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Announcements

Victoria University of Wellington Student and Alumni Sub-Series Part 2: Issues in Criminal Law (II)

Issues in Criminal Law (II) is the second in 2019 of several issues of the Student/Alumni Sub-Series of the Victoria University of Wellington Legal Research Paper Series.

The Student/Alumni Sub-Series was launched in 2015. It distributes a selection of Honours and Postgraduate papers from Victoria University of Wellington Law School. The Sub-Series includes both general and thematic issues.

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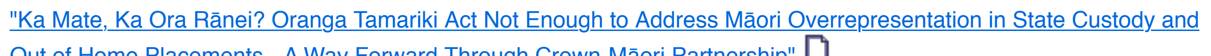

"Ka Mate, Ka Ora Rānei? Oranga Tamariki Act Not Enough to Address Māori Overrepresentation in State Custody and Out of Home Placements - A Way Forward Through Crown-Māori Partnership"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 4/2019

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This paper is a statutory note. It aims to critically analyse some of the incoming amendments to the Oranga Tamariki Act 1989. Those amendments were enacted in 2017 with one of the objectives being to improve Māori overrepresentation generally in both state care and youth justice in New Zealand. This paper focuses on two amending provisions and asserts that those provisions are insufficient in achieving this purpose. This paper then asserts how these amending provisions can be improved and thereby utilised in practice to reduce Māori overrepresentation and harm to whānau Māori, specifically within the context of state custody and out of home placements. This paper concludes the law should be revised and improved. Also, that it should thereby be used to devolve power to allow Māori to provide services and make decisions as they are best placed to do so, whilst maintaining some Crown responsibility

based on the principle of partnership. This will do better to achieve the reduction of tamariki Māori in state custody and out of home placements. Ina pērā, kāhore e kore kua ora pai te iwi Māori ki tua o ākengokengo. Nō reira, ki te hoe!

"Private Prosecutions in New Zealand - A Public Concern?"
(2019) 50 VUWLR 107
Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 5/2019

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This article evaluates whether private prosecutions remain a safe and useful mechanism in the modern New Zealand criminal justice system. Private prosecutions are an important constitutional safeguard against state inertia, incompetence and bias and recent legislative reforms have strengthened the judiciary's ability to ensure this mechanism is not misused. Despite this, concerns remain. This article provides an overview of private prosecutions and justification for their continued existence, outlines the current procedure for those prosecutions and explores remaining concerns with this mechanism. Ultimately, while the status quo of private prosecutions remains adequate, a greater alignment of the theoretical and practical purposes of private prosecutions would be beneficial. Further normalisation and commercialisation of private prosecutions is undesirable and the effectiveness of these prosecutions as a "safeguard" is questionable given the considerable financial and investigative burdens faced by applicants.

"The Role of Alternative Processes in Accounting for the Interests of Victims"
Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 6/2019

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The 2017 New Zealand Supreme Court decision in Osborne v Worksafe New Zealand illustrates that there may be an inherent lack of fit between the adversarial system and the place of victims. Given the rise of the victims' status in domestic and international law, it is important that the interests of victims are accounted for. Although the victims in Osborne wanted prosecution, they also did not have their needs or interests met in any alternative way once the prosecution was dropped. This paper considers how victims' interests in similar cases might be met by the use of alternatives to trial. Additional benefits of alternative processes, as well as potential challenges, are also examined. It is proposed that the availability of alternative processes should change in two ways. Firstly, there should be increased availability of alternative processes within the criminal justice system. Secondly, alternative processes should be available outside the criminal justice system when there is a decision not to prosecute or where the victim does not want to go through the formal system. These changes will ensure victims' interests, including the right to information, participation and having accountability from the offender, can still be met in some cases.
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About this eJournal

Victoria University of Wellington Legal Research Papers Series primarily contains scholarly papers by members of the Faculty of Law at Victoria University of Wellington. Some issues collect a number of papers on a similar theme to form a suite of papers on a single topic. Others issues are general or distribute mainly recent work.

The Student/Alumni Series is a subseries of the Victoria University of Wellington Legal Research Paper Series. The subseries started in 2015 and publishes papers by students and alumni of Victoria University of Wellington, comprising primarily work for honours and postgraduate courses. Papers are collected into thematic or general issues.

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachussetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a

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