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ADDITIONAL STUDENT ISSUE. This issue is a special, additional, student issue, published to distribute "Addressing Hate Crime in New Zealand: A Separate Offence" by Rochelle Rolston, a paper submitted in partial compliance with the requirements of the LLB (Hons) Degree at Victoria University of Wellington. "Addressing Hate Crime in New Zealand: A Separate Offence" was cited by the New Zealand Court of Appeal in *Arps v New Zealand Police* [2019] NZCA 592 at [48], n 35; a remarkable achievement for a student paper. The editors congratulate Ms Rolston.

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"Addressing Hate Crime in New Zealand: A Separate Offence?"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 45/2019

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In light of the Christchurch terror attack, a review of New Zealand's hate crime laws is needed. This paper considers one potential reform option - the adoption of a separate hate crime offence. Firstly, I reconsider the question of whether hate crimes are the type of conduct that should be additionally criminalised. Additional criminalisation of hate crimes is necessary for a number of reasons. Hate crimes are a violation of the victim's human rights and cause additional harm, to the victim and wider society. The increased moral reprehensibility of hate crimes makes deterring these crimes particularly important. I then critique the sentence enhancement approach, arguing that New Zealand's current hate crime provision is inadequate. There is uncertainty in the weight that should be attributed to hate crime, the balancing exercise undertaken in sentencing gives insufficient recognition to the hate crime element and sentencing fails to deter hate crime offending. I also consider some issues with a separate hate crime offence: the limited nature of the provisions and the potential difficulties in prosecuting. I then consider the fair labelling principle. A separate offence is important for fair labelling of hate crime.

The offence would more accurately communicate the nature of the wrongdoing to the offender, the public and other criminal justice agencies. It would also give more recognition to the victim. There are a number of issues that would need to be addressed if a separate offence were enacted. In particular, which underlying offences should be covered by the separate offence, which characteristics or grounds of hostility should be protected and the requisite motive or causation that should be required. This paper considers how these issues might be addressed. I conclude that New Zealand's current approach to hate crimes is inadequate and change is needed. More consideration of the exact scope of any changes is required, particularly to determine whether to adopt a separate hate crime offence or a hybrid system.

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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 Massachusetts 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.

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