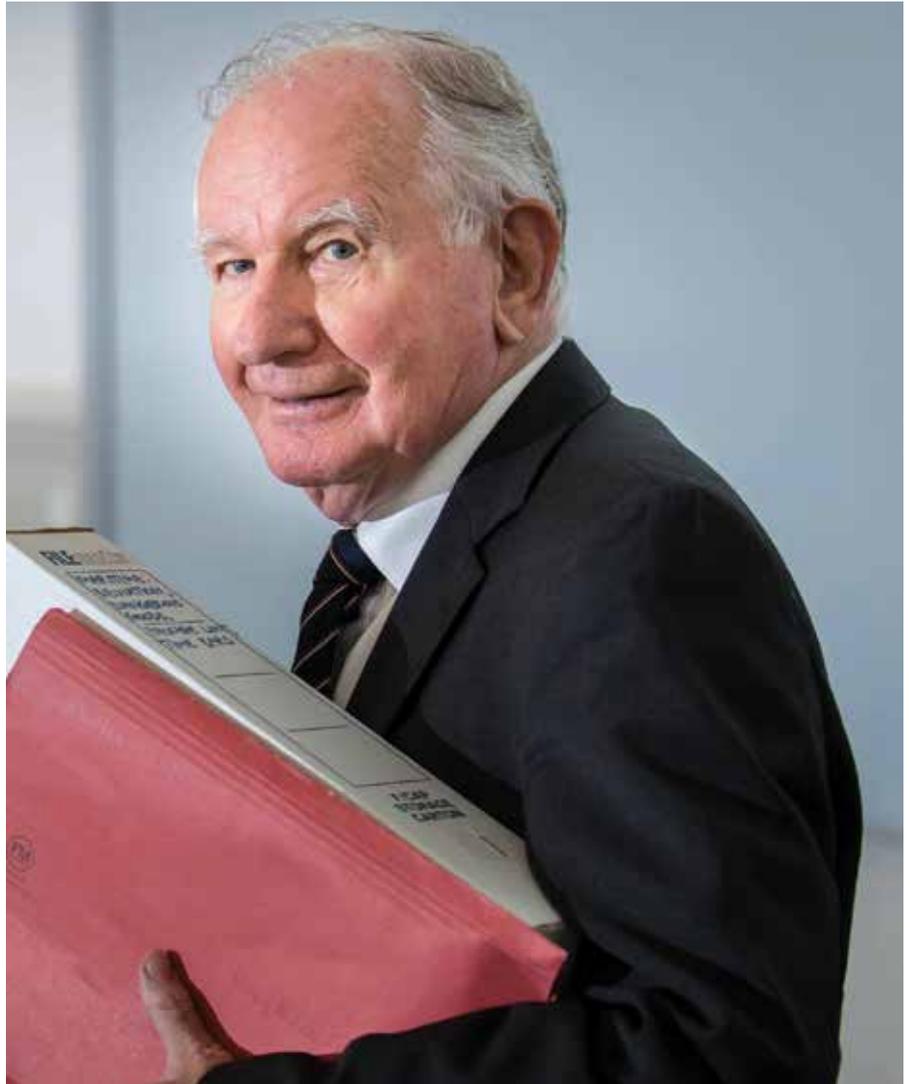
**Justice is an elusive concept that seems to defy definition. The most intelligent and erudite of philosophers and legal theorists are unable to essay a determinative theory.**

---

Consider for a moment the vast variety of senses in which we use the word "justice". We refer to corrective justice and distributive justice, to substantive or material justice and procedural justice, to legal or formal justice and social justice, to natural justice or due process, and to many more variants of this phenomenon called "justice".

We take the Justinian precept that "justice is the set and constant purpose to give every man his due" without any general guidance as to what is a person's "due". We equate impartiality with justice even though an impartial arbiter may arrive at a finding we consider substantively unjust.

We ally justice with notions of basic rights, entitlement, empowerment, and the condemnation of oppression or domination. We assert an absolute or universal concept of justice, but are yet forced to concede that different cultures have different beliefs as to what is just and unjust.



The Right Honourable Sir Edmund Thomas KNZM QC

But still, as the crescendo of disagreement and variation mounts, we strive for a unifying feature.

---

**Ultimately, whatever its derivation, what is or is not unjust or unfair in a certain context depends on a consensus within the community. Justice, I suggest, is not so much a political construct, as some would hold, as a community construct.**

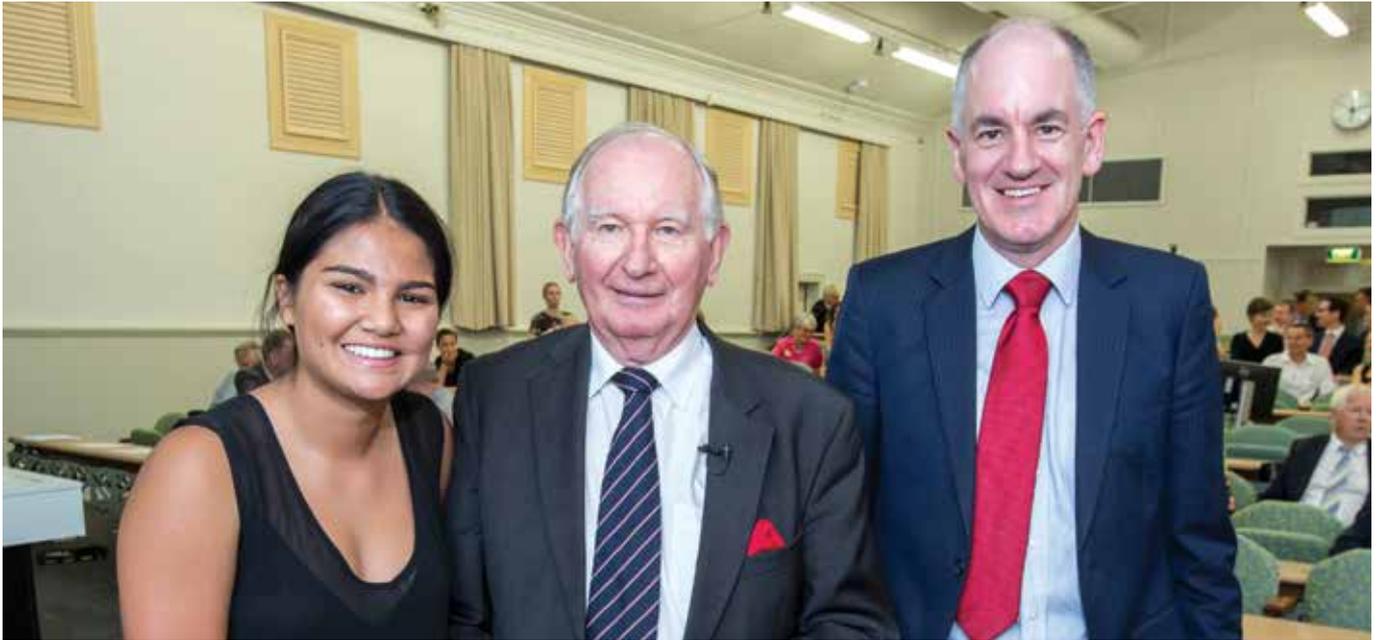
---

Judges reflect this consensus immanent in the community. But often, they have failed to perceive what Professor Unger of Harvard has called the "incorrigible indeterminacy" of the law, or what Professor Endicott from Oxford has described as the "vagueness" of the law, or what, not to be outdone, I have urged in my book *The*

*Judicial Process: Realism, Pragmatism, Practical Reasoning and Principles*, is the "inherent uncertainty" of the law.

I have long held to the view that empathy has a close connection with justice. In other words, it is empathy, or an empathetic concern, which prompts a consideration of the justice of a given situation and a desire to do justice in that situation. Critics will argue, of course, that the law, and more particularly, a predictable law, cannot tolerate empathy. Yet others, such as myself, will see it as a counterpoint to the evil of formalistic thinking.

As a practical matter, the premise underlying equality of opportunity should be the existence of a level playing field, but genetics, ethnic and other prejudices, the economic order, and liberal individualism effectively preclude that premise.



From left to right: Aroha Chinchawala (Ted's granddaughter), Ted Thomas and Dean Andrew Stockley

---

## Yet, the law has its counterpart; that is, the time honoured principle that everyone is equal before the law.

---

It is obviously just that everyone should be equal in the eyes of the law. No one should be at a disadvantage because of their status, gender, wealth, race, religion or any other factor extrinsic to the law or to the courtroom.

---

## But I would question whether that kind of equality is enough to satisfy the demands of justice?

---

For example, the poor and the mighty, the powerless and the powerful, and the weak and the strong may be equal before the law, but to ensure a more substantive equality the law must be openly solicitous of the vulnerability of the poor, the powerless, and the weak. They are open to exploitation, and that exploitation is repugnant to their innate and inalienable dignity.

An example is the relationship of employer and employee. In litigation, both may be equal before the law, but that equality will count for nought or little unless the law recognises the power imbalance between them. To achieve justice in the individual case the law may need to be weighted in favour of the employee to offset the superior power of the employer.



Edmund Thomas at his valedictory lecture with Edward Willis, John Ip, Scott Optican and Sir Ian Barker

Thus, I eventually saw, when reflecting on this complex subject of justice, that the perception that equality is a factor in achieving justice does not necessarily exclude the converse; at times it may be necessary to treat people unequally in order to do justice.

I came to the conclusion that it is as difficult to determine when equality - or inequality - is part of justice as it is to define justice in the abstract. The answer as to when justice and equality must converge, or when they must diverge, will again be context-specific, but no less real on that account.

This exposition of equality and justice has an important derivative. It invites one to consider more closely the precept of treating like alike and the role of precedent or, more particularly, the coercive element in the doctrine of precedent. I

have long held the view that, if an earlier so-called "binding" decision is unjust, a decision that then slavishly follows it will also be unjust. A decision does not gain in terms of justice simply because it is consistent with an earlier decision.

"A foolish consistency", I have agreed, is "the hobgoblin of little minds" - Ralph Waldo Emerson.

It may well be that the law has no higher calling than to defend the poor against the mighty, the powerless against the powerful, and the weak against the strong.

---

## Although I have loved the law, I have loved justice more.

---



## New First Year Law Course: Legal Foundations

The Faculty's new first-year law course, LAW 141: Legal Foundations, was taught for the first time in Semester 2, 2018. This course was introduced following a review of the undergraduate programme, and is in line with the recommendations of a Faculty working group.

The aim of the course is, like the name suggests, to provide law students with a foundation for further legal education. LAW 141 achieves this aim by complementing other Part I courses - LAW 121G (Law and Society) and LAW 131 (Legal Method) - and by providing students with a base of substantive legal knowledge and skills they can use in their future compulsory law courses.

The LAW 141 course is organised around six modules. The first module introduces students to New Zealand's common law system compared to a civil law system. It also explains and categorises the sphere of private law, including the impact of Equity on private law. The second and third modules address two core areas of private law: property law and the law of obligations. Uniquely for a Part I course, these modules are taught in a way that exposes students to comparative law. For example, students are introduced to civil law conceptions of property and Islamic law perspectives on commercial contracts. The fourth module draws on legal theory to explain key concepts from property law and the law of obligations.

For example, students encounter economic and corrective justice explanations of private law. The fifth module considers law in a global context and the impact of international law on New Zealand law. Providing students with an understanding of international law at an early stage of their legal study reflects the fact that our students face an increasingly globalised and interconnected world. The sixth module introduces students to tikanga Maori principles - the first law of Aotearoa.

Students undertaking Part II of the LLB degree must take two significant private law courses that can be classed as forming part of the law of obligations: Contract Law and the Law of Torts. At Part III, students are required to take a core property law course - Land Law. Students must also take Equity and Jurisprudence at Part III. The LAW 141 course is not able to delve into the details of substantive legal doctrine. However, it does provide students with knowledge about the main concepts behind these important legal subjects, and the main theoretical explanations of key legal areas. LAW 141 therefore provides students with valuable building blocks for their law studies beyond the first year.

Students' learning in the LAW 141 course is assessed by way of an online test, two essays and a final exam. Essays help students achieve a key learning outcome of the course - effective written communication skills.

---

**This skill is seen as a particularly important one for students going onto further legal study - and indeed their future careers.**

---

From its 2018 inception, the Faculty has been fortunate to have Associate Professor Vincent Cogliati-Bantz teach on the LAW 141 course. Vincent received his legal education in and has taught in, both common law and civil law countries. He has therefore been well placed to help students draw comparisons between how the civil law and common law systems approach similar issues under property law and the law of obligations.

The course has also benefited in having Natalie Coates teach the tikanga module and help students gain an understanding of some of the key elements, concepts and principles about the Maori philosophy of law. This has had the benefit of allowing students to appreciate the New Zealand's legal system in a more holistic and complete manner.

Rob Batty has been the Course Director. He also teaches Trademark Law and has been the Associate Dean (Academic, Teaching and Learning) in the second semester this year.

# Exciting new postgraduate opportunities for 2019 (LLM programme)

The Auckland Law School's postgraduate programme offers a broad, rich and flexible suite of opportunities for advanced legal research and training, ranging from the possibility of practitioners doing individual LLM or MTaxS courses to meet their continuing professional development requirements, through to the Postgraduate Certificate in Law, the LLM or MTaxS by coursework or by major or minor thesis, and doctoral study in law. The Master of Legal Studies (MLS) programme provides an opportunity for non-law graduates to complement their existing skills and qualifications with specialist legal knowledge.

The LLM by coursework programme has been refreshed for 2019, with the introduction of a large number of new courses offered by leading international experts and our own staff in the Faculty of Law and the Department of Commercial Law in the Business School. At the same time, the most popular courses of 2018 and previous years will be offered again in 2019. The thirty-five courses offered in 2019 will cover a wide range of legal topics.

The Auckland Law School, host to the Aotearoa New Zealand Centre for Indigenous Peoples and the Law, has a particular strength in the area of indigenous peoples and the law. Complementing the School's strengths in this area, Dr Alex Frame returns to Auckland Law School to offer an intensive course on Constitution and Custom in the South Pacific in March 2019. In addition, we are privileged to have Professor Robert Williams, the Regents' Professor, E. Thomas Sullivan Professor of Law and Faculty Co-Chair of the University of Arizona Indigenous Peoples Law and Policy Program, offer the course on Indigenous Persons: Law and Policy as an intensive in July 2019, which will explore international and comparative law and policy relevant to indigenous peoples.

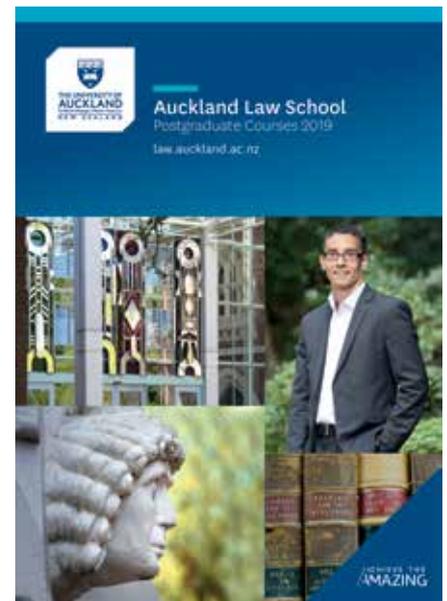
The 2019 postgraduate programme will also see its own "pivot to Asia" in the second half of the year, with visiting scholars from leading Asian universities or with deep knowledge of Asia teaching on the programme. In July, Associate

Professor Unmakanth Varottil from the National University of Singapore will teach an intensive on Mergers and Acquisitions. Professor Curtis Milhaupt from Stanford Law School, an expert in Chinese and Japanese corporate governance, will be offering an intensive on Comparative Corporate Governance in August. Later in the same month, Professor Anne Cheung from the University of Hong Kong Law School will be teaching an intensive on Human Rights and Technology. In September, Matt Andrew, Partner at Ernst & Young, will teach an intensive course on Asia Pacific Tax.

Other courses examine important areas where law and policy are rapidly changing. The growing trade tensions between China and the United States and the commencement of negotiations of a trade agreement between New Zealand and the European Union makes an understanding of the fragile and changing global trade regime of vital importance. Professor Raj Bhala from the University of Kansas returns to teach an intensive on International Trade Law in April. Tax law is also undergoing significant changes, both as a result of political changes in New Zealand and the pressure of the international tax regime to respond to the global digital economy. It is timely, that Professor Craig Elliffe, a member of the Government's Tax Working Group, will be teaching a course on International Taxation. Dawn Duncan from the University of Auckland Business School will offer a course on Employment Law examining the recent legislative amendments and law reform proposals.

Many of our courses are taught by the leader scholar in the field and textbook writers in New Zealand. This includes Professor Stephen Todd, who returns to teach Selected Issues in Tort as an intensive in June. Professor Mark Henaghan, the long-serving Dean of Otago Law School, has recently joined the Auckland Law School. Mark will be teaching a course on Selected Issues in Family Law.

The interest in courses on criminal justice and procedure and the Bill of Rights in 2018 has led us to offer four courses in this area in 2019.



In May, Professor Paul Rishworth QC will teach an intensive course on Comparative Human Rights. We are fortunate to have Professor Jon Gould from the American University to teach an intensive course Comparative Criminology in June. Associate Professor Carrie Lionetti will offer an intensive course on Miscarriage of Justice in October.

The 2019 postgraduate prospectus and full course outlines are available on our website: [law.auckland.ac.nz](http://law.auckland.ac.nz) > **Postgraduates** or [www.auckland.ac.nz/llm](http://www.auckland.ac.nz/llm)

If you need more information about the LLM, MLS or MTaxS at the Auckland Law School, please contact our Postgraduate Student Adviser:

### Angela Vaai

Law Student Centre  
Level 2, 1-11 Short St  
Auckland 1010  
Phone: 0800 61 62 65 or  
+64 9 923 1973  
Email: [a.vaai@auckland.ac.nz](mailto:a.vaai@auckland.ac.nz)

If you are considering embarking on a PhD, please contact our Director of Doctoral Studies to discuss your research interests:

### Associate Professor Caroline Foster

Email: [c.foster@auckland.ac.nz](mailto:c.foster@auckland.ac.nz)

**Associate Professor Chris Noonan**  
**Associate Dean (International  
and Postgraduate)**

# FEATURES

## 2019 Postgraduate Timetable

Course Code	Course Name	Course	Points	Lecturer	Start Date	End Date	Class Time	Essay	Room
<b>Semester I</b>									
<b>4th March- 2 July</b>									
LAW 700	Legal Research Methodology and Advanced Writing	Intensive	0	Bronwyn Davies	27-Feb	1-Mar	9am-5pm		"225/810 (Day1) 340/810 (Day2-3)"
LAWPUBL 745	Special Topic: Constitution and Custom in the South Pacific	Intensive	30	Alex Frame	13th March	19th March	9am-5pm	30-May	340/810
COMLAW 740A	Tax Base	Intensive	15		21st March	23rd March	9am-5pm		340/810
LAWCOMM 730	ST: International Trade law	Intensive	30	Raj Bhala	11th April	17th April	9am-5pm	27-Jun	"301/810 (Day1) 336/810 (Day2-5)"
LAWCOMM 775A	International Tax Law	Intensive	15		11th of April	13th of April	9am-5pm		340/810
LAWCOMM 769	ST:Economic regulation: principles and practice	Intensive	15	Donal Curtin	15th April	17th April	9am-5pm	27-Jun	340/810
LAWCOMM 749	SP:International Litigation	Intensive	15	Mary Keyes	6th May	8th May	9am-5pm	18-Jul	340/810
COMLAW 747	GST	Intensive	15		16th May	18th May	9am-5pm		340/810
LAWPUBL 754	ST:Comparative Human Rights Law	Intensive	30	Paul Rishworth	22nd May	28th May	9am-5pm	8-Aug	340/810
LAWPUBL 752	ST:Contemporary Issues in International Law	Intensive	30	Anna Hood & Madelaine Chiam	10th June	14th June	9am-5pm	22-Aug	340/810
LAWCOMM 778	ST: Selected Topics in Tort Law	Intensive	15	Stephen Todd	18th June 25th June	"20th June 27th June"	5-8pm	5-Sep	340/810
LAWPUBL 755	ST:Comparative Criminology	Intensive	30	Jon Gould	19th June	25th June	9am-5pm	5-Sep	340/810
LAWCOMM 779	Tax Avoidance	Intensive	15	James Coleman	27th June	29th June	9am-5pm		340/810
Full Semester: 4th March - 2nd July				Part Semester: 4th March 12th April / 29th April - 7th June					
LAWENVIR 732	ST: Selected Issues in Environmental and Natural Resources Law	Monday	30	David Grinlinton	4th March	3rd June	5-8pm	7-Jun	340/810
LAWGENRL 713	ST:Selected Issues in Family Law	Tuesday	30	Mark Henaghan	5th March	4th June	5-8pm	7-Jun	340/810
LAWCOMM 735	ST: Artificial Intelligence Law and Policy	Wednesday	30	Benjamin Liu	6th March	5th June	5-8pm	7-Jun	340/810
LAWPUBL 707	Employment Law	Thursday	30	Dawn Duncan	7th March	6th June	5-8pm	7-Jun	340/810
LAW 701	Legal System, Sources, Structure and Method	Friday	30	Ed Willis	8th March	7th June	3-6pm	7-Jun	332/810
<b>Semester II</b>									
<b>16th July - 12th November</b>									
LAW 700	Legal Research Methodology and Advanced Writing	Intensive	0	Bronwyn Davies	17-Jul	19-Jul	9am-5pm		"225/810 (Day1) 340/810 (Day2,3)"
LAWCOMM 739	Mergers and Acquisitions	Intensive	30	Umakanth Varottil	17-Jul	23-Jul	9am-5pm	3-Oct	"332/810 (Day1-3) 340/810 (Day4-5)"
LAWPUBL 749	ST: Indigenous Persons: Law and Policy	Intensive	30	Robert Williams	24th July	30-Jul	9am-5pm	10-Oct	340/810
LAWGENRL 721	Mediation	intensive	30	Nina Khouri	1st Aug	3rd Aug	9am-5pm		340/810
LAWCOMM 780	Corporation and Investor Tax	Intensive	15	PWC	15th Aug	17th Aug	9am-5pm		340/810
LAWCOMM 733	ST:Comparative Corporate Governance	intensive	30	Curtis Millhaupt	14th Aug	20th Aug	9am-5pm	31-Oct	"340/810 (Day1,4-5) 332/810 (Day2-3)"
LAWGENRL 721	Mediation	Intensive	30	Nina Khouri	29th Aug	31st Aug	9am-5pm	7-Nov	340/810
LAWPUBL 744	ST:Human Rights and Technology	Intensive	30	Anne Cheung	26th Aug	6th Sept	4- 8pm	14-Nov	332/810
LAWCOMM 746	ST: Data Privacy and the Law	intensive Wed-Fri	15	Gehan Gunasekara	11th Sept	13th Sept	9am-5pm	21-Nov	340/810
LAWCOMM 788	ST: - Asia Pacific Tax	Intensive	15	Matt Andrew	26th Sept	28th Sept	9am-5pm		340/810
COMLAW 740B	Tax Base	Intensive	15	Craig Elliffe	10th Oct	12th Oct	9am-5pm		340/810
LAWGENRL 724	ST:Miscarriage of Justice	Intensive	15	Carrie Leonetti	17th Oct	19th Oct	9am-5pm	2-Jan	340/810
LAWCOMM 775B	International Tax Law				31st Oct	2nd Nov	9am-5pm		340/810
Full Semester - 22nd July - 18th Nov				Part Semester - 22nd July - 30th Aug/ 16th Sept - 25th Oct					
LAWPUBL 753	ST: Comparative Constitutional Law	Monday	30	Tim Kuhner	22nd July	21st Oct	5-8pm	25-Oct	340/810
LAWCOMM 713	Intellectual Property	Tuesday	30	Rob Batty	23rd July	22nd Oct	5-8pm	25-Oct	340/810
LAWCOMM 706	Competition Law	Wednesday	30	Chris Noonan	24th July	23rd Oct	5-8pm	25-Oct	340/810
LAWENVIR 737	ST:Global Environmental Law	Thursday	30	Klaus Bosselmann	25th July	24th Oct	5-8pm	25-Oct	340/810
LAW 701	Legal System, Sources, Structure and Method	Friday	30	Ed Willis	26th July	25th Oct	3-6pm	25-Oct	326/810

# New Academic Staff

## Professor Mark Henaghan

It is quite a daunting task to introduce someone who needs little introduction. In the New Zealand legal environment, Mark has influenced the lives of many law students over a remarkable career and it is a great delight to welcome him to the Auckland Law School.

I first met Mark as a nervous legal systems student in 1980. He was lecturing, as it turns out, for the first time in that course. I never would have guessed. His cogent explanation of legal precedent and his obvious passion and enthusiasm for the law was contagious. Like many of the students that have had the privilege of being taught by him, I realised within a very short period of time that I could come to love the study and practice of law in the same way he obviously does.

---

**His career speaks for itself. In every area of academic life, his credentials are superb. Hopefully, without offending anybody, I can say he is New Zealand's leading Family Law academic. Last year he was elected as a Fellow of the Royal Society of New Zealand for distinction in research advancing humanities.**

---



He is the author of many books including for his co-authored book on family property on death, which won the JF Northey Award for the best law book published that year. He is a prolific academic researcher with a huge number of articles, book chapters and edited collections. He has been a hugely successful applicant for research funds from legal research charitable bodies.

He is, as I indicated above, a wonderful teacher having won no less than seven Otago University teaching awards, one of which was a Premier Lecturer Award. He was Dean of the Otago Law School for 18 years until his retirement from that position in April of this year.

---

**We are delighted to welcome Mark to Auckland. He has had such a significant effect on the careers of many of his Otago students and we now look forward to him being as influential in the education of our own students.**

---

It will be wonderful to have him as a colleague and mentor to many of our own staff.

---

Craig Elliffe

### Associate Professor Timothy Kuhner

We are delighted to welcome Associate Professor Tim Kuhner to the Faculty of Law. Tim came to us in July 2018 from Spain, where he was a Fulbright Senior Scholar at the University of Barcelona. Tim is someone who has not only written and lectured on comparative and international law but has lived an international lifestyle as well. He traces the beginning of his career back to a Thomas J. Watson Fellowship in 1998-1999 when he conducted twelve months of field research on conflict resolution in Latin America. He then worked as a negotiation consultant in Uruguay before attending law school at Duke University, clerking for a federal appellate court judge, and entering academia. In addition to teaching at Georgia State University College of Law, where he was granted tenure, Tim has also held an associate professor position at the University of Navarra in Spain and visiting positions at law schools in Portugal and Poland. Beyond enabling him to see more of the world and learn how law is taught in different countries, Tim's international experience has broadened his research on corruption, political finance, and the law of democracy.

As the author of *Capitalism v. Democracy: Money in Politics and the Free Market Constitution* (Stanford University Press 2014) and co-editor of *Democracy by the People: Reforming Campaign Finance in America* (Cambridge University Press 2018), Tim has emerged as a leading thinker on the legal origins of political and economic inequalities. He has given public lectures on the dangers of plutocracy at universities, bookstores, NGOs, and international organizations throughout Europe and the United States. His work has received praise from publications as the *Harvard Law Review* and the *Law and Politics Book Review*, and from intellectuals as Lawrence Lessig and Thomas Piketty. Tim's next major project, a comparative analysis of democratic integrity, is under contract with Cambridge University Press.



---

**At the University of Auckland, Tim will teach the law school's first LLM course on anti-corruption law and its first honours course on comparative approaches to the law of democracy. He will also teach courses on comparative constitutional law, law and society, and torts.**

---

Tim and his spouse and three children live in beautiful Titirangi. He is an avid downhill skier, mountain biker and hockey player. We are genuinely thrilled to have attracted Tim to join us as he is a profoundly wise teacher and thoughtful colleague.

---

Craig Elliffe

## Associate Professor Carrie Leonetti

Carrie Leonetti joined the academic staff as an Associate Professor in 2018. She came to Auckland from the University of Oregon School of Law, where she was the Faculty Director of the Criminal Justice Initiative and an Affiliated Member of the Center for Cybersecurity and Privacy. In addition to her law-teaching duties, Carrie also taught part-time in the Forensic Psychiatry Fellowship Program at Oregon Health Sciences University. She has also worked as a Visiting Professor in the Faculty of Jurisprudence at the University of Milano-Bicocca and the Faculty of Criminalistics, Criminology, and Security Studies at the University of Sarajevo — where she was a Fulbright Scholar.

Prior to becoming an academic, Carrie was an Assistant Federal Defender in the Eastern District of California — where her duties included being the only court-appointed attorney in the full-time federal magistrate court in Yosemite National Park. Her first client in Yosemite was a tourist from Los Angeles, who was infuriated that he had been charged with cruelty to animals for photographing his three-year-old daughter hand-feeding a biscuit to a wild bear. Her last client in Yosemite was a young man who had legally changed his name to “Obi Wan Kenobi” — in order to win \$1,000 in a radio contest — immediately before the United States Real ID Act of 2005 went into effect, making it impossible for him to change it back. Carrie also worked as an Assistant Public Defender in the Appellate Division of the Maryland Public Defender’s Office, but the crimes that her clients were accused of in Baltimore were a lot less amusing.

---

**Carrie’s research agenda focuses primarily on comparative criminal procedure and miscarriages of justice in an international context. She is particularly interested in the role that culture and social psychology play in the definition, detection, and remedy of wrongful convictions.**

---



In keeping with her personal motto that sometimes tinfoil hats serve a useful purpose, Carrie also writes regularly in the area of high-tech surveillance and data privacy. Likewise, she firmly believes, as Joseph Heller wrote in *Catch-22*, that “[j]ust because you’re paranoid doesn’t mean they aren’t after you”.

Carrie teaches undergraduate classes in criminal law, evidence, and forensic psychiatry, where she regularly impresses students with her inability to work basic classroom technology. She also teaches a post-graduate seminar about miscarriages of justice.

In her spare time, Carrie enjoys running, hiking, camping, skiing, and surfing — although rarely simultaneously. She is thrilled to be joining the world-class faculty at the University of Auckland, where she has already made progress challenging Associate Professor Scott Optican as the loudest American on the Faculty.

---

**Scott Optican**

### Associate Professor Nicole Roughan

Nicole Roughan is no stranger to the University of Auckland. Having graduated from Auckland with a BA/LLB in 2005, she has completed a long tour through some of the most prestigious institutions in North America, Belgium, the United Kingdom, and Singapore, before joining the Faculty of Law as an Associate Professor. She holds LLM degrees from both Victoria University in Wellington and Yale Law School, and a JSD degree from Yale. She taught law in various capacities at Victoria, the Brussels School of International Studies, and Cambridge, and has most recently served as an Associate Professor at the National University of Singapore, where she was also the Deputy Director of the Centre for Legal Theory. Upon her return to New Zealand in 2018, Nicole received the prestigious Rutherford Discovery Fellowship, awarded by the Royal Society Te Apārangi to the country's most talented early- to mid-career researchers. This fellowship will allow Nicole to pursue a five-year research project on 'Legalities: Jurisprudence without Borders'.

Nicole's remarkable institutional pedigree is matched by the equally remarkable contribution she has made to the field of general jurisprudence. In her monograph, *Authorities* (Oxford University Press, 2013), she offered a refreshing take on old jurisprudential questions, considering the complex nature of the simultaneous exercise of legal authority by multiple institutions. A volume she co-edited, *In Pursuit of Pluralist Jurisprudence* (Cambridge University Press, 2017), has been described by one notable commentator as "signalling a transition in jurisprudence". Her articles appear in some of the world's leading journals, including the *Oxford Journal of Legal Studies*, the *European Journal of International Law*, and the *International Journal of Constitutional Law*. Nicole is currently working on a new book, *Officials*, which examines the centrality of the idea of the legal official to both the existence and legitimacy of law's authority. She is also engaged in collaborative projects exploring the theoretical foundations of indigenous laws and theories of recognition.



---

**Nicole brings with her not only her reputation and expertise, but also a collegial and collaborative vision of academic life. For many of us here on faculty, Nicole has already been a colleague and interlocutor for many years, and we are delighted to have her join our ranks.**

---

Upon her appointment she has joined the Jurisprudence teaching team and has been the animating force behind the newly established New Zealand Centre for Legal Theory. The Centre, which is dedicated to the promotion of theoretical research and teaching in law, will be formally launched this year.

---

Arie Rosen

## Katherine Doolin

A love of history and travel and a desire to explore her extended family roots in Kent took Katherine Doolin away to England in 1996. She had a year's teaching experience as a tutor at the University of Waikato, after graduating with first class honours in law from there and being admitted as a Barrister and Solicitor.

She found employment as a Research Officer for the University of Kent's Criminal Justice Centre, working on national projects for the UK Home Office (evaluating a number of restorative justice schemes) and for the Youth Justice Board (evaluating three mediation services in London). This sparked an interest that resulted in a PhD from the University of Kent in 2005. Her thesis explored some of the conceptual tensions within restorative justice theory and contrasted the different frameworks and policy approaches taken in England and New Zealand around some of the key issues in relation to restorative justice as a response to youth offending.

In 2003 she took up an academic position at the University of Birmingham where she continued to write on issues relating to restorative justice, taught a broad sweep of courses on criminal law and justice issues, was nominated for and won awards for teaching excellence and discovered a talent for administration.

The School of Law at the University of Birmingham experienced a significant increase in student numbers and Katherine played a key role in supporting students during that expansion. From 2009 she was Head of Student Support, Development and Welfare for the School of Law and from 2010 she was Director of Student Development and Support for the College of Arts and Law.

---

**Both roles saw her developing initiatives, setting up processes and managing teams of professional staff and academics in order to better respond to the challenges experienced by students.**

---



Katherine was Director of the School of Law's Institute of Judicial Administration and led the School's Criminal Justice research cluster for a number of years. She has been a Visiting Scholar at the Leuven Institute of Criminology, KU Leuven, Belgium, funded by a British Academy grant.

Having had Europe on her doorstep for twenty years, in 2017 she was ready to accept an offer from the University of Auckland and return home. Her new role was an opportunity for Katherine to join a well-regarded Law School, to be in closer proximity to immediate family, to conduct research into New Zealand's growing commitment to alternative forms of justice and to enjoy some of the advantages of academic work in New Zealand, such as a closer working relationship with practitioners, judges and policy makers.

She has already secured a significant Michael and Suzanne Borrin Foundation grant to hold an international conference on 'The Future Directions of the Alcohol and Other Drug Treatment Courts – Te Whare Whakapiki Wairua – in Aotearoa' in January of 2019 – working closely with Judges Lisa Tremewan and Ema Aitken and Dr Fleur Te Aho.

Katherine joins the criminal law teaching team at the Auckland Faculty of Law where her success as a teacher and her experience in supporting student wellbeing will be greatly appreciated.

---

**Julia Tolmie**

### Edward Willis

The Law School was delighted to welcome Ed Willis as a lecturer at the beginning of 2018. Ed is a graduate of Victoria University of Wellington (LLB and BA, 2005; LLM, 2009) and more recently (2016) was awarded his PhD by The University of Auckland.

His doctoral thesis explored the distinctive features of New Zealand's unwritten constitution and its antecedents, concluding that unwritten constitutions have a serious claim to legitimacy and coherence that is frequently under-appreciated.

Ed's subsequent research and publications continue to examine the structures of public power, seeking to locate the Treaty of Waitangi (the subject of his LLM studies) in New Zealand's constitutional narrative, as well as examining political constitutionalism (a less court-centred model of authority than one associates with written constitutions). Ed is already an engaged (and engaging) scholar and popular teacher. His measured contributions to debate across a broad spectrum of public law concerns will be important in forging a future in which our constitutional tradition is properly understood, and arguments for refinement and change are informed and properly evaluated.

Readers of *Eden Crescent* should take a look at (and subscribe to) Ed's excellent blog, accessible at <https://www.greatgovernment.nz>, to see the thoughtful pieces written on a range of contemporary controversies, from freedom of speech through to cartels. Stimulating debate and getting people involved is one of Ed's passions.

It is no surprise that Ed has received prizes and awards for his scholarship, being twice winner of the Legal Research Foundation prize for best unpublished paper, as well as the New Zealand Law Society's Rex Mason prize for best journal article.



---

**Ed's most recent years (apart from those in full time PhD study) were spent in specialised legal practice centred around regulatory law and communications. He comes to constitutional and administrative law with a keen eye for how it works for economic actors as well as ordinary citizens.**

---

Married to Vicki with whom he has a young son, Baxter, Ed combines all those many achievements and interests with unfailing good humour.

---

Paul Rishworth

# New academic staff in 2019

The following have been appointed as Faculty members from 2019. They will be profiled in next year's *Eden Crescent*.



## Professor Gonzalo Villata Puig

Gonzalo Villata Puig has been appointed a Professor of Law and will commence in January 2020. He has been a Professor at the University of Hull and the Chinese University of Hong Kong. He is currently the Head of the School of Law and Politics at Hull and was previously the Associate Dean (Research) at the Chinese University of Hong Kong. His research interests include International Economic Law,

International Trade, EU Law, Comparative Constitutional Law, and Commercial Law more generally. He also teaches Torts. He has BA and LLB(Hons) degrees from the Australian National University, Master of Laws degrees from Canberra and La Trobe, and a JSD from La Trobe.

## Senior Lecturer Jesse Wall



Jesse Wall has been appointed a Senior Lecturer Above the Bar and will commence in May 2019. He is currently a Senior Lecturer at Otago University. He has research and teaching interests in Legal Theory, Law and Medicine, Jurisprudence, Contract Law, Public Law, Criminal Law, Land Law, and Trust Law. He has BA and LLB(Hons) degrees from Otago and was a Rhodes Scholar at Oxford, where he obtained the BCL, MPhil and DPhil degrees.

## Senior Lecturer Karen Fairweather



Karen Fairweather has been appointed a Senior Lecturer, beginning in January 2019. She has taught Contract Law at Auckland this year and was previously a Lecturer at the Adelaide and Durham Law Schools and an Associate Lecturer at Queensland. She has research and teaching interests in Consumer Law, Financial Services Law, Contract Law, Commercial Law, and Civil Remedies, and has also taught Trusts and Equity. She has an LLB(Hons) degree from Birmingham and a PhD from Exeter.

## Lecturer Nikki Chamberlain



Nikki Chamberlain has been appointed a Lecturer, beginning in January 2019. She has taught Torts and the Law of Family Property at Auckland the last two years and Legal Writing at Vanderbilt University in 2016. She was a commercial litigator for eight years at Minter Ellison Rudd Watts before that. She has research and teaching interests in Torts, Family Property Law, and Privacy Law. She has BA and LLB(Hons) degrees from Auckland and an LLM from Vanderbilt.

# Promotions



## David Grinlinton promoted to Professor

David Grinlinton joined the law school of the University of Auckland in January 1990. This followed time in legal practice and postgraduate work at the University of Western Australia where he obtained his LLM (by thesis). More recently in 2016, David received a Master of Defence Studies from the Royal Military College of Canada.

For many years, David has taught the core subject of Land Law with many thousands of students passing through the course to date. He has been an innovator in the use of technology and audio-visual aids to enhance the understanding of that important subject. Other subjects have included commercial leases, mining and energy law, natural resources law, and resource management law.

Field trips to various parts of New Zealand to study the social and environmental context of mining and energy developments have given students some of their most memorable law school experiences.

Since 2013, David has had fractional appointments as a visiting fellow, and later as the Cassels Brock Professor of Mining Law and Finance, at the University of Western Ontario. This

has enabled David to engage with North American students and colleagues, while stoically enduring a number of icy winter months in Ontario! The appointment has increased David's profile as an expert on mining and energy law, and the application of sustainability principles to natural resource developments.

David has contributed substantially to academic writing, having authored, edited or contributed to numerous leading texts, and published peer-reviewed articles in many leading journals. Together with the Hon. Peter Salmon QC, David is the co-editor and contributing author of Salmon and Grinlinton, *Environmental Law in New Zealand* (Thomson Reuters, 2nd ed 2018). He is also the current author of *Residential Tenancies: The Law and Practice* (LexisNexis, 4th ed 2012) – well-regarded as the main reference on the subject by the Tenancy Tribunal, and persons involved in tenancy matters. In many respects, David's contribution to teaching in the field of land law, and his organisation and promotion of conferences relating to the Torrens system of land registration, continues a tradition of excellence as a successor to the late Professor George Hinde, a doyen of Land Law at the Auckland Law School

and within the New Zealand legal community. In August 2018, David organised an international conference titled 'New Horizons for Torrens', which attracted leading experts from England, Scotland, the Netherlands, Australia, Canada, Singapore and New Zealand. Papers delivered will provide the basis for a further publication concerning the Land Transfer Act 2017, electronic registration and other current land law developments.

Within the Auckland Law School, and in the wider University community, David has undertaken his share of administrative work. He has been an Associate Dean for Postgraduate and International matters, and currently fills that role for Research. He has been a mentor for colleagues, and has supervised many students preparing dissertations and theses. David is a foundation member of the New Zealand Centre for Environmental Law, and has assisted in the editorship and management of the *New Zealand Journal of Environmental Law* since 1997.

Outside the Law School, David has made a significant contribution to public service, including as a reservist in the Royal New Zealand Navy. In 2006-7 David completed a six month operational tour of duty with the New Zealand Provincial Reconstruction Team in Bamyan province in Afghanistan where he was involved in infrastructure and governance rebuilding. With the financial assistance of Law School colleagues he also arranged for additional educational supplies to assist local children. Later in 2010, David completed a further six months assignment to East Timor as part of the United Nations Mission to maintaining peace and stability in the region. He continues as an 'active' member of the RNZNVR. This wider interest in the welfare of other persons negates the stereotype that academics tend to be at home only in the ivory tower and incapable of appreciating the realities of the outside world.

Finally, as noted, David has been well regarded by students over the years for his enthusiasm, dedication and consideration of their academic well-being. David has two adult daughters, with one now based in Scotland and the other a Doctor in Auckland. Married to Keiko, David maintains a strong interest in Japan and its culture. For the future, David's appointment as a full professor can be applauded. He will continue to contribute substantially to maintaining the Auckland Law School as the leading law institution within the country.

---

**Kenneth Palmer**



**An has also branched out into new areas, notably competition law, drawing on her earlier experience in practice and current teaching in commercial law.**

## An Hertogen promoted to Senior Lecturer

Very few first-time academics in any discipline arrive at Auckland University with a PhD and a prestigious Marsden Fund Fast Start grant, let alone in law. In doing so, An set high standards for herself! Within three years she has been promoted to Senior Lecturer.

**An's international research profile has continued to grow since her appointment, building relationships with prominent scholars, institutes and journals that will ground the next phases of her career.**

Numerous publications, including in leading international journals such as the *European Journal of International Law*, and invited contributions to edited collections, have built on An's PhD thesis on the legal duties of states under general international law in a period of interdependency as part of the Marsden project. They are always topical. Her latest projects are an invited chapter on the sovereignty and unilateralism for a Research Handbook on Transnational Environmental Law, that will be published by prominent Dutch publishing house Brill. Together with Anna Hood, An is also working on an edited book project on International Law in Aotearoa-New Zealand, to study New Zealand's interaction with, contribution to, and attitude towards international law, as well as how international law shapes New Zealand and works with(in) its legal system.

A *New Zealand Universities Law Review* article took issue with the Commerce Commission's interpretation of the 'public benefit test' in declining the application by NZME and Fairfax for authorisation of a proposed merger. Examining whether relevant statute and case law supported the Commission's reliance on media plurality as a legitimate element of the public benefit test, An concluded that it does not.

As one of the new generation younger academics with PhDs An is now swapping roles, and taking responsibilities as a doctoral co-supervisor, alongside masters and honours dissertations. An active contributor to the life of the faculty, An has served as a Dean's appointment on Faculty staffing and staffing strategy committees, coordinated the Stout Shield moots from 2016 to 2018, and has helped set up an exchange programme with her alma mater, the KULeuven in Belgium. With the Marsden project drawing to an end this year, An will doubtless be setting herself new challenges to achieve the next milestones in her rapidly advancing career.

Jane Kelsey



### Anna Hood promoted to Senior Lecturer

Colleagues were delighted – and not at all surprised – when Dr Anna Hood was promoted to Senior Lecturer earlier in the year. Since joining the Faculty in 2015 (from Melbourne University, where she had been a lecturer and completed her PhD), Anna has been a committed, enthusiastic and energetic member of faculty and has become renowned as an outstanding teacher: innovative in her delivery, unstintingly generous in the support she provides for students, and striving always to be up to the minute in terms of substantive legal developments and new ideas.

In the years since her appointment, Anna has certainly been busy on the teaching front. She has developed several new courses, including the new Legal Research, Writing and Communication course as well as building courses on Immigration and Refugee Law.

---

**She volunteered to help out with the Criminal Law teaching team this year, and has also taught into the honours programme in her area of research expertise – international law. Next year, she is going to be offering an honours seminar course on Refugee Law, as well as contributing to our ever-expanding postgraduate programme.**

---

Alongside all of that, she has been actively involved in supporting the mooted programme – an increasingly important part of the law school experience.

Anna's commitment to legal education, and to our students, extends well beyond the classroom. For example, she developed an annual internship programme at the Immigration and Protection Tribunal to give students the opportunity to put their learning into practice; and she has been actively engaged with supporting a wide variety of different student groups. In 2016, with Professor Julia Tolmie, she looked into concerns about the treatment of women in the Law School and produced a document entitled 'The Gender Report'. She has subsequently spent time supporting the development of a Women in Law student group and getting funding for a parenting room in the law school. She has also worked with Hanna Wilberg, our Associate Dean (Equity) to develop tutoring and mentoring programmes for law students from refugee backgrounds.

Anna's scholarship goes from strength to strength. Her primary research interests lie in disarmament law, the UN Security Council and public international law history. Since arriving in the faculty she has published in a number of leading international law journals and books, and has collaborated closely in international research projects with scholars from Australia, United Kingdom, Canada and Europe. She has hosted multiple international conferences here at the faculty; and been successful in her applications for a number of research grants. In addition to this academic work, Anna provides pro bono international law advice to non-government organisations and developing countries. In 2016 the legal advice she provided on the European Refugee Crisis won an International Trust Law Award. She is currently the New Zealand Vice-President of the Australia New Zealand Society of International Law.

Anna is deeply committed to legal education specifically and the university sector generally reflecting her firm belief that law schools and universities are an essential feature of an intellectually robust, healthy and vibrant New Zealand. At a mundane level, that commitment manifests itself in her active contributions to faculty and university committees and working groups – the "engine room" work of the university that many of us shy away from. But at a more aspirational level, Anna actively contributes to current debates within and outside universities about the future directions of law schools, legal education and the role of universities in today's world and how best to navigate the many challenges facing our tertiary institutions.

---

Treasa Dunworth

# Jane Norton promoted to Senior Lecturer

Just a couple of years ago, in 2016, colleagues at the law school were delighted to welcome back Dr Jane Norton, one of our most exciting graduates and an emerging authority on religious freedom.

**More broadly, Jane's research lies in the area of public law and legal theory. Her work on religious freedom reflects her interest particularly in how the government regulates voluntary or private associations.**

When she joined us, Jane had completed her Masters at Columbia as a Fulbright scholar and her doctorate at Oxford as a Clarendon scholar, and had commenced her academic career with appointments at both Birmingham and Oxford.

Since then, Jane's scholarly contributions have continued apace, notably with the publication of her book *Freedom of Religious Organizations* (Oxford University Press, 2016). This book has been the subject of book symposia under the auspices of both the Australian Society of Legal Philosophers and the Oxford law faculty; has been cited by courts and other scholars; and won the Legal Research Foundation's JF Northey Memorial Book Award for the best book published by a New Zealand based author.

**Jane has also been kept busy teaching well-received courses across the divide between public law (especially Rights and Freedoms) and private law (Equity), and putting her own stamp on these courses.**



If all of that were not enough, Jane has also contributed her expertise and analytical skills directly to law-making and policy-making processes: she has given evidence to a House of Lords select committee inquiry into sharia councils, and is assisting the UK Equality and Human Rights Commission in participating in the inquiry into the Grenfell Tower fire.

It was clearly time, then, for Jane to be promoted to Senior Lecturer, and that well-deserved promotion took effect this year. On behalf of all her colleagues, I would like to again extend warmest congratulations to Jane.

A tribute to Jane as a colleague would be very incomplete if it dwelt solely on her gift for and dedication to both teaching and scholarship. Jane's boundless energy and her wider interests have enriched the life of the law school in a

multitude of ways small and large – all the more impressive given that Jane is also busy outside of law school raising a young family with her husband Mike. Law and Poetry evenings were Jane's initiative, and she has so far organised two highly successful events in this series. As part of that, she instituted the Bernard Brown Literary Prize (in honour of the Law School's much-loved de facto poet in residence, who first introduced poetry evenings to the Law School some years back) and carried out the necessary fundraising herself. Yet another innovation is the "little library on the Left Bank", owing its existence to both Jane and Paul Sumpter, where colleagues are invited to donate books they have read and borrow ones they would like to read. What better way to keep reminding us all every day that there is more to life than the law – thanks Jane!

Hanna Wilberg

Academic staff  
farewells



# Professor David Williams

David was legendary before we ever met. I came in 1979, when the law faculty occupied the top floors of the library building. The common room was largely elderly, traditional and male. One younger colleague said, “we do have a Marxist, but he’s away in Africa”. Another rather proudly recounted the infamous time David turned himself into police and demanded they charge him with stealing a University pen, after a young Niuean had been arrested for stealing a 10c comb from his workplace.

David was away ‘in Dar’, as were notable critical legal scholars of the time – William Twining, Issa Shivji, Sol Picciotto, among others. The law school at Dar es Salaam, Tanzania was an intellectual hotbed and David chose to write his PhD thesis there on a comparative legal history of land law and colonisation in Tanzania and New Zealand. That was the days of manual typewriters. Part of David’s thesis accidentally found the rubbish bin, and after failing to locate it at the Council tip he had to rewrite about a third of it. Twenty years later that work would form the basis of *Te Kooti Tango Whenua. The Native Land Court 1864-1909*, published by Hui Publishers in 1999. *A simple nullity? The Wi Parata case in New Zealand Law and History* (AUP 2011) then set the record straight on that notorious case.

Over the years I’ve had the privilege to know many Davids. Marxist David. Anti-apartheid protestor David. Stalwart CARE (Citizens Association for Racial Equality) activist David. Tiriti-champion David. Staunch Pakeha ally and adviser to Ngati Whatua o Orakei, and proud veteran of the 507-day Bastion Point occupation, David. Hippy, pony-tailed, barefoot David. High Anglican Rev Dr David. Fluent te reo David. Celebrated legal historian and scholar David. Champion of free speech David. There are doubtless many more I haven’t known, but they all seem a long way from the provincial boy who was dux of Wanganui Collegiate, a young National, and a Rhodes Scholar at Balliol College, Oxford.

David has always been someone of utmost principle. He resigned from the Law Faculty in 1992 when he considered the University had acted in an unprincipled way. For the next decade David was a consultant researcher for the Crown Forest Rental Trust preparing reports and evidence for several seminal Waitangi Tribunal claims, where he could indulge his dual passions for legal history and Treaty justice. David’s two-volume work on the Māori Land Legislation Manual (and Database) in 1994 and 1995 remains a classic reference for historic claims. David also went back to Oxford and achieved a Diploma in Theology.

David’s return to academia in 2001 was universally welcomed and he was promoted to a full professor in 2005. His world leadership in legal history was recognised in 2017 when he was the first New Zealander made a Fellow of the American Society for Legal History.

**The citations described him as “a true son of New Zealand,” a scholar who has waved the flag of New Zealand legal history magisterially, placing it squarely on the map of Australasian scholarship, demonstrating its significance and centrality through robust research and an absorbing story-telling capacity that never loses sight of the humanity of the participants.”**

David is, of course, also a splendid teacher and mentor. Throughout our time at Auckland we both taught the first year Legal System, later Law and Society, taking pride in its strong Tiriti and tikanga content. David also inspired generations of legal historians as undergraduates or doctoral students. His contributions and the anecdotes will remain long after his retirement.

**In November 2018 David was elected as Fellow of the Royal Society of New Zealand Te Apārangi, a significant distinction and recognition of his work and standing.**

Jane Kelsey

# Anastasia Telesetsky

Anastasia Telesetsky joined the Faculty of Law in July 2017. Regrettably, she left the Faculty in August 2018 to return to Idaho, United States to help care for her parents. Although her time in the Faculty has been brief, Anastasia will be missed.

Anastasia has been involved in a diverse range of teaching activities and courses within the Faculty. Anastasia was co-director of the Legal Research and Writing course (Law 298). She taught Conflicts of Law in both 2017 and 2018. She delivered a Masters course on Food Law in 2018. At the same time, she was involved in teaching a foundational Masters course called the Legal System: Sources, Structure and Method with Ed Willis. Anastasia’s contributions are even more remarkable given her primary research areas relate to ecological restoration, law of the sea and food security.

Through her teaching, Anastasia has proved to be a passionate and caring educator. She will be greatly missed by our students.

Anastasia has also contributed a great deal to the Faculty’s research environment. Anastasia has been involved in drafting numerous journal articles, book chapters and editing others’ work. Anastasia has travelled to conferences overseas in a number of jurisdictions including, Australia, the United States, England, China and Malaysia.

Lastly, Anastasia has proved herself to be a wonderful colleague – generous, caring, and kind. She always presented a warm and friendly face, and brought enthusiasm to work every day. We wish her all the best on her return to Idaho (and, perhaps, look forward to her return back to the Faculty in Auckland one day). Noho ora mai. Ka kite anō Anastasia!

Nikki Chamberlain and Rob Batty

## Craig Elliffe wins New Zealand Law Foundation International Research Fellowship

Professor Craig Elliffe has been awarded the country's premier legal research grant, the New Zealand Law Foundation International Research Fellowship - Te Karahipi Rangahau ā Taiao.

The award, worth up to \$125,000, is for his research project entitled Taxing the Digital Economy. It will examine tax problems created by the digital economy, and propose solutions to this complex international challenge.

The Fellowship will enable Craig's research in New Zealand and overseas to evaluate other countries' plans for dealing with the issue.

Craig says that despite the phenomenal growth of e-commerce in New Zealand and world-wide, many multinationals pay little tax in countries where they do business. And many consider that major multinational companies like Google, Facebook and Airbnb operate in New Zealand without paying a fair amount of tax.

A recent European Union report estimates that the average digitalised business pays an effective tax rate of 9.5 per cent, much lower than other forms of business operated by multinationals.

"There is widespread concern from governments and the public about the low level of income tax paid by companies operating in the digital economy," he says. "Digital economy companies can transact with customers primarily using the internet, without any taxable presence in the country concerned."

---

"My project examines the tax problems created by the digital economy in order to evaluate international strategies to address the issue and suggest potential solutions from a New Zealand perspective," Craig says.

---

## EXCITING NEW OPPORTUNITIES FOR EARLY CAREER ACADEMICS

When it comes to getting a job in the law, most graduates look at law firms, in-house counsel roles, or government. For those students who are interested in academia, the path is not always clear.

To remove the mystery that surrounds the academic job market and to encourage our best graduates to consider an academic career, the Faculty is introducing Graduate and Post-Doctoral Fellowships as well as growing the number of Doctoral Fellowships already on offer.

The *Graduate Fellowships* will provide a “taster” of an academic career to recent LLB graduates from around New Zealand for one or two semesters. Fellows will be recent graduates who want to explore what an academic career entails before committing to further postgraduate study such as an LLM, which is required for a permanent academic position, or a PhD, which in some law schools has become a de facto requirement within specific legal fields. These Fellowships would also be compatible with enrolment in the LLM. Graduate Fellows will support teaching at the Faculty through a variety of roles to suit their experience, and would be supported in developing their own academic research portfolio.

The additional *Doctoral Fellowships* would provide PhD students with teaching experience and research support to bolster their academic CVs for when they start looking for a permanent academic job. The additional funding of the fellowship may also enable good candidates to take on doctoral studies where this would not be viable on a doctoral scholarship only.

The *Post-Doctoral Fellowships* will provide recent PhD graduates with an opportunity to consolidate their doctoral research, develop their teaching portfolio, and help launch the next phase in their academic career. Such opportunities exist overseas, but this is the first time they will be offered in Auckland. These positions will help attract high calibre candidates from around the world, and will contribute to the Faculty’s vibrant intellectual community and international profile.

These Fellowships will be advertised in 2019, with the first fellows taking up their positions in 2020.

## Law School staff dominate Legal Research Foundation awards

Staff from Auckland Law School were recently honoured with the top prizes in three out of the four categories in the annual Legal Research Foundation Awards.

These awards have particular importance to academics as they are an external validation of quality and impact in legal writing. **Associate Professor Chris Noonan** won the JF Northey Memorial Book Award, for his book *Competition Law in New Zealand*. The award with a prize of \$2,000 is given to the best legal book published in 2017 by a New Zealand-based author or authors.

Chris is Associate Professor and Associate Dean Postgraduate International in the Faculty of Law. He teaches and researches on competition and company law and international trade regulation. He has published a number of articles in these areas and has a particular interest in international competition law. Chris also acted as an adviser to a number of international organisations and governments on trade matters.



Associate Professor Chris Noonan



Associate Professor Scott Optican

Commenting on *Competition Law in New Zealand*, the adjudicators said “This is a thorough and comprehensive exposition not only of law and practice in the field of competition jurisprudence but also of underlying economic theory. The work demonstrates high-quality legal research and analysis of statute and case law in New Zealand, Australia, the USA and other jurisdictions. Written in a clear and readable style, it is likely to be most useful to lawyers specialising in the field but will also be of value to the judiciary, corporate advisers, academics and students. Overall it makes a very valuable contribution to this discrete but important area of the law.”

**Associate Professor Scott Optican** won the Sir Ian Barker Published Article Award for *Wilson, Kumar and Wichman: An Examination, Analysis and Discussion of Undercover Police Scenario Cases in the Supreme Court*. This award, which carries a prize of \$1,500, is given for the best article published by a New Zealand-based author in 2017.

Scott specialises in evidence, criminal procedure, and comparative criminal procedure, and has written widely on criminal justice and policing issues arising under the New Zealand Bill of Rights. He is also a co-author of *The New Zealand Bill of Rights* (Oxford University Press: 2003), the first comprehensive treatise on the protection of rights and freedoms under the New Zealand Bill of Rights Act 1990.

The adjudicators commented “This year, 30 published articles were submitted for review by the anonymous judge for the Sir Ian Barker Published Writing Award. In choosing a shortlist, and in determining a winner, the anonymous judge used three principal criteria. The first was the ease with which the article could be read and understood. The second was whether it dealt with a topic that would be valuable to other academics, practitioners and judges. The third, and the most important when weighting the various entrants, was the quality and practical utility of the legal analysis.”

**Tracey Whare** received the Unpublished Postgraduate Paper Award for *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.

Tracey is currently teaching Legal Research, Writing and Communication and Contemporary Tiriti/Treaty Issues at the Law School. She is also tutoring Legal Foundations as well as Criminal Law. Her research focuses on indigenous peoples' rights and international law, Māori and treaty rights.

The adjudicators said “This was an excellent paper, very well researched, beautifully written on an important original topic.”



Tracey Whare

In addition to the winners above, Auckland Law School staff were well represented in the shortlisting for all the categories. To be included in the shortlist alone is a significant achievement as the number of competing submissions is very large. Our academics recognised in this way included:

- 'Collisions in the Digital Paradigm, Law and Rule Making in the Internet Age' David Harvey (Bloomsbury)
- *This Realm of New Zealand, The Sovereign, The Governor-General, The Crown* Alison Quentin-Baxter and Janet McLean (Auckland University Press)
- 'Interrogating 'Absolute Discretion': Are NZ's Parliament and Courts Compromising the Rule of Law?' Hanna Wilberg
- 'Using New Zealand Trusts to Escape Other Countries' Taxes' Michael Littlewood

---

### Maggie Zhang



## The Future of Class Actions Symposium

The Symposium in March 2018 provided a forum for international and local class action and litigation funding academics, members of the judiciary and practitioners to discuss the future of class actions and litigation funding in New Zealand.

---

**It is an advantageous time to discuss class action and litigation funding reform options. The law relating to class actions and litigation funding in New Zealand is significantly under-developed when compared with other jurisdictions.**

---

Indeed, the New Zealand Law Commission has been commissioned to conduct a review of the law relating to class actions and litigation funding. The Commission attended the Symposium and presented draft terms of reference to attendees for comment.

The organiser of the Symposium, Nikki Chamberlain, Lecturer at the Faculty of Law, stated that the University was fortunate to host leading experts from the United States, Australia and the United Kingdom. International speakers included Professor Brian Fitzpatrick from Vanderbilt University Law School (US), Professor Vicki Waye from University of South Australia Law School (AUS), Dr. Malcolm Stewart (Litigation Funding Consultant) and Professor Rob Merkin QC, University of Exeter (UK).

The sold-out event included attendance by The Hon Sir Douglas White QC, President, Law Commission, six members of the judiciary (including current and past representatives from the Rules Committee), seven Queen's Counsel, various representatives from the Ministry of Justice, the Financial Markets Authority, and practitioners from various law firms in addition to insurers and litigation funders.

The Symposium and related events were a tremendous success, Sir Douglas White noting "the contributions of the panellists and speakers were all first class and will be extremely useful to the Law Commission as we settle our terms of reference with the Ministry of Justice and start to prepare our Issues Paper."

All papers presented at the Symposium, including an empirical study into class actions in New Zealand, will be published in a Special Edition of the *New Zealand Business Law Quarterly* due out mid-year. Please feel free to contact Nikki Chamberlain or Associate Professor Chris Nicoll on [c.nicoll@auckland.ac.nz](mailto:c.nicoll@auckland.ac.nz) for further information. The University would like to thank its sponsors, the New Zealand Law Foundation and Bell Gully, for their support.



# Major Land Law Conference at the Law School

The Law School hosted a major Land Law conference “New Horizons for Torrens: Current reforms, emerging issues” on 29-31 August 2018.

The Conference was organised by Professor David Grinlinton of the Law Faculty, and Associate Professor Rod Thomas of the AUT Law School. It was supported by the New Zealand Law Foundation, Buddle Findlay, Thomson Reuters, the New Zealand Law Society, the Auckland District Law Society, and AUT University Law School.

The focus of the Conference was an important one. Effective and secure land title systems are fundamental to most economic systems, as land provides the primary form of security for mortgage loans and development financing. One of the issues examined was the shift in the public policy balance under the new LTA 2017, from the hitherto rigid principle of immediate indefeasibility, to a more discretionary approach that allows a wrongly dispossessed owner to apply to the Court for relief on the grounds that it would be manifestly unjust for the subsequent registered proprietor to retain title. While this will provide a more equitable outcome for some people who have lost their title through no fault of their own, it arguably creates greater

uncertainty for subsequent registered owners who may have their title overturned even in the absence of fault by them.

Papers presented at the Conference examined not only current land issues affecting New Zealand practitioners, but also international trends that are likely to become key issues in New Zealand. The various systems of automation of land title registration and dealings in Australia, England, Scotland, Canada and the Netherlands were examined in papers and the pros and cons of each system discussed in a panel discussion on the second day of the Conference. A notable contribution by Professor Sjef Van Erp from the Netherlands covered Big Data, blockchain technology and the privatisation of public registers, and offered some glimpses of future developments in automation and transactional innovations to be prepared for.

Keynote speakers included Professor Martin Dixon, Head of the Department of Land Economy and Director of the Property Law Centre at the University of Cambridge; Rt Hon Sir Peter Blanchard, former Judge of the Supreme Court of New Zealand; retired High Court of Australia Justice William Gummow

(paper delivered by Associate Professor Fiona Burns of Sydney University); Professor Nick Hopkins, Law Commissioner for England and Wales; Professor Sharon Christensen, Gadens Professor in Property Law at the Law Faculty, Queensland University of Technology; Professor Kenneth Reid, University of Edinburgh; Mr Jeffrey Lim, Director of the Ontario Land Registry; and Mr Robbie Muir, the Registrar-General of Lands for New Zealand. Other speakers included Professor Liz Toomey, Professor David Grinlinton, Associate Professor Fiona Burns, Associate Professor Rod Thomas, Ben France-Hudson, Judge Layne Harvey, Dr Don McMorland, Neil Campbell QC, and practitioners Jody Foster, Tim Jones, John Greenwood, Thomas Gibbons and Jonathan Flaws.

It was a very successful conference with many leading international thinkers and decision makers in the property law field gathered in one place. It is intended that selected edited papers from the Conference will be published in a book in 2019.

---

**David Grinlinton**

# Borrin Foundation grant for Aotearoa drug courts conference

Researchers from the Auckland Law School have received a \$60,000 Michael and Suzanne Borrin Foundation grant to host a conference about the Future Directions of the Alcohol and Other Drug Treatment (AODT) Courts Te Whare Whakapiki Wairua, and therapeutic jurisprudence, in Aotearoa New Zealand.

Dr Katherine Doolin and Dr Fleur Te Aho have organised a two-day conference, assisted by Judge Ema Aitken, Auckland AODT Court and Judge Lisa Tremewan, Waitakere AODT Court, taking place in January at the University of Auckland.

The event will bring together local and international experts with policy makers, the judiciary, the legal profession, police, corrections, the health and recovery communities, AODT Courts' graduates, iwi, students and academics for informed, robust, conversations about what is needed for the successful expansion of these innovative solutions-oriented Courts within Aotearoa New Zealand.

Two adult AODT Courts have been operating in Auckland and Waitākere since 2012. They are based on an extensively evaluated United States model, which has been enhanced to reflect our country and its people.

Following the initial pilot, the Minister of Justice the Hon. Andrew Little has stated his hope to roll out AODT Courts through Aotearoa New Zealand. Now is a critical time to reflect on the shape, scope and operation of these Courts.

Topics to be explored during the conference include:

- the origins and evidence base of the AODT Court model;
- the innovations of the AODT Courts in Aotearoa New Zealand, including the role of the Pou Oranga (the AODT Courts' tikanga cultural adviser and recovery role model) and engagement of peer support 'alongsiders';
- whether the current AODT Court model fulfils its therapeutic and restorative potential, including by appropriately responding to the specific needs of Māori, Pasifika, women, and families; and
- how the AODT Court model should be shaped going forward in order to remain robust and responsive to the communities it is designed to serve, including to better support the recovery and re-integration of participants who have completed the AODT Court programme.

The Michael and Suzanne Borrin Foundation is a new philanthropic organisation that was created through a generous \$38 million bequest from the late Judge Ian Borrin. The Borrin Foundation supports legal research, education, and scholarship that will have a significant and enduring impact on the lives of New Zealanders. Visit [www.borrinfoundation.nz](http://www.borrinfoundation.nz)

**Dr Katherine Doolin**, Senior Lecturer in the Faculty of Law at the University of Auckland, teaches and researches in criminal law, criminal justice, and youth justice, and has a particular expertise in restorative justice.

**Dr Fleur Te Aho** (Ngāti Mutunga), Lecturer in the Faculty of Law at the University of Auckland, teaches and researches in criminal law and Indigenous peoples' rights law.

## Borrin Foundation Grant for an Indigenous Peoples' Rights Impact Programme

Claire Charters and Natalie Coates have been awarded a Borrin grant for the Aotearoa New Zealand Centre for Indigenous Peoples and the Law to establish an Indigenous Peoples' Rights Impact Programme. This will include providing input into law reform that impacts Māori and Māori rights; providing students with opportunities to work with selected law firms, barristers and community law centres so as to advocate for Māori and to work for Māori at the community level; and enabling academic staff and students to provide expert advice and advocacy support in relevant test cases.

# Aotearoa AODTC Conference 2019

## Future Directions of Aotearoa's Alcohol and Other Drug Treatment Courts - Te Whare Whakapiki Wairua



Auckland, New Zealand  
24 - 25 January 2019



(Standing from back to front, left to right): Hans Lindahl, Justice Joseph Williams, Jean-Philippe Deranty, David Lefkowitz, Heikki Ikäheimo, Michael Giudice, Māmari Stephens, Kirsty Gover, Nicole Roughan

(Seated from left to right): Katherine Sanders, Anaru Erueti, Claire Charters

# Launch of NZ Centre for Legal Theory

The Auckland Law School has established the New Zealand Centre for Legal Theory. The initiative, which brings together scholars from across the Faculty working with a range of approaches to legal theory, will be officially launched in 2019 by Professor David Dyzenhaus of the University of Toronto.

Beginning in 2019, the New Zealand Centre for Legal Theory will host an annual Colloquium in Legal Theory, featuring leading international scholars presenting contemporary work in legal theory and engaging with the work of members of Faculty. The inaugural cohort of speakers will include Benedict Kingsbury (NYU), Sylvie Delacroix (Birmingham), Ariel Porat (Tel Aviv), and others. Other formal activities of the Centre will include seminars by international and local scholars, including new and emerging voices, and workshops hosted by our members in conjunction with their ongoing individual and collaborative research.

The Centre's first event was a two-day workshop on Law and Recognition: persons, institutions, and plurality. The project is a collaboration between Nicole Roughan from the University of Auckland, and Hans Lindahl from Tilburg University. The workshop brought together leading international and New Zealand scholars whose work draws attention to the role of recognition in legal theory. Contributors, including senior judges and a number of scholars from Auckland law school, and explored topics including law's recognition of personhood, the significance of interpersonal recognition in legal institutions, and recognition of tikanga by state law. A follow up event will be held in partnership with Queen Mary University next year, with the final papers to be collected in a co-edited book.

The Centre's members include members of Faculty who have expertise in theories of public law and private law, indigenous or international law, in general jurisprudence or its sub-fields, in the intersections of legal and political or moral philosophy, law and social theory, law and economics, law and history, or other interdisciplinary studies.

To find out more about the Centre visit [www.law.auckland.ac.nz/NZCLT](http://www.law.auckland.ac.nz/NZCLT)



# Human Rights Law Centre

The New Zealand Centre for Human Rights Law, Policy and Practice (the Centre) has focused, during 2018, on research, connecting students with human rights projects and engaging with current human rights issues.

The year began with a busy summer. For the first time students enrolled for LawGenrl 405 or 447. These papers require students to undertake pro bono community-based work for 75 or 150 and then complete reflective reports on what they have experienced and learned.

Increasing numbers in 2017 and 2018 have been requesting the Centre to connect them with human rights projects. Over the summer two students reviewed New Zealand law on compensation for victims of human trafficking. Their work assisted an Indonesian lawyer who is working to strengthen Indonesian support for victims.

Throughout the year a range of absorbing projects were completed – one on protecting human rights in the gig economy raised significant questions about the vulnerability of people who, for example, drive for Uber, and the inadequacy of current provision designed for more traditional work. Two barristers whose cases often involve serious, complex human rights issues have provided internships for students as has the Auckland Asylum-Seekers Trust.

Students have also worked with the Centre's Research Fellow Sylvia Bell. Sylvia has been leading a Law Foundation funded project on the impact of Interveners in cases with a human rights dimension. As part of the project the Centre hosted a public panel with visiting distinguished Canadian legal scholar Prof Elizabeth Sheehy and

New Zealand lawyers Frances Joychild QC and the Human Rights Commission's John Hancock on 22 March to discuss whether Interveners have made a difference.

Sylvia, an expert, amongst other things, on human rights and mental health law involved students, including Equal Justice members, in developing a submission to the Mental Health Inquiry. The Equal Justice contribution dealt with the relationship between social media and mental health and the legal provisions in other jurisdictions.

The highlight of the summer was the Symposium held in February on the draft terms of reference issued by the Government for a Royal Commission on Historic Cases of Abuse in State Care. For over two years the Centre has been working for justice for people abused as children, young people and vulnerable adults in partnership with the Law School's Dr Anaru Erueti and the Aotearoa New Zealand Centre for Indigenous Peoples, Dr Elizabeth Stanley (Associate Professor in Criminology, Victoria University of Wellington) and lawyer Sonja Cooper.

The symposium brought together survivors, activists, professionals working in the area, academics, community leaders and others committed to justice for those who have been abused. Sir Anand Satyanand, then recently appointed to Chair the Royal Commission, attended throughout.

The impact of the Symposium and the subsequent work undertaken by the partnership can be seen in the terms of reference finally announced on 19 November. They closely reflect the detailed recommendations that came out of

the Symposium. Dr Anaru Erueti, also a member of the Centre's Advisory Board, was appointed that day as a member of the Royal Commission.

The work continues with the Centre now focused on monitoring the performance of the Royal Commission. In collaboration with the Centre, out of home care survivors and others, Auckland University's political scientist Dr Stephen Winter, is leading the development of an online Royal Commission website.

A new collaboration this year with Associate Professor Treasa Dunworth has resulted in a \$12,000 scholarship for New Zealand students providing an internship at the United Nations Institute for Disarmament Research in Geneva.

Early in the new year the Centre welcomed Visiting Scholar Dr Robyn Linde from Rhode Island College whose research includes the impact of non-governmental organisations on the development of international human rights standards. The Centre was able to connect her with Amnesty International Aotearoa New Zealand and the Prostitutes Collective.

Access to justice underpins much of the Centre's work. Thanks to curator Erin Griffey and photographer Nigel Swinn, stunning, challenging portraits of **Teina Pora** (pictured) and others from an exhibition to mark the 800th anniversary of the Magna Carta, now hang permanently on level 7 in the Short Street Building.

**Teina Pora was a victim of one of the most disturbing miscarriages of justice in our time. The Centre organised an event to mark the arrival of the portraits and bless their placement where four of the Law School's Centres have their home. The portraits can be viewed by visiting the building between 9am and 5pm.**

The Centre is still very much in development. Three new members were appointed to the Advisory Board this year. They are Barrister Deborah Manning, Bell Gully partner Jesse Wilson and Dr Anaru Erueti. They join Professor Ron Paterson, chairperson, Professor Paul Rishworth, Barrister Andrew Butler, Justice Lyn Stevens, Barrister Adam Ross and New Zealand Super Fund Legal counsel Sarah Owen.

## FACULTY AWARD RECOGNISES GROUND-BREAKING RESEARCH

Congratulations to Senior Lecturer Dr Jane Norton, who has received the Faculty of Law's Early Career Research Excellence Award in recognition of her ground-breaking research in the area of public law and legal theory.

Jane joined the Auckland Law School from the United Kingdom where she completed her doctorate at Balliol College, Oxford as a Clarendon Scholar and was then a lecturer at Birmingham Law School. Prior to living in Oxford she was an Associate-in-Law at Columbia Law School on a Fulbright Scholarship and a litigator in a large New York commercial law firm.

She has published a number of articles and in 2016 she published a monograph entitled *Freedom of Religious Organisations* (Oxford University Press). This work has had significant impact both domestically and internationally.

The book was the joint winner of the 2017 JF Northey Memorial Book Award for the best law book published by a New Zealand-based author in 2016. The adjudicators described this as a "scrupulous work of scholarship, which ... elucidates the extent to which religious organisations are free to order their own affairs and to govern their memberships and members".

*Freedom of Religious Organisations* has since been cited in argument in the Supreme Court of Canada.

In 2017 the Australian Society of Legal Philosophers held a symposium around this book as part of their annual conference. Commentaries and Jane's reply are being published in a special collection of the *Australian Journal of Legal Philosophy*.

With respect to research leadership, Jane has developed successful research networks in both Melbourne and Oxford. She has co-authored articles with academics at both institutions and organised visits to the Auckland Law School by leading international academics.

Jessica Fenton. The winner of the inaugural Bernard Brown Literary Award



## Inaugural winner of Bernard Brown prize

The law school is delighted to announce the inaugural recipient of the Bernard Brown Literary Award: Jessica Fenton. Jessica's poem (printed here) was one of 15 entries on a law-related theme judged by a panel of seven judges (including Bernard himself). Ming Cheong and Soo-Myoung Jang were highly commended. The award is for the best creative writing in English or Te Reo on any aspects of law or custom or their literary, philosophical or political underpinnings submitted by an Auckland law student. Jessica's winning entry addresses timely and important issues related to both the practice and study of law in a skilful and moving way.

The Bernard Brown Literary Award was founded by friends of Bernard Brown (including members of the law faculty, the profession, and the judiciary) in order to encourage creative writing amongst Auckland law students. Bernie has long been a supporter (and creator) of law-themed creative writing. For many decades he has held poetry evenings at the law school and shown an active interest in the writing of law students.

Bernie is one of the law school's best-loved members of staff. You'd be hard pressed to find someone who hasn't had a chat with Bernie (or shared a tippie with him at Old Government House) at some point in their life. Bernie has given 56 years of service to the law school (and counting) lecturing many generations of law students criminal law and helping to make the law school a less isolating place by providing a refuge for the poetically-inclined amongst staff and students. In addition to his talent in both law and literature, Bernie is known for his kindness and humanity.

Since 1972 Bernie has published seven books of verse and stories including *Unspeakable Practices*, *Fearing the Kynge* and *Sensible Sinning* which Owen Scott edited and broadcast for Radio NZ. His latest book of poetry – *Cocktails with Molotov* – has just been published this year. Bernie was recently made President of Honour by the New Zealand Society of Authors (PEN NZ Inc) – a position awarded to a writer in recognition of their services to the literary community.

The Bernard Brown Literary Award honours Bernie's contribution to the law school, and the literature community more broadly, by fostering the creative writing of future generations of law students.

Thanks to the generosity of law school staff, alumni, and friends of Bernie, we are half way towards our target of endowing the award so that it can continue in perpetuity. If you would like to donate to the award, please follow the link here: <https://www.giving.auckland.ac.nz/en/FundPages/bernard-brown-prize-in-law-and-literature-.html>

If you have any queries about the award or would like to attend the annual law school poetry evening, email Jane Norton.

---

**Jane Calderwood Norton**

## Jessica Fenton's winning poem

It turns out studying law involves  
A lot more numbers than I expected.

Girl, 11, man, 52,  
Woman, 21, boyfriend, 23,

12 stab wounds,  
5 bullets  
1 in 10, 1 in 5, 1 in 3.

I know a lot more numbers than I expected to  
I know the broken bodies of countless women off by heart  
I have to

In our lecture theatres we reduce them down to textbook references  
To rules of law  
To legal statistics

Ans some days, I wonder what future man might make a statistic out of me.  
Which boy will write my bones into a B-grade essay  
How they will turn my trauma into a teachable moment.

Some days I sit in class and count the number of women in the lecture theatre  
Wonder for how many of them this is less lesson and more resurrection

Some days I sit at home and count the names of every woman I love  
My mother, my sister, my grandma, my cousins, my aunts, my best friends,

And I know I have too many names on my list  
And I know the numbers  
And I know the numbers

And god, and god, don't we know the numbers

**Ethel**

*It was only yesterday that I was asked to undertake this pleasant task, and while deeply sensible to the compliment paid to me, I was somewhat diffident about taking so much upon myself at so short a notice. But I knew that little would be expected of me and even if I succeeded in talking nonsense, the charitable verdict would be, 'Oh well, it is all that can be expected of a woman.'*

- From the official reply made by Ethel Benjamin, first female lawyer in New Zealand, at her graduation in 1897

Later, Virginia Woolf would say  
*you can lock up your libraries  
but you cannot lock up my mind*  
and I wonder if that was how you felt  
representing the lost children, the battered wives.  
How you felt standing in front of that hall during graduation,  
in your admission photo among the swathes of men.  
Did you have friends in class?  
Or did they pass you in the hall with sniggers?  
I wonder if you paid them no mind,  
relying not on family connections and gender privilege  
but diligence and a dose of faith.  
I wonder if it was not the bar  
shutting you out of their dinners  
that irked you, nor the limiting of library hours,  
nor the *Men Only* written on every face,  
but the restrictions on your advertising;  
the forcing you to deal your trade  
like some illicit art.  
I wonder if it was worth it in the end,  
if you realised your life of restlessness:  
The trailblazer who cleared the path  
but never reached the treasure.  
Has much changed, Ethel?  
You sparked a revolution we are yet to win;  
still forcing the law to face its own injustice,  
still fighting for safety, recognition, respect —  
but where you had no pioneers to look to,  
we at least have your name emblazoned  
on the history books; your legacy  
etched into time.

**Anuja Mitra**

**Not a "bar" of it**

I really hate to say goodbye, as  
I tried my best to legislate our life.  
Let's put to bed  
the law and me. We only  
fused procedurally...

To articulate my broken heart,  
I'll reframe this with a term of art:  
"It isn't you, it's me."  
You see,  
I accept all liability for omitting

to balance the probabilities.  
Observing retroactively.  
I was far too clingy –  
too *emotional* –  
to ever see things rationally.

While I could read you like a book,  
my moods changed like the Chancellor's foot.  
A relationship's a compromise!  
If only I'd compartmentalised.

In (admittedly) my tangential way,  
I guess what I am trying to say:  
If our ship cannot sail, I'll  
love me first; my values will  
always prevail.

Because you are the law  
and we weren't meant to be;  
at the end of the day, I was your equity.

**Samantha Mayer**

# Law School initiative to promote understanding of Equity

A Substantive Equality Month was celebrated at the Law School with a series of events for staff, students and the public. This was an initiative of Associate Professor Hanna Wilberg in her role as Associate Dean Equity. She noted the Law School's particular responsibility to build awareness and understanding, and that a commitment to equality calls for policies and practices aimed at levelling the playing field and at addressing historical and entrenched inequalities.

The Month opened with a thought-provoking public lecture by Dame Susan Devoy, who was the country's Race Relations Commissioner from 2013 to 2018, having just stepped down from the role. Under the title 'Equality in Aotearoa? Reflections of the Race Relations Commissioner', Dame Susan shared her concerns over the lack of

voice for the most marginalised such as Muslims and refugees; the lack of understanding of Treaty partnership; and the entrenched association between socio-economic disadvantage and minority race. In her experience, advocating for equality was too often still a lonely place to be. On the other hand, her "Give Nothing to Racism" campaign provided an opportunity to begin courageous conversations, with many New Zealanders sharing their stories and their aspirations for the country they want to live in.

The theme of socio-economic inequality and its intersection with race as well as gender was carried further by the next public event, a panel discussion on the topic of Equality for some: the challenge of poverty in Aotearoa New Zealand. This was kindly hosted by the New Zealand Law Society at the Law School's request. It featured

presentations by well-known economist Susan St John, who works with advocacy groups such as the Child Poverty Action Group; Dr Shiloh Groot, whose research at the University brings a Māori perspective to the multifaceted issues surrounding homelessness; Harry Fatu Toleafoa, who works with Mangere Pasifika communities in his position at the Community Law Centre there; and Max Rashbrooke, who has written or edited several books on the increasing gap in wealth and incomes in New Zealand. The Panel contributions are due to be published online shortly.

Alongside the public events, the Month offered several more in-depth training workshops for Law School staff and students respectively. Workshop topics included Affirmative Action; Unconscious Bias; and inclusiveness for LGBTIQ and especially Trans students. The student group Women in Law



From left to right: Associate Professor Hanna Wilberg, Dr Fleur Te Aho and Associate Professor Treasa Dunworth

## FACULTY NEWS



From left to right: Valmaine Toki, Janet McLean and Professor Julia Tolmie

is to be congratulated on a range of further events for students. These ranged from a book launch for *Feminist Judgements of Aotearoa* (featuring several Law School professors), to workshops on activism and advocacy run by groups such as Shakti and RAW (Reclaim Another Woman), as well as by Green MP Chloe Swarbrick and senior barrister Marie Dyhrberg QC. Regular messaging for students for the duration of the Month also included “Did you know” e-screens prepared by Women in Law to showcase the achievements of notable women, Māori and Pasifika New Zealanders.

Aside from Women in Law, the Associate Dean (Equity) Hanna Wilberg was assisted by the Faculty’s Equity Group, Te Tai Haruru and FOLAU Pasifika; especially Anna Hood, Treasa Dunworth, Dylan Asafo, Natalie Coates, Fleur Te Aho, Amokura Kawharu and Claire Charters, alongside professional staff especially Hayley Nicholson, Sandra Shaw and Ana Samoylova.



Max Rashbrooke, Susan St John, Harry Fatu Toleafoa & Shiloh Groot

# Professional Staff Retreat: “Diversity and Inclusion”

The September mid-semester break saw most of Law’s professional staff take time out from their day-to-day working lives to participate in a two-day retreat. The theme “Diversity and Inclusion”, consisted of a programme of reflective, interactive and experiential learning and activities.

### Day One

Day One commenced with a moving karanga/call of welcome from the facilitator, whaea Chellie Spiller, an Associate Professor from the School of Business and Economics. After opening the day’s workshop with a mihi and karakia, and sharing her whakapapa with the group, whaea Chellie explained that, with support from her team of kaumātua, staff would be introduced to how tikanga Māori and its relationship-based values can help us as individuals and as a group create a culture of inclusion. We were challenged to consider integrating Māori values in a meaningful way, rather than as an add-on, to help build relational trust and wellbeing and create a shared sense of belonging, qualities which sit at the heart of diversity and inclusion.

In small groups, we answered the question “Ko Wai Au?” by sharing with each other our own whakapapa, a new and enriching interpersonal experience for most. We reflected on and discussed some of the relationship-based values within te ao Māori which underpin everyday interactions, such as whanaungatanga, wairuatanga, kotahitanga, and manaakitanga. We were then taken through a Powerpoint journey of some of the flora and fauna within Aotearoa, considered important for one’s wellbeing and survival within te ao Māori, both in the past and present. The activities which followed throughout the rest of the day relied heavily on one’s creative, musical and rhythmical talents - a challenge for most of us! We were taught how to

---

**“The experience I had at the workshop was memorable and meaningful. As a new staff member who was two weeks in the role, this retreat provided me with a great opportunity to get to know the team, and more importantly, a deeper understanding of the culture and what shaped New Zealand as such a diverse nation.”**

---

**Maggie Zhang**  
Comms and Marketing



weave a rope using harakeke/flax, which were later put through the tug-of-war test at the end. Surprisingly, none of the ropes disintegrated! After lunch, we were then presented with perhaps our biggest challenge for the day, to learn and perform a haka and waiata. While for most of us the thought of learning and performing these was daunting, it was very humbling to find out that the haka and waiata had been specially written and choreographed for us. Of course, this provided us with greater motivation to do our best in performing these. Overall, the activities were great learning and enjoyable experiences, and for most of us articulating one's whakapapa and haka were first-time experiences. Along with the experiences and learnings from the day, we felt very honoured to have come away from the workshop gifted with our own haka and waiata.

The whole day's activities deepened our understanding and appreciation of tikanga Māori and its relationship-based values, and strengthened relationships between teams at an interpersonal level, therefore successfully achieving, through the group's collective diversity and sense of inclusion, a greater sense of belonging.

**“It was a tiring but a rewarding day, and a great opportunity to put our teamwork and problem-solving skills to the test.”**

**Sarah Davidson**  
Group Services

### Day Two

Day Two started with a mystery bus tour leaving the Law School and travelling through the back streets of Kohimarama and Glen Innes, and ending at Glen Taylor Primary School. Completely unaware of what lay ahead or the purpose of our day, we were welcomed onto the school with a beautiful powhiri by the school's kapa haka group, its kaumātua and Principal. We were highly impressed with their beautiful and strong singing and kapa haka performances. It turned out one of their favourite songs was *Purea Nei* as well. We were led by our own local kaumātua who was the main speaker, and Matua Raymond, who represented the professional staff and briefly conveyed in te reo Māori our gratitude to the Principal, kaumātua, teachers, and students for honouring us in the way they did. After supporting our speakers with waiata, we then acknowledged the school through a modest koha of cash and six washing baskets fully laden with groceries.

After a quick morning tea hosted by the school's head prefect and Principal, it was down to business with Team up Events. Our challenge for the day was to cook enough meatballs and spaghetti, and salads, for 100 children and 20 staff, all to be cooked and ready to serve within one and a half hours. The pressure was on with a lot of chopping, slicing, rolling and arm flapping going on! It was frantic but organised chaos with people rushing around grabbing pots, pans, utensils and scrambling for the necessary ingredients. The logistics team kept losing their lunch tables to the cooking teams but thanks to a small band of helpers who preferred setting up for

lunch than reading quietly in the school library we were able to set up the hall for a sit-down lunch, and in time. It was impressive to see the extent of the creative culinary talents quickly come to the fore, as well as the gentle bossy (but necessary) qualities, given the mammoth task and time constraints. Not everyone can be a master chef!

When noon arrived there was a long queue of students and staff waiting outside the dining room door. Meanwhile, those on the gas cookers outside were still rushing back and forth to the kitchen with their meatballs and spaghetti, while the salad makers continued chopping and slicing furiously. Our executive chefs, Suranjika and Christina, despite the frenzy looked calm throughout always offering words of encouragement to their kitchen hands, while remaining vigilant about the quality and readiness of the food. The meatballs couldn't have been too bad as many of the kids came back for seconds, and even thirds. After refuelling ourselves with the leftovers, and thanking the children and staff for sharing the day with us, we wrapped up the eventful day by inviting everyone to stand and join in another round of *Purea Nei*, this time led by the Law School. The kids and teachers headed back to class and after the final clean up, it was a very quiet bus trip back to work along the Tamaki waterfront but while we all felt physically exhausted there was a sense of satisfaction amongst the group to have been able to be of service to others and give back to a local community.



## Research highlights

The Law Faculty has had another excellent year of research achievements and outputs in 2018.



Chris Noonan and Craig Elliffe at the launch for their new books

Members of the Faculty, individually and collectively, have won highly competitive research awards and grants; the writing achievements of academic staff have been recognised with various awards; and staff have again represented the Faculty well at both national and international conferences and symposia.

Congratulations to Jane Norton who was awarded a University of Auckland Early Career Research Excellence Award in 2018 for her research in the area of public law and legal theory.

Claire Charters has been awarded a prestigious Rutherford Discovery Fellowship to take effect in 2018 and running to 2023, entitled "Constitutional Transformation to Accommodate Māori in Aotearoa/New Zealand: Lessons from around the world". The project is to investigate the ways indigenous peoples' rights are constitutionally recognised in other jurisdictions, with the aim of informing possible reform in New Zealand. Nicole Roughan has also been awarded a Rutherford Discovery Fellowship, again to take effect in 2018-2022, for a research project "Jurisprudence Without Borders: A Pluralist Theory of Law".

Katherine Doolin and Clare Te Aho were successful with a substantial Borrin Foundation Award to host a major international conference in January 2019 on the future directions of

the alcohol and drug treatment courts, and therapeutic jurisprudence. Claire Charters and Natalie Coates have also been awarded a Borrin Foundation grant for the Aotearoa New Zealand Centre for Indigenous Peoples and the Law to establish an indigenous peoples' rights impact programme.

Jane Kelsey was awarded a Faculty Research Development Fund grant for her project "Reconciling the International Convention for the Protection of New Varieties of Plants 1991 and Te Tiriti o Waitangi under the Trans-Pacific Partnership". Anna Hood and An Hertogen were also awarded a Faculty Research Development Fund grant towards a project to evaluate how international law works within New Zealand's legal system, and to examine New Zealand's interaction with, and contribution to, international law. Nicole Roughan was also awarded an FRDF grant to assist with hosting an international workshop as part of an inter-disciplinary project on Law and Recognition. The Conference held 10-11 September 2018 was a great success bringing together leading scholars representing a range of approaches in jurisprudence, philosophy, and political theory.

A number of colleagues have also been successful in receiving New Zealand Law Foundation Grants for conferences, symposia and workshops held in 2018. Helena Kaho received NZLF funding for a

conference on 'Pacific Law and Constitutionalism' held on 12-14 February 2018. Andrew Eruiti received funding for a workshop on 'Public Inquiry into Children in State Care' in Wellington on 14-15 February 2018. Nikki Chamberlain received funding for a symposium on the 'Future of Class Actions' held in Auckland on 13-15 March 2018, and David Grinlinton received funding for a major land law conference 'New Horizons for Torrens: Current Reforms, Emerging Issues' held in Auckland on 29-31 August 2018. All of these events are aimed at fostering and producing important legal research, and in many cases major publications in the form of articles and books will provide tangible research outcomes.

In addition to the various research awards and funding successes, the Faculty also enjoyed success in the annual Legal Research Foundation Awards, winning three out of the four top awards. Associate Professor Chris Noonan won the J F Northey Memorial Book Award for *Competition Law in New Zealand* (Thomson Reuters, Wellington, 2017). Associate Professor Scott Optican won the Sir Ian Barker Published Article Award for "Wilson, Kumar and Wichman: An Examination, Analysis and Discussion of Undercover Police Scenario Cases in the Supreme Court" (2017) 3 NZLR 399. Finally, Kaiwhakaako and Teaching Fellow Tracey Whare won the Unpublished Postgraduate Paper Award for a paper written as part of her LLM entitled "Why meetings matter to indigenous peoples' decision-making in international fora". Other Auckland law staff whose writing was shortlisted from a very large collection of submitted works included Michael Littlewood, Hanna Willberg, David Harvey, and Janet McLean.

As the following list of publications demonstrates, all staff have continued to contribute to the extensive legal research and writing output of the Faculty.

---

**Prof. Peter Devonshire**  
Associate Dean (Research)  
(until 30 June 2018)

---

**Prof. David Grinlinton**  
Associate Dean (Research)  
(from 1 July 2018)

# 2017 Research Publications

## Books 2017 – Authored and Edited

**Fairweather, K., Barker, K., Degeling, S. & Grantham, R. (Eds.).** (2017). *Private Law and Power*. London: Bloomsbury Publishing. Pages: 320.

**Fairweather, K., Barker, K. & Grantham, R. (Eds.).** (2017). *Private Law in the 21st Century*. London: Bloomsbury Publishing. Pages: 624.

**Fairweather, K., O'Shea, P. & Grantham, R. (Eds.).** (2017). *Credit, Consumers and the Law: After the global storm*. London: Routledge. Pages: 262.

**Roughan, N. & Halpin, A. (Eds.).** (2017). *In Pursuit of Pluralist Jurisprudence*. Cambridge: Cambridge University Press. Pages: 376.

**Tobin, R. & Harvey, D.** (2017). *New Zealand Media and Entertainment Law*. Wellington: Thomson Reuters. Pages: 554.

## Book Chapters 2017

**Bell, S.** (2017). Dignity and Disability. In E. Sieh & J. McGregor (Eds.). *Human Dignity: Establishing Worth and Seeking Solutions* (pp. 37-52). London: Palgrave MacMillan.

**Fairweather, K.** (2017). Redressing Inequality in Personal Credit Transactions: 1700-1974. In K. Barker, S. Degeling, K. Fairweather & R. Grantham (Eds.). *Private Law and Power* (pp. 53-82). Oxford: Hart Publishing.

**Fairweather, K.** (2017). Apples and Oranges? Responsible Mortgage Lending in the UK and Australia. In P. O'Shea, K. Fairweather & R. Grantham (Eds.). *Credit, Consumers and the Law: After the Global Storm* (pp. 153-182). New York: Routledge.

**Fairweather, K. O'Shea, P. & Grantham R.** (2017). Consumer Law: Paternalism, Fragmentation and Centralized Enforcement. In K. Fairweather, P. O'Shea and R. Grantham, *Credit, Consumers and the Law: After the Global Storm* (pp. 3-16). Abingdon, Routledge.

**Havelock, R.A. & Thorn, A.J.** (2017). New Zealand. In S. Friel & J. Barnes (Eds.). *Litigation Funding 2018* (2nd Edition) (pp. 51-55). London: Law Business Research.

**Kelsey, J.** (2017). The Crisis of Legitimacy in International Investment Agreements and Investor-State Dispute Settlement. In R. Ekins and G. Gee (Eds.). *Judicial Power and the Left* (pp. 97-105). Oxford: Policy Exchange.

**Kuhner, T.** (2017). Plutocracy and Partyocracy. In A.C. Martínez & J.P. Sole (Eds.). *Preventing Corruption and Promoting Good Government and Public Integrity*. Brussels, Bruylant.

**McLean, J.M.** (2017). The Unwritten Constitution. In G. Jacobsohn & M. Schor (Eds.). *Comparative Constitutional Theory*. Cheltenham, Edward Elgar.

**Rishworth, P.T.** (2017). Human Rights in the Common Law Tradition. In M. Beggood, K. Gledhill & I. McIntosh (Eds.). *International human rights law in Aotearoa New Zealand* (pp. 61-98). Wellington: Thomson Reuters.

**Roughan, N.** (2017). Sources and the Normativity of International Law: From Validity to Justification. In S. Besson & J. d'Aspremont (Eds.). *The Oxford handbook on the sources of international law* (pp. 680-700). Oxford: Oxford University Press.

**Roughan, N.C. & Halpin, N.** (2017). Introduction. In N. Roughan & A. Halpin (Eds.). *In Pursuit of Pluralist Jurisprudence* (pp. 1-19). Cambridge: Cambridge University Press.

**Roughan, N. & Halpin, A.** (2017). The Promises and Pursuits of Pluralist Jurisprudence. In N. Roughan & A. Halpin (Eds.). *In Pursuit of Pluralist Jurisprudence* (pp. 326-366). Cambridge: Cambridge University Press.

**Sumpter, P.** (2017). New Zealand. In C. Thorne (Ed.). *International Design Protection: A global handbook* (pp. 195-204). Woking: Globe Law and Business Ltd.

**Swain, W.** (2017). Power, History and the Law of Contract in Eighteenth Century England. In K. Barker, S. Degeling, K. Fairweather & R. Grantham (Eds.). *Private Law and Power* (pp. 31-51). London: Bloomsbury.

**Swain, W.** (2017). 'The Steaming Lungs of a Pigeon': Predicting the Direction of Australian Contract Law in the Next 25 Years. In K. Barker, K. Fairweather & R. Grantham (Eds.). *Private Law in the 21st Century* (pp. 89-104). London: Bloomsbury.

**Watts, P.G.** (2017). Some Aspects of the Intersection of the Law of Agency with the Law of Trusts. In P.S. Davies & J. Penner (Eds.). *Equity, Trusts and Commerce* (pp. 29-50). Oxford: Hart Publishing.

**Whare, T.** (2017). The World Conference on Indigenous Peoples 2014. In A. Erueti (Ed.). *International Indigenous Rights in Aotearoa: New Zealand* (pp. 175-190). Wellington: Victoria University Press.

## Journals – Research Articles 2017

**Charters, C. & Whare, T.** (2017). Shaky foundations: The fundamental flaw at the heart of a "model" treaty involving New Zealand and the Indigenous Māori community. *World Policy Journal*, 34(4), 11-14.

**Cogliati Bantz, V.** (2017). Chronique: Les transports maritimes et le milieu marin. *Annuaire du droit de la mer*, 22.

**Elliffe, C.M. & Barrow, J.** (2017). The use of foreign court decisions in New Zealand. *Taxation Today*, 4-7.

**Grinlinton, D.P.** (2017). The use of biodiversity offsets in mining and energy development: A view from 'down under'. *Environmental Law Review*, 19(4), 244-265.

**Havelock, R.** (2017). Judicial discretion in private law – a commentary. *Otago Law Review*, 14(2), 285-295.

**Hertogen, A.** (2017). NZME/Fairfax: Did the Commerce Commission knock the stuffing out of the public benefit test? *New Zealand Universities Law Review*, 27(4B), 1162-1184.

**Hood, A. & Cormier, M.** (2017). Australia's reliance on US extended nuclear deterrence and international law. *Journal of International Law and International Relations*, 13(2), 3-47.

**Houghton, J. & Ansell, K.** (2017). A brief history of the Review. *Auckland University Law Review*, 23, 50-90.

**Ip, J.C.** (2017). The legality of 'suspicionless' stop and search powers under the European convention on human rights. *Human Rights Law Review*, 17(3), 523-544.

**Kawharu, A.** (2017). Motatau. *Journal of Maori and Indigenous Issues*, 5, 116-120.

**Kawharu, A.** (2017). Punctuated equilibrium: The potential role of FTA trade commissions in the evolution of international investment law. *Journal of International Economic Law*, 20(1), 87-113.

**Kawharu, A. & Nottage, L.** (2017). Models for investment treaties in the Asia-Pacific region: An underview. *Arizona Journal of International and Comparative Law*, 34(3), 461-528.

**Kuhner, T.** (2017). American kleptocracy: How to categorise Trump and his government. *King's Law Journal*, 28(2), 201-238.

**Kuhner, T.** (2017). The market metaphor, radicalized: How a capitalist theology trumped democracy. *Election Law Journal: Rules, Politics, and Policy*, 16(1), 96-131.

**Kuhner, T.** (2017). The next American revolution. *Western New England Law Review*, 39(4), 477-498.

**Leonetti, C.** (2017). Abracadabra, hocus pocus, same song, different chorus: The newest iteration of the "science" of lie detection. *Richmond Journal of Law and Technology*, 24, 1.

**Leonetti, C.** (2017). Agent narc is not your client: Reflections on the proper understanding of the relationship between prosecutors and investigating agencies. *Hastings Constitutional Law Quarterly*, 44, 115.

**Leonetti, C.** (2017). De facto mandatory: A quantitative assessment of reasonableness review after Booker. *DePaul Law Review*, 66, 51.

**Leonetti, C.** (2017). Smoking guns: The Supreme Court's willingness to lower procedural barriers to merits review in cases involving egregious racial bias in the criminal justice system. *Marquette Law Review*, 101, 205, condensed version published online at *Harvard Civil Rights Civil Liberties Law Review*. (Amicus Blog) (Spring 2017).

**Rishworth, P.T. & Geiringer C.** (2017). Magna Carta's legacy: Ideas of liberty and due process in the New Zealand Bill of Rights Act. *New Zealand Law Review*, (4), 597-634.

**Rishworth, P., Knott, A. & Russo C.J.** (2017). Compliance with regulatory demands relating to notification of abuse of students: Perspectives from the USA, Queensland and New Zealand. *International Journal of Law & Education*, 21, 23-43.

**Roberts, M.** (2017). Variation contracts in Australia and New Zealand: Whither consideration? *Oxford University Commonwealth Law Journal*, 17(2), 238-264.

**Te Aho, F.** (2017). Indigenous peoples' rights under international law 2016. *New Zealand Yearbook of International Law*, 14, 242-253.

**Tolmie, J.R.** (2017). Coercive control: To criminalise or not to criminalise. *Criminology and Criminal Justice*, 18(1), 50-66.

**Watts, P.G.** (2017). The insolvency of agents. *Law Quarterly Review*, 133, 11-14.

**Watts, P.G.** (2017). Actual authority: The requirement for an agent honestly to believe that an exercise of power is in the principal's interests. *Journal of Business Law*, (4), 269-281.

**Watts, P.G.** (2017). Lucky escapes. *Law Quarterly Review*, 133, 542-546.

**Watts, P.G.** (2017). 'The acts and states of knowledge of agents as factors in principals' restitutionary liability'. *Lloyd's Maritime and Commercial Law Quarterly*, 385-411.

**Watson, S., Noonan, C., Erakovic, L., Cikaliuk, M. & Jackson, B.** (2017). Board of directors and stakeholders: Building bridges of understanding. *New Zealand Business Law Quarterly*, 23(3), 202-215.

**Willis, E. & Blair, A.** (2017). Reprieve for statutory reference to the rule of law. *New Zealand Law Journal*, (2), 44-45.

# 2018 Research Publications

## Books 2018 – Authored and Edited

**Bosselmann, K., Westra, L., Gray, J. & Gwiazdon, K. (Eds.).** (2018). *Ecological Integrity, Law and Governance*. Routledge. Pages: 246.

**Elliffe, C.M.** (2018) *International and Cross-Border Taxation in New Zealand* (2nd Edition). Wellington: Thomson Reuters. Pages: 948.

**Kuhner, T.K., Mazo, E.D. (Eds.).** (2018) *Democracy by the People: Reforming Campaign Finance in the United States*. Cambridge: Cambridge University Press. Pages: 487.

**Optican, S. & MacDonald, E. (Eds.)** (2018). *Mahoney on Evidence: Act & Analysis*. Wellington: Thomson Reuters. Pages: 1020.

**Paterson, R.** (2018) *Warrant of Fitness: An Independent Review of the Veterans' Support Act 2014*. Wellington: New Zealand Defence Force. Pages: 135.

**Penk, S. & Russell, M.R.** (2018). *New Zealand Law: Foundations and Method* (2nd Edition). Thomson Reuters. Pages: 669.

**Salmon, P.M. & Grinlinton, D.P. (Eds.)** (2018). *Environmental Law in New Zealand* (2nd Edition). Wellington: Thomson Reuters. Pages: 1,207.

**Sumpter, P.C.** (2018). *Trade Marks in Practice* (4th Edition). Wellington: LexisNexis. Pages: 400.

## Book Chapters 2018

**Bosselmann, K.** (2018). Conclusion: The Ever-Increasing importance of Ecological Integrity in International and National Law. In L. Westra, K. Bosselmann, J. Gray & K. Gwiazdon (Eds.). *Ecological Integrity, Law and Governance* (pp. 225-233). Abingdon: Routledge.

**Bosselmann, K.** (2018). Foreword. In U. Tandon et. al. (Eds.). *Biodiversity: Law, Policy and Governance* (pp. 1-3). Abingdon: Routledge.

**Bosselmann, K.** (2018). Reclaiming the Global Commons: Towards Earth Trusteeship. In B. Martin, L. Te Aho, & M. Humphries-Kil (Eds.). *ResponsAbility: Law and Governance for Living Well with the Earth*. Abingdon: Routledge.

**Bosselmann, K.** (2018). Sustainability and the Law. In P. Salmon & D. Grinlinton (Eds.). *Environmental Law in New Zealand* (2nd Edition) (pp. 75-106). Wellington: Thomson Reuters.

**Bosselmann, K. & Lakshmanan, P.K.** (2018). The Atmosphere as a Global Commons and Cleansing it with New Energy Options. In U. Tandon (Ed.). *Energy Law and Policy* (pp. 3-28). New Delhi: Oxford University Press.

**Bosselmann, K. & Westra, L.** (2018). Introduction: The Development of Global Ecological Integrity Group's Research and Future Aims. In K. Bosselmann, L. Westra, J. Gray, J. & K. Gwiazdon (Eds.). *Ecological Integrity, Law and Governance* (pp. 1-3). Abingdon: Routledge.

**Charters, C.W.** (2018). Indigenous Peoples' Rights to Lands, Territories and Resources in the United Nations Declaration on the Rights of Indigenous Peoples. In J. Hohmann & M. Weller (Eds.). *The UN Declaration on the Rights of Indigenous Peoples: A Commentary*. Oxford: Oxford University Press.

**Charters, C.W.** (2018). Maori and Human Rights. In J. Ruru & J. Williams (Eds.). *Te Akinga: Maori and the Law Treatise*. Wellington: Brookers.

**Coates, N.R.** (2018). Future Contexts for Treaty Interpretation. In Mark Hickford and Carwyn Jones (Eds.). *Indigenous Peoples and the State: International Perspectives on the Treaty of Waitangi* (pp. 166-186). Routledge.

**Elliffe, C.M.** (2018). New Zealand: "Tax Credits on CFC Income". In E.E.C.C.M. Kemmeren, D.S. Smit, P. Essers, M. Lang, J. Owens, P. Pistone, . . . A. Storck (Eds.). *Tax Treaty Case Law around the Globe 2018*. Netherlands: IBFD.

**Grinlinton, D.P.** (2018). Defining the Nature and Boundaries of Environmental Law. In P. Salmon, & D. P. Grinlinton (Eds.), *Environmental Law in New Zealand* (2nd Edition) (pp. 1-24). Wellington: Thomson Reuters.

**Grinlinton, D.P.** (2018). The Context of Environmental Law. In P. Salmon, & D. Grinlinton (Eds.), *Environmental Law in New Zealand* (2nd Edition) (pp. 25-74). Wellington: Thomson Reuters.

- Grinlinton, D.P.** (2018). Sustainability in New Zealand Environmental Law and Policy. In P. Salmon, & D. Grinlinton (Eds.), *Environmental law in New Zealand* (2nd Edition) (pp. 107-141). Wellington: Thomson Reuters.
- Grinlinton, D.P.** (2018). The Role of the Common Law. In P. Salmon, & D. Grinlinton (Eds.), *Environmental Law in New Zealand* (2nd Edition) (pp. 143-208). Wellington: Thomson Reuters.
- Kawharu, A. & Nottage, L.** (2018). Foreign Investment Regulation and Treaty Practice in New Zealand and Australia: Getting it Together in the Asia-Pacific? In J. Chaisse & L. Nottage (Eds.), *International Investment Treaties and Arbitration Across Asia* (pp. 445-485). Leiden: Brill Nijhoff.
- Kuhner, T.** (2018). The Third Coming of American Plutocracy: What Campaign Finance Reformers are Up Against. In T.K. Kuhner & E.D. Mazo (Eds.), *Democracy by the People: Reforming Campaign Finance in the United States*. Cambridge: Cambridge University Press.
- Te Aho, F.** (2018). Aotearoa (New Zealand). In P. Jacquelin-Anderson *The Indigenous World 2018* (pp. 233-239). Copenhagen: International Work Group for Indigenous Affairs.
- Te Aho, F.T. & Erueti, A.** (2018). Using UN Documents in Domestic Advocacy. In S. Katene & R. Taonui (Eds.), *Conversations About Indigenous Rights: The UN Declaration on the Rights of Indigenous Peoples in Aotearoa New Zealand* (pp. 105-127). Auckland: Massey University Press.
- Tolmie, J.R.** (2018). Considering Victim Safety When Sentencing Intimate Partner Violence Offenders. In K. Fitz-Gibbon, S. Walklate, J. Maher & J. McCulloch (Eds.), *Intimate Partner Violence, Risk and Security: Securing Women's Lives in a Global World* (pp. 199-215). Abingdon: Routledge.
- Tolmie, J.R.** (2018). New Zealand. In A. Reed, M. Bohlander (Eds.), *Homicide in Criminal Law: A Research Companion* (pp. 264-283). Routledge.
- Watson, S.M.** (2018). Corporate Governance in New Zealand. In J.J. Du Plessis & A. Hargovan (Eds.), *Principles of Contemporary Corporate Governance* (pp. 268-281). Melbourne: Cambridge University Press.
- Whare, T.** (2018). A Review of International Developments since the Adoption of the United Nations Declaration on the Rights of Indigenous Peoples. In S. Katene & R. Taonui (Eds.), *Conversations About Indigenous Rights, the UN Declaration on the Rights of Indigenous Peoples* (p. 183-192) Massey: Massey University Press.
- Wilberg, H.** (2018). Interpretive Presumptions assessed against Legislators' Understanding. In M. Elliott, J. Varuhas & S. Wilson Stark (Eds.), *The Unity of Public Law? Doctrinal, Theoretical and Comparative Perspectives* (pp. 193-217). Oxford: Hart Publishing.
- Williams, D.V. & Shore, C.** (2018). Deliberative or Performative? Constitutional Reform Proposals and the Politics of Public Engagement. In R. Levy, H. Kong, G. Orr & J. King (Eds.), *The Cambridge Handbook of Deliberative Constitutionalism* (pp. 337-350). Cambridge: Cambridge University Press.
- Williams, D.V.** (2018). Originalism and the Constitutional Canon of Aotearoa New Zealand. In M. Hickford & C. Jones (Eds.), *Indigenous Peoples and the State International Perspectives on the Treaty of Waitangi* (pp. 57-74). Abingdon: Routledge.

---

## Journals – Research Articles 2018

**Batty, R.** (2018). Loss of property ownership and registered trade mark law. *Australian Intellectual Property Journal*, 28(4), 118-143.

**Bosselmann, K. & Schrödter, M.** (2018). Die robbenklage im lichte der nachhaltigkeit. *Zeitschrift für Umweltrecht*, 4, 195-204.

**Elliffe, C.M.** (2018). Interpreting international tax agreements: Alsatia in New Zealand? *New Zealand Universities Law Review*, 3.

**Grinlinton, D.P.** (2018). Opportunities for sustainable energy in conflict zones: The role of international organisations and military forces. *IUCN Academy of Environmental Law eJournal*, 9, 23-54.

**Havelock, R.** (2018). Some fallacies concerning the law of contract interpretation: A reply to Professor McLauchlan. *Lloyd's Maritime and Commercial Law Quarterly*, (1), 40-46.

**Hood, A.** (2018). Considering the future of legal education in New Zealand. *New Zealand Universities Law Review*, 28(1), 85.

**Hood, A.** (2018) Reflections on the perpetual cycle of discrimination, harassment and assault suffered by New Zealand's women lawyers over 122 years. *New Zealand Women's Law Journal*, 2.

**Hood, A.** (2018). International law and security 2017. *New Zealand Yearbook of International Law*.

**Houghton, J.** (2018). The Land Transfer Act 2017. *Auckland University Law Review*, 24.

**Kelsey, J.** (2018). The development implications of TPP-style e-commerce rules for the GATS acquis. *Journal of International Economic Law*, 1-25.

**Khouri, N.** (2018). Mediation. *NZ Law Review*, 101-129.

**Leonetti, C.** (2018). A hailstorm of uncertainty: The constitutional quandary of cell-site simulators. *University of Cincinnati Law Review*, 85, 665.

**Leonetti, C.** (2018). A new solution to an old problem: Limited use immunity as a better alternative to Miranda's procedural safeguards. *Federal Courts Law Review*, 10, 127.

**Littlewood, M.** (2018). What would a capital gains tax look like? *New Zealand Law Journal*, 6, 179-181.

**Manning, J.M.** (2018). Q: Can a court or patient demand treatment? A: Yeah but no. *Journal of Law and Medicine*, 25(3), 626-33.

**Manning, J.M., Tincknell, L., O'Callaghan, A. & Malpas, P.** (2018). Deathbed confession: When a dying patient confesses to murder - clinical, ethical and legal implications. *Journal of Clinical Ethics*, 29(3), 179-184.

**McLean, J.** (2018). The many faces of the Crown and the implications for the future of the New Zealand constitution. *The Round Table: The Commonwealth Journal of Constitutional Affairs*, 107(4), 475-482.

**Noonan, C.** (2018). Mediating between public and private enforcement in multi-jurisdiction settings. *The University of Queensland Law Journal*, 37(1), 25-40.

**Noonan, C., Watson, S. Cikaluk, M., Erakovic, L., & Jackson, B.** (2018). Board leadership and governance for clear-sighted CEO succession at Air New Zealand. *Journal of Management and Organization*, online 15 June, pp.24.

**Norton, J.C.** (2018). Controversial charities and public benefit. *New Zealand Law Journal*, (2), 64-68.



**Norton, J.C.** (2018). Freedom of religious organizations: A Reply. *Australian Journal of Legal Philosophy*, 42, 296-308.

**Roberts, M.** (2018) Nav Canada: A review after a decade of uncertainty. *Canadian Business Law Journal*, 60, 201-233.

**Rosen, A.** (2018). Law as an interactive kind: On the concept and the nature of law. *Canadian Journal of Law and Jurisprudence*, 31(1), 125-149.

**Roughan, N.** (2018). The official point of view and the official claim to authority. *Oxford Journal of Legal Studies*, 38(2), 191-216.

**Roughan, N. & Halpin, A.** (2018). A response to commentators. *Transnational Legal Theory*, 8(4), 415-423.

**Sanders, K.** (2018). 'Beyond human ownership?' Property, power and legal personality for nature in Aotearoa New Zealand. *Journal of Environmental Law*, 30(1), 207-234.

**Swain, W.** (2018). Echoes of the past: The 1975 EEC referendum forty years on. *Cardozo Law Review*, 39(3), 947-966.

**Tolmie, J.R.** (2018). Social entrapment: A realistic understanding of the criminal offending of primary victims of intimate partner violence. *New Zealand Law Review*, 2, 181-218.

**Watson, S.M.** (2018). The corporate legal person. *Journal of Corporate Law Studies*.

**Watson, S.M.** (2018). Corporate law and governance. *New Zealand Law Review*, 275-314.

**Watson, S.M.** (2018). The corporate legal entity as a fund. *Journal of Business Law*, (6), 467-484.

**Watts, P.G.** (2018). Recouping liquidation costs through litigation against directors—a dubious practice. *Company and Securities Law Bulletin*, 1-4.

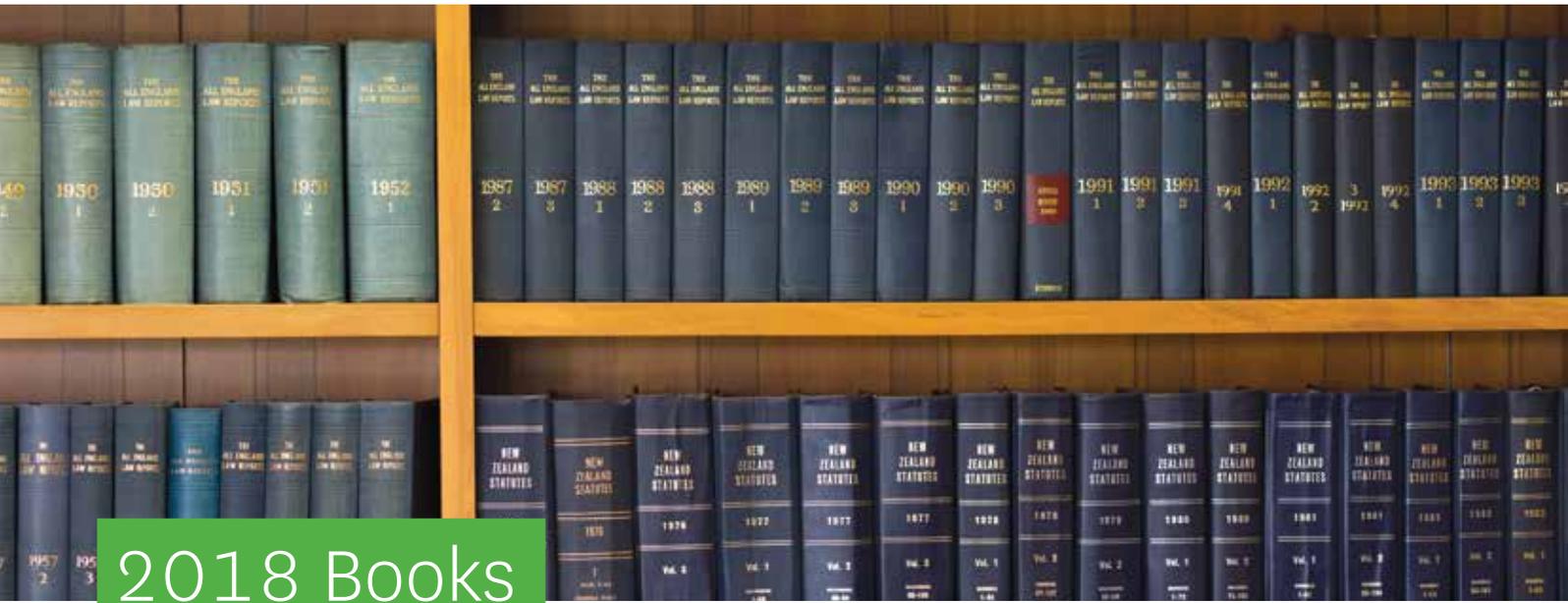
**Watts, P.G.** (2018). Attribution and limitation. *Law Quarterly Review*, 134(3), 350-354.

**Watts, P.G.** (2018). Relying on the register of company directors when contracting with companies. *Company and Securities Law Bulletin*, 35-37.

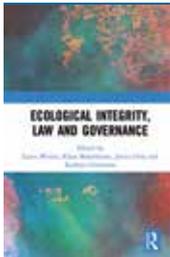
**Wilberg, H.** (2018). Comment on *Hawke's Bay Regional Investment Co Ltd v Royal Forest and Bird Protection Society of NZ* [2017] NZSC 106, [2017] 1 NZLR 1041, for International Survey. *Public Law*, 359-360.

**Williams, D.V.** (2018). From loyal dominion to new republic: Which realm will get there first? *Round Table*, 107(4), 507-522.

**Williams, D.V. Shore, C. & Raudon, S.** (2018). Introduction: The Crown and constitutional reform. *The Round Table: The Commonwealth Journal of International Affairs*, 107(4), 397-400.



## 2018 Books



**Edited by Laura Westra, Klaus Bosselmann, Janice Gary and Kathryn Gwiazdon**  
*Ecological Integrity, Law and Governance.*

Ecological integrity is concerned with protecting the planet in a holistic way and based on science, ethics and law. The duty of states to preserve the integrity of Earth’s ecological systems has been introduced directly and indirectly in several legal regimes and is referred to in more than 25 international environmental agreements including the 2015 Paris Agreement on Climate Change and the 2017 Draft Global Pact on the Environment.

This book celebrates the 25th anniversary of the Global Ecological Integrity Group (GEIG) which was instrumental in developing and promoting the concept of ecological integrity. GEIG is a global network of more than 250 scholars from diverse disciplines, including ecology, philosophy, epidemiology, public health, ecological economics, and international law. It reviews the role of ecological integrity across a number of fields through interdisciplinary engagement on matters affecting and governing the sustainability of life for both present and future generations.



**Edited by Eugene D. Mazo and Timothy K. Kuhner**  
*Democracy by the People: Reforming Campaign Finance in America*

Thanks to a series of recent US Supreme Court decisions, corporations can now spend unlimited sums to influence elections, Super PACs and dark money groups are flourishing, and wealthy individuals and special interests increasingly dominate American politics. Despite the overwhelming support of Americans to fix this broken system, serious efforts at reform have languished. Campaign finance is a highly intricate and complex area of the law, and the current system favors the incumbent politicians who oversee it. This illuminating book takes these hard realities as a starting point and offers realistic solutions to reform campaign finance. With contributions from more than a dozen leading scholars of election law, it should be read by anyone interested in reclaiming the promise of American democracy.



**Stephen Penk and Mary-Rose Russell**  
*New Zealand Law: Foundations and Method, 2nd Edition*

The foundation of legal study in New Zealand is an understanding of legal method – how the law is made and applied. *New Zealand Law: Foundations and Method* (2nd edition) provides a new level of learning that will arm students in their first year of law with the skills and understanding to guide them through legal study and into a successful career.

Previously published as the *New Zealand Legal Method Handbook*, the new edition has been renamed to reflect the introduction of content on legal foundations as well as thoroughly revised discussion of the principles of legal method, through a mixture of expanded work and new topics.

The book is separated into 8 parts and contains 23 chapters which introduce and develop the concepts covered in legal foundations and method papers, including: introductions to international and comparative law, tikanga Māori, relationship between common/civil law systems and public/private law; and the structure of government and the sources of law; case law and the hierarchy of courts; judicial reasoning and the doctrine of precedent; statute law and statutory interpretation; the interaction between case law and statute law; and legal language and legal writing.



**Craig Elliffe**  
*International and Cross-Border Taxation in New Zealand, 2nd Edition*

Written by international tax law specialist Professor Craig Elliffe, *International and Cross-Border Taxation in New Zealand* is a major commentary on New Zealand's international tax law and double taxation agreements and transfer pricing regime.

The book is designed to provide readers with an understanding of the legal principles and concepts which underpin international tax law and cross-border transactions and with practical guidance designed to assist them to navigate their way through this complex topic.

This second edition includes significant new commentary covering:

- Changes that will be introduced as a result of the Taxation (Neutralising Base Erosion and Profit Shifting) Bill;
- A new chapter dealing with hybrid and branch mismatches;
- Changes to the taxation of interest income (NRWT and AIL regimes), including non-resident withholding tax rules in respect of related parties, back-to-back and similar arrangements, and more;
- The introduction of the bright-line test and how it relates to DTAs;
- The John Shewan Government Inquiry into Foreign Trust Disclosure Rules report as a result of the Panama Papers;
- Changes to the DTA network through the multilateral instrument.



**Elisabeth McDonald and Scott Optican**  
*Mahoney on Evidence: Act & Analysis*

Since its initial publication in 2007, *The Evidence Act 2006: Act and Analysis* has been the leading and authoritative New Zealand text on the Act. Cited extensively in judicial decisions and academic writing, its section-by-section commentary — with extensive cross-referencing — blends description, analysis and critique in a wide-ranging explanation of the Act, its underlying principles and its individual provisions.

This new and expanded version of the book — now entitled *Mahoney on Evidence: Act and Analysis* in honour of retired former author Professor Richard Mahoney — continues to build on its reputation as an indispensable resource for academics, practitioners, researchers, policymakers and law students alike. The text provides an updated examination of the Evidence Act and a thorough treatment of noteworthy court decisions (past and present) from the New Zealand Supreme Court, Court of Appeal and High Court. The book also discusses the 2016 amendments to the Act, and the New Zealand Law Commission's 2018 Issues Paper, released in preparation for the Act's second 5-year review.

*Mahoney on Evidence: Act and Analysis* is written by a new and expanded team of New Zealand's foremost Evidence Law academics and practitioners. They bring their unique perspectives to this latest volume, which provides an inestimable treatment, both scholarly and practical, of the Law of Evidence in New Zealand today.



**Peter Salmon and David Grinlinton**  
*Environmental Law in New Zealand, 2nd Edition*

Environmental law is a rapidly evolving field of legal study, research and litigation. New Zealand has an international reputation as an innovative jurisdiction in this area. Measures such as the Resource Management Act 1991, which incorporates the principle of sustainability in its planning and natural resource management laws and policies, and recent legislation that bestows legal rights and personality on natural objects such as the Whanganui River and Te Urewera National Park are examples.

The second edition of *Environmental Law in New Zealand* incorporates important changes to statute law, including amendments to the RMA 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, the Conservation Act 1987 and the Public Works Act 1981. The text also includes detailed analysis of the Courts' application of the Supreme Court's decision in *Environmental Defence Society v New Zealand King Salmon*, and other recent decisions on important environmental and natural resource issues.

The book contains contributions from a broad range of experts, and is intended to serve as an authoritative reference for lawyers, the judiciary, law students and members of the general public who wish to gain insights into and an understanding of the rich tapestry that is environmental law in New Zealand.



**Paul Sumpter**  
*Trade Marks in Practice, 4th Edition*

"Trade Marks in Practice" is the first and only text in New Zealand that exclusively covers New Zealand trade mark law. Written for the busy practitioner, this 4th edition is an accessible guide to the Trade Marks Act 2002, with easy to follow section-by-section commentary and updated case law.



## Sir Geoffrey Palmer calls for bold overhaul of 'unjust and discriminatory' ACC

Former Prime Minister, Sir Geoffrey Palmer used this year's Sir Owen Woodhouse Memorial Lecture to call for a bold and visionary overhaul of New Zealand's accident compensation system.

Speaking at the University of Auckland in September, Sir Geoffrey said there should be a single unified system not only for people incapacitated by accidents but also those incapacitated by sickness or otherwise disabled. A unified system was Sir Owen's intention when the Woodhouse Report was released in 1967, he said.

Only about half the report's "bold, almost revolutionary recommendations" went on to be included in the 1972 Act that established the first version of the accident compensation system we have today, said Sir Geoffrey.

While the current scheme has certainly improved the plight of accident victims compared with what was available at common law, there have been persistent criticisms of ACC in recent years about how the lines are drawn, and how medical issues are assessed.

"In the past few years, the decisions of ACC have become more restrictive, similar to liability insurance not social insurance, and less people oriented. At its inception, the scheme created two classes: those who are injured who are treated more generously than those who are sick or otherwise disabled. The Woodhouse Report made clear the recommended scheme was to be a temporary order of things. Until the discrimination the present scheme creates is removed, social justice will not have been achieved," says Sir Geoffrey.

Someone "laid low by cancer, a heart attack or stroke" is treated much less generously than someone suffering an accidental injury that results in the same incapacity, he said.

Sir Geoffrey pointed to a paragraph in the Woodhouse Report that said: "Informal and simple procedure should be the key to all proceedings ... Applications should not be made to depend upon any formal type of claim, adversary techniques should not be used, and a drift to legalism avoided."

But, said Sir Geoffrey: "That aim has clearly not been achieved. Indeed, there have been constant difficulties about how to resolve disputed cases and the District Court was brought in to decide cases some years ago."

He said: "The lines of demarcation that are drawn in the current legislation are technical, difficult and sometimes unfair. The problems facing claimants are formidable. The obstacles have been deliberately increased over the years. If claimants read the statute, they would have little chance of understanding it. The legislation seems unfit for the social purpose for which it is designed.

---

**"This was a scheme to do away with the need for lawyers when claiming compensation for personal injury. Now the legislation is so intricate that lawyers are often needed."**

---



Sir Geoffrey Palmer and Dean Andrew Stockley with members of the Palmer and Woodhouse families



Sir Geoffrey said that, 50 years after the Woodhouse Report, “We do not seem to be willing to grasp the nettle and design what a rational and humane system of income support looks like. Fairness demands a policy response and one that is properly worked through. That is what the Woodhouse legacy is saying to us, if only we would listen.

---

**“The Woodhouse vision was admirable, the performance of the scheme that was adopted improved matters substantially for accident victims, but there is unfinished business. The future remains uncertain. We need now a fresh infusion of Woodhouse boldness and vision.”**

---

Sir Owen Woodhouse died in 2014, aged 97. The annual lecture in his name commemorates the life of one of New Zealand’s most distinguished judges and citizens, whose roles included President of the Court of Appeal and President of the Law Commission.



## Law Foundation's Distinguished Visiting Fellow

The Law School hosted Professor Tim McCormack during the Auckland segment of his New Zealand visit, as the Law Foundation's 2018 Distinguished Visiting Fellow.

Tim, who is the Dean of the University of Tasmania Law School and a Professorial Fellow at the Melbourne Law School, is also the Special Adviser on International Humanitarian Law to the Prosecutor of the International Criminal Court in The Hague, and a Director of World Vision Australia. He has held a number of significant appointments including as Law of War Expert Adviser to the Defence Team for David Hicks, US Military Commissions, Guantanamo Bay (2004-2007); and Amicus Curiae on International Law issues for the Trial of Slobodan Milosevic, International Criminal Tribunal for the Former Yugoslavia, The Hague (2002-2006).

His well-attended Auckland lecture was entitled Chemical Weapons and Other Atrocities: Contrasting Responses to the Syrian Crisis. He discussed how the catastrophe, now in its 8th year, has included recurring atrocities. Apart from the lethal force deployed against ISIS targets in Syria, the international community has been precluded from undertaking any substantive action against the regime – except in response to allegations of the use of chemical weapons. Tim talked about the reasons why chemical weapons provoke such outrage and have facilitated US-Russian co-operation against Syrian President Bashar Assad.

# Top Practitioners Lecture Series

The annual Top Practitioners Lecture Series provides an opportunity for current students to learn from some of the leading practitioners in the country.

Organised and introduced by Adjunct Professor Mai Chen, this year students attended talks featuring The Honourable Andrew Little, Anita Chan QC and a panel discussion with three top Asian practitioners.

## The Honourable Andrew Little

On 3 August, The Honourable Andrew Little presented in a lunchtime session to current law students. He is the Minister of Justice, for Courts, and Treaty of Waitangi Negotiations and is also the Minister responsible for the GCSB, NZSIS, and Pike River Re-entry.

After university, where he studied law and philosophy, Andrew headed the Victoria

University Students' Association and New Zealand Union of Students Associations. After graduation Andrew became a lawyer with the Engineers Union. In 2000, he was appointed EPMU national secretary and led New Zealand's largest private sector union for a decade.

Andrew entered Parliament in 2011 and was Leader of the Opposition from 2014 to 2017.



Minister of Justice Andrew Little with Dean Andrew Stockley, Professor Janet McLean, Adjunct Professor Mai Chen, Professor Paul Rishworth, and Dr Ken Palmer

## Anita Chan QC

Anita Chan presented her lunchtime seminar on 17 September. She is one of New Zealand's leading family law barristers and was appointed Queen's Counsel in 2014. Her practice is in complex property and child disputes. She is often briefed in cases involving farms, trusts, high-value assets, and complex asset structures, and cases involving international issues.

Anita is a former Vice-President, Counsel, Parliamentarian and Governor of the International Academy of Family Lawyers (IAFL). In addition, she is also a former Chair of the New Zealand Law Society Family Law Section, and the author of the New Zealand chapter of *Family Law: A Global Guide* (4th Edition) and co-author of *International Relocation of Children: A Global Guide from Practical Law* (1st Edition).

Anita also chairs FairWay Resolution Limited and is a former Director of ChildFund (New Zealand) Limited.

## Top Asian Panel

Three prominent members of the legal profession discussed their legal careers with students on 16 August.

### Arthur Loo

Arthur is the Co-founder of Loo & Koo, a practice focusing on acting for clients for whom Chinese is their first language.

### Karen Ngan

Karen is a partner in Simpson Grierson's commercial group. She co-leads both the Simpson Grierson Technology Group and Data Protection and Privacy Group. Karen advises on a wide range of commercial matters, with a particular focus on working with users and suppliers of technology products and services.

Karen has extensive experience in advising on large-scale, business critical technology projects for both public sector and private sector clients. She is also a very experienced data protection and privacy lawyer.



Anita Chan QC with Adjunct Professor Mai Chen (left) and Nikki Chamberlain (right)



From left to right: Daniel Wong, Karen Ngan, Adjunct Professor Mai Chen and Arthur Loo



### Daniel Wong

Daniel is a co-founder and Director of Flacks & Wong, a specialist corporate law firm based in Auckland. Flacks & Wong is independently recommended for Corporate and M&A in The Legal 500 Asia Pacific 2018 (one of the two principal global legal directories). Daniel is in the elite tier of leading individuals for Corporate and M&A in that same directory.

### Maggie Zhang

# Staff Seminars

This past year the law faculty has benefited from staff seminars given by academics from around the globe.

Staff seminars included:

- Yvette Russell  
(Bristol)  
'The Irrepressibility of Sexual History Evidence in Rape Cases: A Feminist Critique.'
- Richard Collins  
(University College Dublin)  
'Unpicking the "Crisis" of Authority at the Heart of Contemporary International Law.'
- David Rubenstein  
(Washburn)  
'Immigration and Blame'
- Dan Priel  
(Osgoode Hall)  
'New Questions for Jurisprudence (or, How to Teach Jurisprudence Without Mentioning Hart)'
- Krish Maharaj  
(Robson Hall/Manitoba)  
'Grounding Good Faith Obligations'
- Patrick Taylor Smith  
(National University of Singapore)  
'Just War Theory'
- Martin Kment  
(University of Augsburg, Germany)  
'Sustainability – A Key Principle without Effect?'

Jane Calderwood Norton

## LLM Visitors to the Law School in 2018

Course Name	Lecturer	Institution
Special Topic :Global Commercial Contract Law	Stefan Vogenauer	Max Planck Institute for European Legal History
International Arbitration	Anna Kirk	Barrister
Special Topic: Comparative Company Law	John Armour	Oxford University
Special Topic: Media Law in the Digital World	Rosemary Tobin	Barrister
	David Harvey	Director of the New Zealand Centre for ICT Law at the University of Auckland
Special Topic: Uncensored History of International Law	Dino Kristiosis	University of Nottingham
Selected Topic: Selected Topics in Tort Law	Stephen Todd	University of Canterbury
Corporate Finance	Joe McCahery	Tilburg University
Climate Change Law	Christina Voigt	University of Oslo
Law of Insurance Contracts	Rob Merkin	University of Exeter





Natalie Coates, Judge Caren Fox and Claire Charters

## Indigenous Peoples and the Law Centre

The Aotearoa New Zealand Centre for Indigenous Peoples and the Law has already achieved a lot during its first year. Highlights include:

- Hosting a symposium on the Supreme Court's decision in *Wakatu*. Participants included kaumatua Rore Stafford and other senior members of Wakatu Incorporation. The papers presented are being published as a special edition of the *New Zealand Law Review*.
- Māori Teaching Fellow Tracey Whare presented at the Tai Pari Wānanga in Gisborne on intellectual property issues and concerns with the commercialisation of taonga species.
- Māori Teaching Fellow Jayden Houghton and Associate Professor Claire Charters have been providing expert advice on Māori claims to matauranga 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 in Nelson with ministers and many of the nation's leaders on this kaupapa.



- Pacific Teaching Fellow Dylan Asafo is 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 Auckland has with the Expert Mechanism and the University of Manitoba.
- The Auckland Law School has established a scholarship for an Indigenous student to attend the Expert Mechanism session in New York and undertake UN training on Indigenous rights in international law and policy. As part of Auckland's partnership with the University of Arizona, a recent student has been awarded a full fees scholarship for the latter's LLM/SJD Indigenous Peoples Law and Policy programme.
- Lecturer Dr Fleur Te Aho and Associate Professor Claire Charters have completed editing the latest edition of *Te Tai Haruru* (Journal of Māori Legal Writing).
- Guest speakers at the Centre include Deputy Chief Judge of the Māori Land Court, Caren Fox; Justice Christian Whata; Justice Susan Glazebrook; Professor Val Napoleon (University of Victoria); and Professor Rob Williams, who will also be teaching an intensive LLM course on Indigenous peoples and the law in 2019.

# Olive Malienafau Nelson: a Pioneering Samoan Woman



As the news of the first Pasifika person to be elected as the President of the New Zealand Law Society flooded my Facebook and Instagram feeds, I set about posting one of many congratulatory messages to Tiana Epati on her ground-breaking election. As I did that, I remembered back to another 'first' that I had read about; another Pasifika female graduate from our law school who smashed ceilings and broke down stereotypes during a time when the profession was even more male dominated than it is today. I remembered Olive Malienafau Nelson. The following is based on an excerpt by Romeo Tevaga featured in a book about Pasifika graduates of our university launched earlier this year.

---

**Olive Virginia Malienafau Nelson was the first Samoan and Pacific graduate of the University of Auckland and one of its first female graduates.**

---

An exceptionally bright student, Olive passed her law entrance exams with distinction in 1931 and was awarded the Buttersworth Prize for the highest marks in her jurisprudence class. She graduated in 1936 with a Bachelor of Laws and was later admitted as a barrister and solicitor of the Supreme Court of New Zealand.

Born in Samoa, Olive was the daughter of prominent Samoan Swedish businessman and leader Ta'isi Olaf Nelson. Her father's political ties with the Mau movement for independence from New Zealand saw him targeted and exiled by the New Zealand administration.

During her years at university, Olive visited her father while he was in prison and assisted her father's lawyer in preparing the legal documents. Ta'isi's exile was later ended when the Labour Party won a landslide victory in the 1935 elections, bringing more positive relationships with the Mau. Olive returned to Samoa with her father and became Samoa's first female barrister and solicitor.

---

**She was not only a Samoan and Pacific pioneer, but a pioneering woman, excelling in a world predominantly mono-cultural and male.**

---

It is fitting that in 2018 as we celebrate 125 years of women's suffrage, we remember and pay tribute to Olive Malienafau Nelson - a pioneering Samoan, Pasifika and New Zealand woman.

Lotu Titi Fuli

---

Treasa Dunworth

### ‘Alu ā Helena!

We farewelled Helena Kāho in June and it was a real loss for the Faculty and for the University. Helena had joined us (from legal practice in the Cook Islands) in early 2015, returning to take up a position lecturing at the Faculty, and to lead the Pacific Academic Support Strategy (PASS) programme. In the intervening years, she brought a vision and passion to the PASS programme, was an (almost) tireless champion for our Pacific students, and re-invigorated our course offerings relating to Pacific Law, including introducing a new course ‘Pacific People in Aotearoa: Legal Peripheries’ which explored a range of issues of particular relevance to Pacific people and communities in Aotearoa New Zealand.

The course provided a platform for Helena to explore the way in which law has a disparate impact on Pacific peoples and communities in Aotearoa, due to factors such as cultural differences, and the vulnerable socio-economic position of many Pacific people. She had long been concerned that the legal dimensions of these issues are not often addressed in academic discourse and this course allowed her to work with students and explore those dimensions.

Her research, as well, focused on the Pacific and she published and presented papers on different aspects of how the law interacts with Pacific communities. A highlight was the publication of her article in the pre-eminent *New Zealand Law Review* which explores the Family Group Conference mechanism from a Tongan perspective.

Helena left us to take up a position as an employment mediator with the Ministry of Business, Innovation and Employment – their gain, our loss. We know she will bring to that job all her energy, enthusiasm, good judgment and unerring sense of fairness and justice.

---

Treasa Dunworth



From left to right: Lotu Fuli, Joseph Xulue, Fazilat Shah, Tania Sharkey, Lena Wong, Treasa Dunworth and Taviuni Leau

## Pacific Issues Moot 2018

One of the highlights in the PASS programme's calendar is the Pacific Issues Moot. This year we had 16 participants and were privileged to have four Pasifika practitioners volunteer as judges courtesy of our learned friends at the Pacific Lawyers Association ("PLA"). Our judges were Tania Sharkey (President of PLA and barrister at Friendship Chambers), Lena Wong (solicitor at Complete Legal), Fazilat Shah (barrister sole) and Joseph Xulue (solicitor at Kayes Fletcher Walker).

To ensure fairness and transparency across the judges' scores, we had four moderators led by Associate Dean (Pacific), Associate Professor Treasa Dunworth, Lotu Fuli (PASS Teaching Fellow), Angela Vaai (Student Academic and Support Adviser (Postgraduate)) and Taviuni Leau (Pacific LLM student).

The moot was held on 16 August at Law School. There were some nerves to begin with but once the participants got into the rhythm of answering the judges' questions, it was all smooth sailing from there. Also, having family and friends present helped ease some of the nerves.

The winner for this year's moot is Tallulah Scahill (Part IV student and PASS tutor) followed closely by Sharnika Leleni (Part IV and PASS Honours student) as runner-up. Our High Distinction mooters are Mosese Latu and John-Paul Foliaki. Our Distinction mooter is Jamie Hofer. The winner received \$500.00 in prize money kindly donated by PLA and the runner-up received a \$200.00 Westfield gift voucher from the PASS programme.

Overall, the judges were impressed with the calibre of the mooters and thoroughly enjoyed the whole experience. The opportunity for the participants to hear the judges' feedback and ask questions about the moot and life as a lawyer in practice was a nice way to end a successful moot.

---

**Treasa Dunworth**

## Pacific Student Conferences

On 3 May 2018, Dylan Asafo presented his LLM paper “We Are Voyagers! - Building a Pacific Critical Legal Theory and Testing the Waters with Climate Change Law and Policy” at the Institute of Global Law and Policy Conference held at Harvard Law School.

Dylan was among 200 other scholars from over 70 countries to present at the conference. The theme of the conference was “Law in Global Political Economy: Heterodoxy Now” and Dylan presented on the ‘What Role for Law in Climate Change?’ panel, sharing his critique on current climate change law and policy from a Pacific perspective.

Undergraduate students John Paul Foliaki and George Greig presented their papers at the Pacific Law and Culture Conference from 2-4 July 2018 at the University of Canterbury, Christchurch.

Both were on ‘Family, Youth and Criminal Justice’ panel, with John Paul presenting his paper ‘Are current statutory laws on the formal removal of school students disadvantageous to Pasifika?’, which argues that Pacific students are unfairly impacted by disciplinary procedures in schools and George presenting his paper ‘The Criminal Law: Harbinger of a new Cook Islands/ New Zealand relationship?’ which critiques the criminalisation of homosexuality in the Cook Islands in light of the wider constitutional issues that the Cook Islands is experiencing as a result of its relationship with New Zealand. Dylan also presented his paper A ‘New Voyage: Is it time for a Pacific Critical Legal Theory?’ and won the Best Student Paper Award sponsored by the New Zealand Law Foundation.



Wilber Tupua also represented Auckland Law School in the Conference Moot.

The PASS programme was also very fortunate to have 4 students - Irene Vano, Taviuni Leau and Jaqueline Fuimaono and Emma Takataka - be able to attend the conference to support our Auckland Law School representatives, learn from other emerging Pacific scholars from around New Zealand and the Pacific and enjoy keynote addresses from leading Pacific scholars, Justice DV Fatiaki (Justice of the Supreme Court of Vanuatu) and Teleiai Dr Lalotoa Mulitalo (Executive Director/CEO of the Samoa Law Reform Commission).

Bell Gully National Senior Mooting Competition winners and trophy.  
From left to right: Tim Fitzgerald of Bell Gully, Naushyn Janah, Yao Dong

## Mooting

The Auckland Law School has continued to excel in mooting on both the domestic and international stage this year. In 2018, the University of Auckland Mooting Society offered its largest range of competitions and events to date.

### Domestic representation

The mooting programme began this year with the Auckland Law School's most prestigious competition, the Stout Shield. The moot filled the courtroom and gallery of the historic Court Room One of the High Court, and was judged by Justice Lang, Kate Davenport QC and Jesse Wilson of Bell Gully. The Shield was won by Naushyn Janah and Jack Garden, with Naushyn also receiving the Geoffrey Powell Prize for Best Oralist in the moot. Yao Dong and Diana Qiu were the runners up.

Auckland will again represent New Zealand at the world's premier mooting competition, the Philip C Jessup International Law Moot Court Competition in 2019, after winning the Bell Gully National Senior Mooting Competition.

---

**This success means that Auckland has now won the national mooting championship in eight out of the past ten years.**

---

Naushyn Janah and Yao Dong represented the Auckland Law School in the competition. The final round took place in the Christchurch High Court, with the Auckland and Otago teams appearing before Justice William Young of the Supreme Court, Justice Nation of the Christchurch High Court (themselves past winners of the same competition) and Tim Fitzgerald of Bell Gully. Naushyn Janah and Yao Dong both also represented the Auckland Law School at the Australian Law Students Association Championship Moot in Adelaide earlier in the year.

The John Haigh QC Memorial Moot was again one of the Auckland Law School's most popular competitions of the year. The final was judged by Justice Moore, Justice Muir and Sophie East of Bell Gully and hosted at the High Court. Diana Qiu and Michael Greatrex were the winners of the competition, with Emma Littlewood and Sharnika Leleni the other finalists.

The Greg Everard Memorial Moot, one of Auckland's premier competitions open only to senior mooters, was won by Diana Qiu. The other finalists were Jae Kim, Emma Littlewood and Leon Tan. The final was also held at the High Court and presided over by the Hon Tony Randerson QC, Justice Edwards and Nick Flanagan of Meredith Connell. The judges commented on the high standard of advocacy in the competition.

## STUDENT SUCCESS

### First year law students had the opportunity to participate in their first mooting competition and cut their teeth in oral advocacy by participating in the Justice Sir Robert Chambers Memorial Moot.

The moot was judged by the formidable bench of Justice Whata, Lady Deborah Chambers QC, Robert Fisher QC and Julian Miles QC. The moot was won by Isobel Ryan and Monique Pitt, with Henry Frear and Arianna Bacic the other finalists. The moot continues to provide a valuable opportunity for first year students to develop their advocacy skills.

The Bell Gully Junior Moot, a competition which is open to students in their second year of university, was won by Madeleine Tilley and Dinuki Karunasekera. Will Turner and Kate Gatfield-Jefferies were the runners-up.

The University of Auckland Mooting Society collaborated with the Auckland Women Lawyers' Association to host the Women's Moot, now in its second year. The final was judged by a panel chaired by Justice Hinton at the Auckland High Court. The competition was aimed towards encouraging women to succeed in advocacy. Experienced mentors assisted teams in their preparation throughout the competition. The prize giving was held at Shortland Chambers.

In addition to these competitions, the University of Auckland Mooting Society has continued to introduce new events to foster oral advocacy at the Auckland Law School this year. In March 2018, the Mooting Society collaborated with Anthony Harper, the Pop Up Globe and the Faculty of Law to organise an entertaining re-telling of the legal dispute at the heart of Shakespeare's Merchant of Venice, named "Shylock v Antonio". The case was argued before Justice Rhys Harrison, with cast members from the Pop Up Globe appearing in full costume to reenact scenes from the play. Law students Charlie Barker, Katherine Eichelbaum, Ahana Palande and Owen Posthuma represented the contracting parties. The event was a vibrant and enjoyable beginning to Auckland's mooting programme for the year.

### The Mooting Society has continued to host 'impromptu moots' this year. These moots allow students to participate in mooting in a less formal environment.

Students had two hours to prepare their submissions and present them before judges, before receiving feedback and advice. The Society has also hosted a range of educational seminars throughout the year, which students attended to receive guidance and ask questions on how to improve their advocacy and mooting skills.



Lady Deborah Chambers QC (left) with the Justice Sir Robert Chambers Memorial Moot winners Monique Pitt and Isobel Ryan (right)



John Haigh QC Memorial Moot winners. From left to right: Sharnika Leleni, Michael Greatrex, Diana Qiu, Emma Littlewood

## International representation

The Auckland Law School has continued to succeed at an international level.

This year, the Auckland Law School placed in the top 16 at the Willem C Vis International Commercial Arbitration Moot, held in Vienna. The team comprised Caitlin Anyon-Peters, Jack Garden, Jessica Palairet and Jillin Yan. The team enjoyed considerable success in the lead up to the final competition, placing first in the Heidelberg pre-moot, first at the Belgrade pre-moot, second at the White & Case Paris pre-moot, second at the Mannheimer Swartling Stockholom pre-moot and third at the Budapest Eötvös Loránd University pre-moot. In Vienna, the team advanced to the knockout rounds, finishing in the top 16 teams. Caitlin and Jessica both received honourable mentions for the Martin Domke Award for the Best Individual Oralist. The team was sponsored by Bankside Chambers and the Faculty of Law, and coached by Caitlin Hollings, Taylor Gray and Thom Clark.

In December 2017, the Auckland Law School team won the national rounds of the Red Cross International Humanitarian Law Moot in Wellington in a tough final against Victoria University. The moot focuses on international criminal law and international humanitarian law.

---

**As a result of its win, the team went on to represent New Zealand in Hong Kong in March 2018. The team successfully broke into the advanced rounds in second place, and subsequently made it to the semi-finals which were held at the High Court in Hong Kong.**

---

In a very close semi-final round, Auckland lost to Gujarat National Law University (India) who went on to win the moot in the final round. The team was also awarded the prize for being the best defence side in the moot. The team was coached by Hannah Reid and Gretta Schumacher.

The Auckland Law School sent a team of four to the Frankfurt Investment Arbitration Moot, the first time that an Auckland team has attended the moot. Competitors Nick Cartwright, Fraser Gollogly, Naushyn Janah and Diana Qiu represented the university. Prior to the final moot in Frankfurt, the team placed second in the Geneva pre-moot hosted by Lalive. The team also competed in the International Chamber of Commerce pre-moot in Paris, making it to the semi-final rounds. The team was coached by Jack Davies. The moot provided a valuable opportunity for junior students to hone their advocacy skills in an international competition.

The mooting programme supported by the Auckland Law School has empowered young advocates to succeed at a domestic and international level, and has fostered an active, supportive and inclusive mooting community. The Mooting Society is grateful for the continued support of the Faculty of Law, alongside the many sponsors, donors and members of the legal community, who make the Society's range of competitions possible.

---

**Naushyn Janah**

President, Mooting Society 2018



## Mediation

From left to right: Victor Liu, Stephanie Panzic (coach), Tunisia Napia, Rima Shenoy, Ana Lenard (coach), and Matthew Jackson.

The Auckland Law School has come away from its fifth year at the ICC International Commercial Mediation Competition in Paris with a Special Award for Best Creative Solution Generation.

The competition, run by the International Chamber of Commerce, requires students to resolve complex cross-border business disputes through mediation. A total of 65 university teams from more than 30 countries gathered in Paris to work with top international commercial mediators during 147 rigorous and fast-paced mock mediation sessions over six days.

**Students are required to represent one party in each dispute, quickly develop a theory of the case, analyse the client's core interests, objectives and alternatives and then execute a realistic negotiation strategy in the mediation itself.**

The Auckland Law School team of Matthew Jackson, Rima Shenoy, Tunisia Napia and Victor Liu, together with coaches Stephanie Panzic and Ana Lenard faced off against teams from Brazil, the USA, China and Georgia.

The first round, against Universidade Presbiteriana MacKenzie from Brazil involved a breach of contract between an aid organisation and a food supply company, following a refugee crisis. The second round was against Mitchell Hamline School of Law from the US and was an intellectual property dispute between Formula X (a hybrid car version of Formula 1) teams. The third round was against Shanghai University of Political Sciences and Law from China, concerning the termination of a building contract for a milk product factory, following defective work. The final round found the team working with New Vision University of Georgia to produce the next big "Follywood" blockbuster.

**The team was pleased to win a Special Award and to see a strong showing from Australasia, with the University of New South Wales winning the competition.**

Thanks go to the local mediators, practitioners and past team members who generously worked with the team over summer: Warren Sowerby, Miriam Dean QC, Anna Quinn, Mark Kelly, Barbara McCulloch, Nina Khouri, Martin Smith, Sam McMullan, Ariana Stuart, Joe Bergin, Alice Wang, Andrew Lee and Antonio Bradley.

The Honourable Chris Finlayson MP QC  
speaking at the Awards

## Best and brightest celebrated at Law Awards

The Auckland Law School celebrated its top students at the 2018 Law Awards in May last year.

Hosted by the Dean of Law Professor Andrew Stockley, and attended by hundreds of students and their families, the event recognises the hard work, commitment and perseverance of the award-winners.

The guest speaker of the Awards was the Honourable Chris Finlayson MP QC, the former Attorney-General, who conceded that as Auckland Law School was now ranked 29th in the world, from more than 5000 institutions, it surpassed his old law school (Victoria University of Wellington).

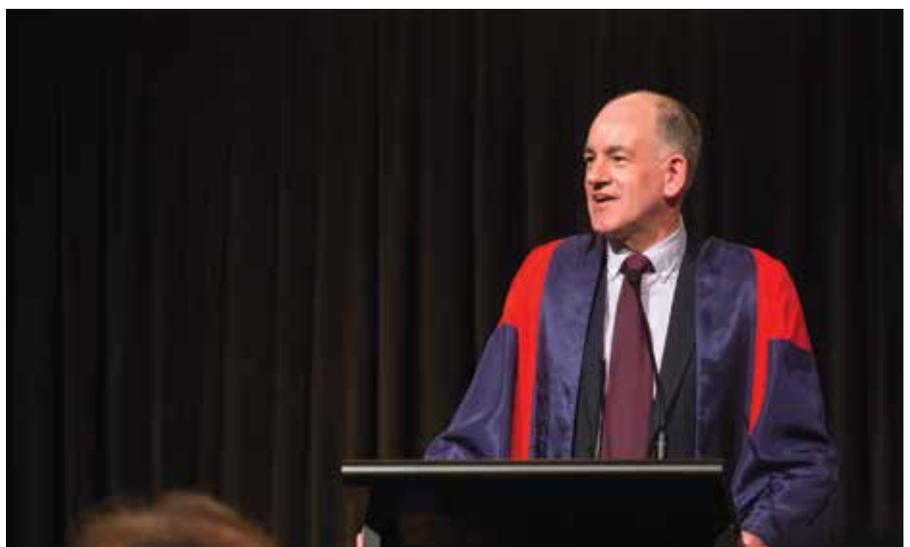
"It is hard not to look green with envy when I see how well Auckland Law School does in many areas," he said.

**He spoke of the need for graduates to continue learning and stay abreast of the law as subject areas constantly changed.**

Further he advised new members of the legal profession to be generous to others, as well as themselves and be mindful that it is a long term career, urging them to look after themselves.

Dean Andrew Stockley and Deputy Dean Craig Elliffe presented the awards to those students who had won prizes, scholarships, and competitions, and represented the Law School or been student leaders in the previous 12 months.

**"Tonight is about celebrating the achievements of some of our most talented students and reminding them to continue to work hard, to excel and to contribute as they progress in their degrees, their careers, and their lives," said Professor Stockley.**



## STUDENT SUCCESS



Dean Andrew Stockley and Professor Craig Elliffe with the Top Law Undergraduate recipient Bridget McLay (middle).

He thanked all those who had donated prizes and scholarships, supported student societies, events and competitions, and given financial assistance to the Law School.

---

**“The prizes, scholarships and donations you provide mean a lot to our students. They recognise their hard work, hours spent in the libraries, staying up late before exams, seeking to master particular cases, legal principles, and areas of law.”**

---

He spoke of the interesting and diverse careers that Auckland graduates go on to enjoy, as leaders in the law, as well as in government, business and a wide variety of other sectors. Ten percent of all MPs are Auckland Law School alumni.

“Our graduates contribute to the law and to society in many ways from having charge of a major legal aid programme in Australia, to representing domestic workers in Hong Kong who have been exploited and poorly treated,



Peter Kiely (Kiely Thompson Caisley), Dean Andrew Stockley and Chris Finlayson MP QC

and in all sorts of other ways standing up for those who are powerless, who suffer injustice and face barriers to receiving the protection of the law and the courts,” he said.

A total of 191 prizes and awards were given out on the night with the Auckland District Law Society’s Prize for the Top Law Undergraduate being awarded to Bridget McLay.



## America's Cup PhD

Dr. Hamish Ross, a former commercial partner of Bell Gully for more than 10 years, left the firm at the end of 2001 to become a full time America's Cup counsel. Since then, he has been with two Cup-winning teams, been Counsel to Cup event and race management, and a consultant to two other winning teams. Over the past 6 years, Hamish completed a PhD at the Auckland Law School, on a part-time basis, under the supervision of Professors Michael Littlewood and Peter Watts.

Hamish's thesis investigated the America's Cup Deeds of Gift. They are a succession of three documents, the first dating from 1857, governing the America's Cup competition. The third Deed dating from 1887 continues to control the competition today and was the subject of intensive litigation in the New York courts between 1987 and 1990 and again from 2007 to 2010. The work involved research in the archives of the New York Yacht Club Library as well as researching New York law both as it was at various points in the nineteenth century and today.

In the course of Hamish's work within the America's Cup a number of troubling legal inconsistencies kept arising. These, in part, concerned the continued acceptance by the New York courts of the Deed as constituting a charitable trust in the face of factual inaccuracies and conflicting legal authorities. Upon coming across several claims made in the nineteenth century by former officeholders of the New York Yacht, that the 1887 Deed of Gift (which still governs the America's Cup today) was unlawfully made, they became the catalyst for further research in depth to ascertain the real legal basis of the Deeds of Gift.

Past litigation in the New York courts has been disastrous for competition for the Cup, with the loss of competitors and sponsors, as well as sporting and commercial momentum, before it could be fully re-established. Even today the competition still suffers from the dispute that first arose in 2007.

---

**Hamish believed better ways need to be found to resolving future competitor disputes outside a courtroom and preferably by those more expert in the sport as befitting an international sporting contest.**

---

There are also, a number of unresolved important interpretative uncertainties surrounding the Deed. For example, what is the scope of a clause of the Deed that allows competitors to agree the terms of their match? Are competitors permitted to agree match terms that conflict with the express terms of the Deed and if not, what are the boundaries of what the competitors can agree? For example, can competitors agree to build all or part of their competing yachts outside their country when the Deed states each competitor must build their yacht in their respective country? Can the competitors access components such as sail cloth, masts, rudders, or centreboards from abroad?

## STUDENT SUCCESS

The Deed provides, in strong mandatory language, that the use of centreboards cannot be restricted, but competitors have agreed class rules that place restrictions on them. Could these agreed class rule restrictions be declared invalid as violating the terms of the Deed, putting some competitors at a major disadvantage at the last minute, when it is too late for them to make changes to their competing yachts?

**These issues matter because the competition has evolved from being funded exclusively by private wealth, to one that now makes increasing demands on public funds making governance and dispute resolution matters of public interest and scrutiny.**

NZD 130 million was spent by New Zealand local and central government for the 30th America's Cup held in Auckland in 2000. USD 3.237 billion was invested in Valencia, Spain, to host the 32nd America's Cup held in 2007. The City of San Francisco committed to a far more modest USD 22 million for infrastructure for the 34th America's Cup in 2013. Bermuda, spent USD 77.08 million to host the last America's Cup event. The New Zealand Government and the City of Auckland have recently committed NZD 212.5m for hosting and defending the America's Cup in 2021. This public expenditure has been justified based on positive economic impacts the event delivers to the hosting venue.

Hamish's conclusions will form part of a book to be published, but it appears the original 1857 owners of the Cup, as mid-Victorian sporting gentlemen, did not have any legal intent when they first framed the terms of their gift of the Cup for perpetual international competition, rather, they intended a "gentlemen's agreement" binding in honour rather than in law. The Deed could not establish a legally recognisable charitable trust at that time in New York State. If a valid trust had been formed, the later Deeds of 1882 and 1887 could not constitute valid amendments in the absence of court approval.

The Deed makes provision for dispute resolution within the sport rather than in a courtroom. This has been overlooked in past litigation.

The Deed provides that where there is no agreement between the competitors, the rules and regulations of the yacht club holding the Cup govern. These are now universal rules promulgated by World Sailing, the international authority governing the sport of sailing. They require the appointment by World Sailing of a five-member independent international sailing jury to resolve America's Cup disputes. The New York courts are required to recognise and enforce the decisions of such juries as maritime arbitration awards and they can only set aside such awards on the limited grounds set out in the US Federal Arbitration Act.

Hamish said "It was always a pleasure working with Michael and Peter. They both encouraged me throughout the process, took a strong interest in my work, assisted my return to the academic world, thirty years after I left it and pushed me to explore new areas and issues. It was Michael who first suggested and encouraged me to turn my proposed LLM thesis into something far more substantial. The Faculty of Law's PhD programme gave me a unique opportunity to stand back from my Cup work over the past 20 years and review fundamental legal issues surrounding the Cup in a reflective environment rather than within a white-hot crucible of a competitor dispute."

He commented on the future of his work, "I hope my work will, in time, lead to a better understanding of the Cup and as an international sporting event and to an appropriate sport-based dispute resolution process, away from the courtrooms of a competitor.

After his experience, would he do it again? "With the same people? In a heartbeat!" he said.

A short article describing some of Hamish's work appeared in the New Zealand Law Journal (*The America's Cup and the courts* NZLJ [2013] 359).

# 2018 Student leaders

#### **AULSS President**

Ella Stolwerk

#### **AULSS Administrative Vice President**

Tom Blackwell

#### **AULSS Educational Vice Presidents**

James Dalton

Gary Hofman

#### **AULSS Competitions Officers**

Hugo Wagner-Hiliau

Josh Parkinson

#### **Te Rakau Ture Co-Tumuaki**

Dexter Rapana

Natanahira Herewini

#### **PILSA Co-Presidents**

John-Paul Foliaki

Tara Leota-Seili

#### **Rainbow Law Directors**

John Kingi

Alex Cranstoun

#### **Equal Justice Project Directors**

Ella Stolwerk

Claudia Russell

#### **Law Review Editors**

Michelle Chen

Jae Kim

#### **Law Revue Directors**

Sophia Kwintkiewicz

Jemima Huston

Chantal Ottow

George Barton

Bernard Vella

#### **Mooting Society Presidents**

Naushyn Janah

Charlie Barker



## Auckland alumna appointed Chief Justice

Justice Helen Winkelmann has been appointed Chief Justice to succeed fellow Auckland Law School alumna Dame Sian Elias.

Justice Winkelmann obtained her BA in History and LLB degrees in 1987 and began work as a law clerk at Nicholson Gribbin, which later became Phillips Fox and DLA Piper. She was one of the firm's youngest partners. She became a barrister sole in 2001, was appointed to the High Court in 2004, and became Chief Judge of the High Court in 2010. She was appointed a judge of the Court of Appeal in 2015 and will become Chief Justice and preside in the Supreme Court from March 2019.

---

**Dean Andrew Stockley congratulated Justice Winkelmann on her appointment: "Justice Winkelmann has been a great friend and supporter of the Auckland Law School. She gave an inspiring speech at our 2016 Student Awards Ceremony, including on how law graduates could better contribute to society as a whole."**

---

During her time on the bench, she has been a significant leader in the law. She has been responsible for a number of high profile, important cases. As Chief High Court Judge, she did a lot to improve case management. Her speeches on the need for better access to justice have drawn attention to the costs of going to court and the impact this has on ordinary New Zealanders and on the poor and on minority groups and have influenced others in the legal profession, judiciary and government, to try to bring about change."

When Justice Winkelmann spoke at the 2016 Student Awards Ceremony, she urged the students present to "set the standards for the profession through the quality of your conduct". She challenged the students saying "Are you just doing this to make a living or because you understand the power and the beauty of the law? I have seen the importance of a profession made up of people of moral and intellectual integrity, who wish to use their skills and knowledge to contribute to society. Who you are is important because you are now a member of

the profession which plays the most critical role in our democracy through upholding the rule of law and the administration of justice."

Amongst other challenges Justice Winkelmann laid down was the call to address the issue of access to justice for all New Zealanders. "Join working groups that the Law Society and Bar Association have set up to address access to justice. These groups have identified it as the most important issue of our profession. Work for people who cannot afford your full charge-out rate. Why? Because this is work that will give you great experience. It will meet the need to do something that feels like it matters. It will be important to your client, and might even change a life."



## Fulbright and Ethel Benjamin Scholarship Winners

Auckland Law School alumni Rez Gardi and Kate Stone have both been awarded a Fulbright New Zealand General Graduate Award and a New Zealand Law Foundation Ethel Benjamin scholarship for outstanding women lawyers. Taylor Burgess has also been awarded a New Zealand Law Foundation Ethel Benjamin scholarship for outstanding women lawyers.

Fulbright New Zealand General Graduate Awards are for promising New Zealand graduate students to undertake postgraduate study or research at US institutions in any field. The Fulbright programme aims to promote mutual understanding through educational and cultural exchanges.

The New Zealand Law Foundation Ethel Benjamin scholarships honour Ethel Benjamin, New Zealand's first woman barrister and solicitor, who was admitted to the bar in 1897. They are awarded to postgraduate women who hold a law degree and have been accepted into a postgraduate law course either in New Zealand or overseas.

## Rez Gardi

Rez Gardi (pictured) was born in a refugee camp in Pakistan to Kurdish activist parents. Her experiences there have shaped her world view, leading to her determination to make a difference.

"The circumstances I was born into have shaped my interest in peace, security, and humanitarian action," says Rez.

**"I learnt about injustice and the denial of human rights long before I knew what those concepts meant. This instilled in me the importance of standing up for what is right, even when your life is on the line. As the daughter of human rights activists, an engrained passion for equality and justice inspired me to pursue a career in law. I wanted to understand the power of law to create positive change."**

Rez studied at the University of Auckland, gaining a BA (double majoring in International Relations/Political Studies and Criminology) and a Bachelor of Laws (Hons), and is currently working as a legal officer with the Human Rights Commission. Her advocacy work with national and international groups over the past three years led to her being named Young New Zealander of the Year in 2017.

Rez will complete a Master of Laws in human rights and international law at Harvard University in Cambridge, Massachusetts.

## Kate Stone

Kate Stone gained a BA (Hons) in political science, before completing her LLB at Victoria University of Wellington, then an LLM (Hons), specialising in human rights law, from the University of Auckland.

She intends to study law and social change, focusing on criminal justice system reform. Currently working as Crown Counsel for the constitutional and human rights, and Treaty of Waitangi and Māori legal issues teams in the Crown law Office, Kate has advocated extensively for criminal justice reform, including co-founding the NGO JustSpeak.

**"I intend to study the conditions necessary to support civil society to organise and mobilise in pursuit of social change and the effective use of legal tools in this area," she says.**

"The heritage of the civil rights and other social justice movements in the US provide a unique environment within which to develop my understanding of the opportunities for, and barriers to, using the law as a tool for social change."

Kate will complete a Masters of Laws specializing human rights, and law and social change at Columbia University in New York City, New York.

## Taylor Burgess

Taylor Burgess plans to pursue her interest in public health and human rights law in her LLM studies. She graduated from the University of Auckland with a BA (Philosophy) and a Bachelor of Laws (Honours), graduating top of her cohort. She is currently an Assistant Crown Counsel in the Crown Law Office, acting for the Ministry of Health and Oranga Tamariki on public, administrative and constitutional law matters.

**"I plan to write an independent research paper that examines how the New Zealand Courts should strike a balance between government powers and individual rights in the contemporary public health environment," says Taylor.**

Recent debate and legal challenges on public health issues such as the right of government to intervene in matters such as the fluoridation of drinking water supply have highlighted the importance of this field of study.

"On the one hand, the government is entrusted with intrusive powers to act in the collective interests of the populace... On the other hand, public health powers intrude into the private sphere of an individual and engage the fundamental values of privacy, personal autonomy and bodily integrity," she says

"It is the perfect time to examine the Courts' role in striking this balance and to develop a robust Bill of Rights framework for the future scrutiny of public health decision-making in New Zealand."

Taylor will complete a Masters of Laws at Yale University in New Haven, Connecticut.

The school extends its congratulations and best wishes to these outstanding alumni.



## Victoria Brownlee: An Aucklander in New York

Auckland Law Student, Victoria Brownlee, is spending the gap semester of a lifetime in New York interning at the United Nations. Victoria is working at the United Nations (UN) Office for Disarmament Affairs thanks in part to funding from the Future Leaders Fund which is supported by donations from Auckland alumni and friends.

Victoria describes herself as a 'serial overachiever' and alongside her UN work she is also working as a Special Project Lead for the University of Auckland's Alumni Relations team, building relationships with US based alumni.

Before venturing to New York she volunteered as a Youth Councillor on the NZ-US Youth Council and was the co-director of the 2018 US Leadership Tour, a month-long study tour across five US cities for 16 top New Zealand university students.

Victoria is a great example of what can be achieved with the support of philanthropy and a real credit to the Auckland Law School. Congratulations Victoria!



## Top scholar drawn to complex and imperfect narratives

Alumnus Sam Bookman will shortly begin his doctorate at Harvard Law School, having recently completed his masters there.

“While the environment is extremely demanding,” says Sam, “getting to study with 170 students from 70 countries, ensures you learn a lot of comparative perspectives on the law.”

The twenty-eight year-old, who directed the Equal Justice Programme while a student at the Auckland Law School, will begin his doctoral study early next year, follow a stint doing human rights law work at a small New York-based NGO, The Vance Center for International Justice.

If that wasn’t enough to juggle, Sam is also working on a book about the case of *Finnigan v New Zealand Rugby Football Union*, which had the effect of ending the proposed 1985 All Black tour of South Africa.

**“It’s a fascinating case and a rare example of litigation playing a decisive role in a major New Zealand social justice movement,” he says.**

The law is not the path Sam envisioned when he started university. He originally planned on becoming a secondary school English teacher, but took the first-year law courses to give law a go.

**“I loved it. I think law is a lot like English. They’re both about making sense of our messy world through complex and imperfect narratives,” he says.**

During his LLM at Harvard, he focused on how courts across the world have grappled with the issue of prisoner voting rights.

**“It’s an example of an issue that has caused significant disagreement between courts and legislatures, something I theorised as a ‘breakdown moment’,” he says.**

“I looked at how the issue has been dealt with in Australia, the United States, South Africa and Canada, but I particularly focused on New Zealand and the United Kingdom, where courts cannot strike down legislation. I tried to identify exactly why prisoner voting has caused so much constitutional friction - we’ll see what happens in New Zealand when the Supreme Court renders its final decision in *Taylor v Attorney-General*.”

His upcoming doctoral study will build on his LLM work by focusing more broadly on systems of constitutional design where courts can review primary legislation, but cannot definitively strike it down: particularly, New Zealand, the United Kingdom, Canada, and some Australian states.

“I’m hoping to use empirical methodologies to identify where these systems might be achieving their goals and where they’re not. Empirical comparative constitutional work can be really hard because all constitutions, no matter how similar, differ in significant ways. It’s really important to pay close attention and I have a lot of learning to do,” he says.

If you’d like to hear some of Sam’s research into the *Finnigan* case, please visit the short series produced while he was an academic visitor at the University of Auckland in 2017:

<https://www.youtube.com/channel/UCIQZhKLPefoqetWwCe8tuSw/videos>

## Philanthropy

### Remember the Law School in your will

The Sir Alexander Johnstone Scholarship in Law was made possible through a gift from the estate of Sir Alexander Johnstone QC who was for many years a member of the University of Auckland Council, as well as Vice President of the New Zealand Law Society.

Sir Alexander was educated at Victoria University of Wellington but spent his later years working with the University of Auckland. He dedicated his life to legal scholarship and his final gesture to education came in his will in which he left the residue of his estate for scholarships for students of law.

For 2018 Sir Alexander Johnstone Scholarship recipient Diana Qiu, the scholarship has empowered her and given her the financial security to pursue her passion for mooting. This year alone she won both the Greg Everard Memorial Moot and the John Haigh Memorial Moot and represented Auckland at the Frankfurt Investment Arbitration Moot Court Competition in Germany. It has also allowed her to pursue other study opportunities. "Amongst other things the scholarship helped to fund my travel to attend educational conferences such as the AMINZ "Making It Work" conference in Wellington. The conference was an amazing opportunity to meet diverse people with a wide range of experience in the dispute resolution industry. It was also exciting to be part of the inception of the Arbitration Young Practitioners Group in New Zealand. I am grateful to the Sir Alexander Johnstone Scholarship bequest as it has allowed me to strengthen my skills and networks, and get a head-start on my career".

**People who include The University of Auckland in their will are inspired and moved to give for all sorts of reasons.**

Some of you may wish to consider contributing towards the social and economic prosperity of your community, you may wish to see something special and meaningful grow from your own personal success, you may aspire to give the same help that someone gave you during your own academic or professional career. Whether you are inspired by pragmatism or passion, or excited by future possibilities, we at the University are committed to ensuring that your philanthropic objectives are met, and, should you so wish, recognised appropriately. Incorporating a charitable gift in a will is a simple process and, regardless of the value, will make a real difference to students, teaching and research at the Law School.

For more information, phone the University of Auckland's gifts in wills specialist:

**Fraser Alexander**  
09 9238096  
[f.alexander@auckland.ac.nz](mailto:f.alexander@auckland.ac.nz)

Or visit the page at  
[www.giving.auckland.ac.nz/en/how-to-give/](http://www.giving.auckland.ac.nz/en/how-to-give/)

### Student Hardship Fund

Auckland has become an expensive city in which to live and study. The cost of travel and accommodation alone can be prohibitive and we are increasingly seeing financial hardship present itself as a barrier for our students, both in getting to Law School initially and in being able to stay and succeed in the programme. In 2016, with the generous support of our alumni, we initiated a Student Hardship Fund that students in dire financial need can apply to if they find themselves in difficulty.

Since it was established the fund has supported deserving students. Examples include:

- A grant was made to a student who was working multiple jobs and studying full time to allow her to take unpaid leave from work to cover the exam period.
- A grant was provided to a mature student with four children going through a difficult separation and trying to make ends meet.
- A grant was awarded to a student struggling with family loss resulting in mental health issues requiring her to step down from her paid employment to focus on her study.
- A grant was made to make extra mentoring available to students from a refugee background.

**These grants averaged just over \$1,000 each but made all the difference for these students. Without these relatively small awards of relief funding all of these students would have been forced to drop out of Law School.**

The Auckland Law School would like to thank Matthew Coleman, John and Jan Crozier, Martin Wiseman and Helen Winkelmann for their significant contributions to this fund.

If you would like to know more about supporting the Student Hardship Fund, please contact:

**Catherine Davies**  
022 396 4661  
[Catherine.davies@auckland.ac.nz](mailto:Catherine.davies@auckland.ac.nz)



## Appointed Queen's Counsel in 2018

The following University of Auckland Faculty of Law alumni were appointed Queen's Counsel in 2018:

- **Paul Dale** (LLB 1974)
- **Vivienne Crawshaw** (LLB 1988)
- **Robert Hollyman** (LLB 1996)
- **Belinda Sellars** (LLB 1995)
- **James Rapley** (LLB 2000)

## Judicial and decanal appointments

- Justice **Grant Powell** (LLB(Hons) 1987) was appointed a Judge of the High Court.
- **Jessica Palmer** (BCom/LLB(Hons), LLM 2002) was appointed Dean of the Otago Law School.

## Graduates studying overseas

Auckland Law School graduates frequently secure postgraduate places at some of the world's most prestigious universities.

Some of our alumni who have completed, or are completing, postgraduate degrees overseas at leading universities include:

- **Rachael Jones** (Columbia University);
- **Andrew Colgan** (University of Chicago);
- **Ian Ko** (Harvard Law School);
- **Anjori Mitra** (Columbia University);
- **Gretta Schumacher** (Oxford University);
- **Richa Gejji** (London School of Economics);
- **Frances Everard** (NYU);
- **Rez Gardi** (Harvard Law School)

## Donor Wall

The Auckland Law School thanks all alumni and friends for the support they have given to the Faculty of Law in recent years, including the following alumni and friends who have given support since the 2017 Eden Crescent.

### Graduates of the 1940s

The Honourable Sir Thomas Thorp KNZM  
Warwick White

### Graduates of the 1950s

Sir David Tompkins QC  
Cedric Jordan  
Peter Clapshaw  
The Honourable Justice Sir John Henry KNZM  
The Honourable Sir Ian Barker QC  
Tony Chrisp  
Joseph Hall  
Bill Mitchell  
The Honourable Barry Paterson CNZM, OBE, QC  
The Honourable Justice Peter Salmon

### Graduates of the 1960s

Judge Trevor Maxwell JP  
Ian Davidson  
John King QSO  
Judge David Robinson  
Robert Chappell  
Bruce Davidson  
Piers Davies ONZM  
Patrick Gibson  
Judge Bernard Kendall  
Sidney Pavett  
Michael Williams SC  
Sir David Williams KNZM  
Peter Rowe  
Warren Butterworth  
Alan Galbraith QC  
The Right Honourable Justice Sir Peter Blanchard, KNZM  
Honourable John Priestley CNZM, QC  
The Honourable Judge Vivienne Ullrich QC  
Honourable Rod Hansen CNZM  
Robert Benton

### Graduates of the 1970s

John Adams  
John Anderson  
Ross Sutherland  
Professor Peter Rhodes  
Emeritus Professor Jim Evans  
John Holmes  
Alan Foubister  
Keith Familton

Judge Mark Perkins  
The Right Honourable Sir Anand Satyanand  
GNZM, QSO  
Stephen Anderson  
The Honourable Justice Randerson  
Janet Whiteside  
William Akel  
Judge Stanley Thorburn  
Rodney Harrison QC  
Philip Khouri  
John White  
Michael Walmsley  
Russell Bartlett QC  
John Brown  
Brian Corban QSO, CNZM  
David Simcock  
Judge Graeme Colgan  
Anthony Pereira  
John Laird  
Derek Nolan QC  
Mike Whale  
Lindsay Dil  
Professor Jeffrey Berryman  
Professor Ron Paterson ONZM  
Honourable Dr Wayne Mapp

### Graduates of the 1980s

Miriam Dean CNZM, QC  
The Honourable Justice Simon Moore  
The Honourable Justice Matthew Muir  
John Paton  
Lady Deborah Chambers QC  
Jenny Hirst  
Megan Gundersen  
Elizabeth Purcell  
Kate Davenport QC  
Brian Stephenson  
Irene West  
Richard Marchant

### Graduates of the 1990s

Professor Michael Littlewood  
Carolyn Cameron  
Anita Killeen  
Alice Harrison  
Elisabeth Garrett  
Associate Professor Amokura Kawharu  
Eardley Dijkstra  
Simon Berry  
The Honourable Justice Christian Whata

Matthew Coleman  
Associate Professor Treasa Dunworth  
Vanessa Bruton QC  
Sonia Vitas  
Susan Howard  
Associate Professor Chris Noonan

### Graduates of the 2000s

Leonie Simpson  
Toby Futter  
Alan Green  
Rose Stanhope  
Katherine Sanders  
Jane Norton  
Chad Danswan  
John Ip  
Jane Taylor

### Graduates of the 2010s

Hamish Coupe  
Matthew Tihi  
Hayden Hughes

### Other donors and friends

Jilian Tan  
Dr John Mayo  
Mr Ziyad Matti  
The Right Honourable Sir Ted Thomas KNZM  
Hugh Fletcher  
Professor Jo Manning  
Riemke Ensing  
Professor Peter Watts QC  
Professor Warren Swain  
Professor David Williams  
Professor Craig Elliffe  
Trevor Lau  
Mark Hayes  
Jodi Southon  
Tara Satyanand  
John Clapham  
Dr Fleur Te Aho  
Elaine Davies  
Lynda Park

---

*We would also like to acknowledge and thank the law firms and individuals who have assisted our student societies and the events and competitions they organise.*

## Organisations

Air New Zealand

AJ Park

Auckland District Law Society

Auckland Women Lawyers' Association

Auckland District Society of Notaries

Auckland Private Education Charitable Trust

Bankside Chambers

Baldwins

Bell Gully

Chapman Tripp

Chartered Accountants Australia and New Zealand

Donny Charitable Trust

Ernst and Young

FairPlay Legal Ltd

FairWay Resolution Limited

Fletcher Brothers Ltd

Friends of The University of Auckland

Gaze Burt Lawyers

InternetNZ

Kensington Swan

Kiely Thompson Caisley

LEADR

Legal Research Foundation

LexisNexis

Li Ka Shing (Canada) Foundation

Lowndes Jordan

Maritime Law Association of Australia and New Zealand

Minter Ellison Rudd Watts

Meltzer Mason Health

Meredith Connell

Morris Legal

New Zealand Law Foundation

New Zealand Society of Notaries Incorporated

OceanaGold Corporation

Office of the Privacy Commissioner

Pacific Lawyers' Association Inc.

Patterson Hopkins

Paul, Weiss, Rifkind, Wharton & Garrison LLP

PwC

Robertsons

Russell McVeagh

SBM Legal

Simpson Grierson

Shortland Chambers

Staples Rodway Ltd

The Erskine Alumnae Bursary Fund

The Greg Everard Memorial Trust

The Johnston Foundation

The Kate Edger Educational Charitable Trust

The UK Friends of the University of Auckland

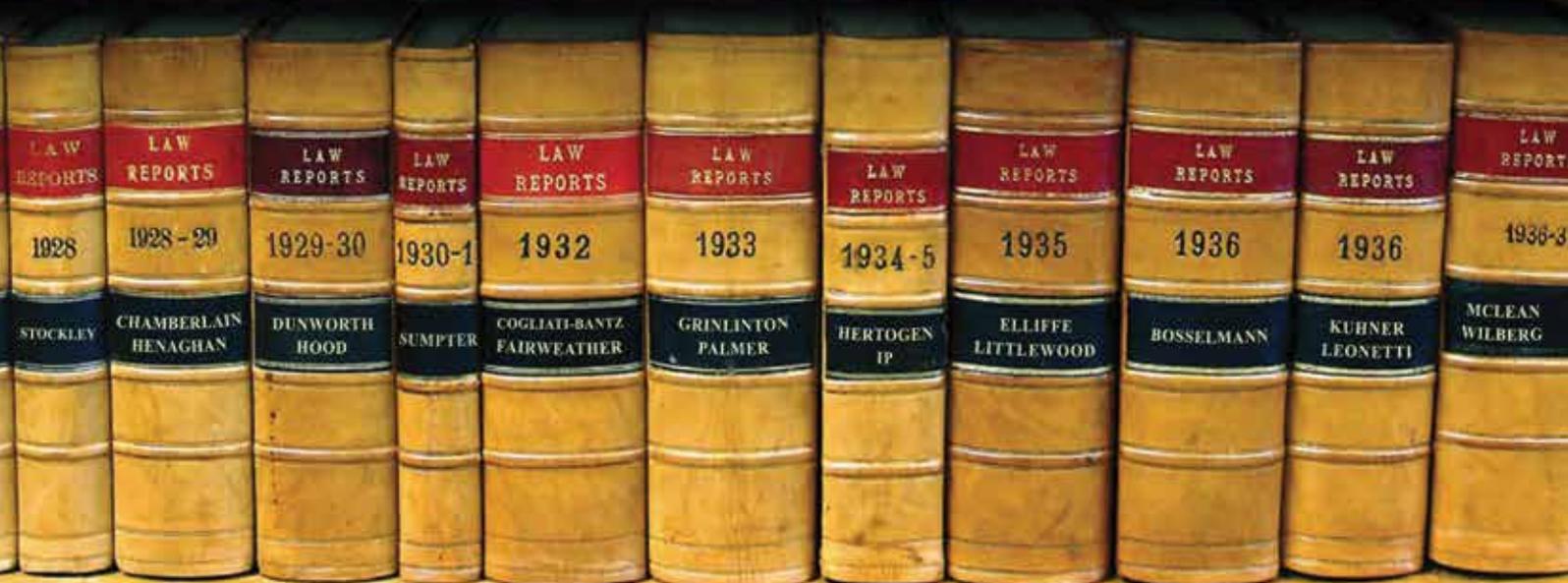
Thomson Reuters Ltd

Wilson Harle Barristers & Solicitors

Wynn Williams Lawyers



Members of the Law professional staff with Dean Andrew Stockley: Amy Jordan Tikao; Raymond Stein; Jemimah Khoo; Tetiana Sviridova; Anastasia Samoylova; Sarah Davidson; Christine Calvelo; Advaita Shetty; Louise Allan; Ada Marama (Director of Faculty Operations); Sosefina Faamausili; Erin Stieler; Martyna Zyskowska; Suranjika Tittawella; Bridget Holland; Christina Wu; Clodagh Higgins; Maggie Zhang; Valasi Leota Seiuli Seufatu; and Angela Vaai.



LAW REPORTS  
1882

KHA

TOLMIE

PENK

MANNING

LAW REPORTS  
1891

TELESETSKY

1893.1

LAW REPORTS  
1894

BOOLIN

LAW REPORT  
1894

WATTS

LAW REPORTS  
1894

RISHWORTH  
PATERSON

BATTY

SWAIN

TE AHO

SANDERS  
WILLIAMS

HODGE

KABO

LAW REPORTS  
1911

LAW REPORTS  
1913

LAW REPORTS  
1914

LAW REPORT  
1914-1916

LAW REPORTS  
1918

LAW REPORTS  
1918

LAW REPORTS  
1919

LAW REPORTS  
1920

LAW REPORTS  
1921

LAW REPORTS  
1922

LAW REPORTS  
1923

LAW REPORTS  
1924

LAW REPORTS  
1925

LAW REPORTS  
1926

DAVIS

CHARTERS  
ERUETI

WILLIS

917-18

ROBERTS

KAWHARE  
COATES

FOSTER

NORTON

1921

KHOURI  
OPTICAN

WATSON

NOONAN

DEVONSHIRE  
HAVELOCK

ROSEN  
ROUGHAN

LAW REPORTS  
1928

LAW REPORTS  
1928-29

LAW REPORTS  
1929-30

LAW REPORTS  
1930-1

LAW REPORTS  
1932

LAW REPORTS  
1933

LAW REPORTS  
1934-5

LAW REPORTS  
1935

LAW REPORTS  
1936

LAW REPORTS  
1936

LAW REPORTS  
1936-8

STOCKLEY

CHAMBERLAIN  
HENAGHAN

DUNWORTH  
HOOD

SUMPTER

COGLIATI-BANTZ  
FAIRWEATHER

GRINLINTON  
PALMER

HERTOGEN  
IP

ELLIFFE  
LITTLEWOOD

BOSELMANN

KUHNER  
LEONETTI

MCLEAN  
WILBERG