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## Announcements

### **Victoria University of Wellington Student and Alumni Subseries Issue V: Law Reform and Policy**

The Law Reform and Policy is the fifth in 2018 of several issues of the Student/Alumni sub-Series of the VUW Legal Research Papers.

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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## **LEGAL SCHOLARSHIP NETWORK: LEGAL STUDIES RESEARCH PAPER SERIES** **VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS**

### **"Online and Automated Dispute Resolution in New Zealand: A Law Reform and Regulation Perspective"**

*Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 20/2018*

**CHARLOTTE AUSTIN**, Victoria University of Wellington, Faculty of Law, Student/Alumni

Email: [Charlotte.Austin@vuw.ac.nz](mailto:Charlotte.Austin@vuw.ac.nz)

This paper investigates the issue of online and automated dispute resolution from a law reform and regulatory perspective. It argues the growing prevalence and capabilities of online dispute resolution has created both opportunities and risks for consumers and for dispute resolution policy in New Zealand. In particular, the significant risk of harm occurring if the technology is permitted to develop without any regulation or governance now warrants proactive governmental intervention to provide a protective legal framework. A proposed regulatory model is put forward, which encompasses both direct legal and indirect methods of regulation.

## "Are We There Yet? The Journey to Oranga Tamariki the Ministry for Vulnerable Children: An Analysis of the Law Reform Process"

*Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 21/2018*

**EMILY DEVANEY**, Victoria University of Wellington, Faculty of Law, Student/Alumni  
Email: [emily.devaney@vuw.ac.nz](mailto:emily.devaney@vuw.ac.nz)

The establishment of Oranga Tamariki, The Ministry for Vulnerable Children was supposed to end the perception that the law protecting vulnerable children and young people was crisis driven. The establishment of a stand-alone Ministry was to stabilise the law and improve outcomes for the most vulnerable. However, the law reform process to implement this change undermined rather than supported this effort. The method of reform, its intrinsic link with government ideology, close connection to previous reforms and the opposition to legislative amendments undermined the foundations the reform sought to lay. This paper suggests that the law reform process could have been better utilised as a vehicle with which to emphasise and accentuate the ultimate aims of the reform and assist in their successful implementation. The paper tracks various tensions in the reform process and suggests that these deficiencies permeate the law that has resulted. As such, the paper suggests the ultimate goal of the reform remains unrealised, not for lack of intention, but due to fundamental flaws in gaining support from key stakeholders. Because of this, the likelihood of future reform is high. The law reform process could have placated rather than enhanced this risk.

## "The Evolving Accessibility of New Zealand Law: Redesigning Legislation for Understanding and Empowerment"

*Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 22/2018*

**JESSICA JENKINS**, Victoria University of Wellington, Faculty of Law, Student/Alumni  
Email: [jessejenkins@y7mail.com](mailto:jessejenkins@y7mail.com)

For decades, users of the New Zealand statute book have struggled with its complexity; legislation is not only difficult to find, but once found, it is difficult to understand and use. While the standard is certainly improving, 'ordinary' readers are still bewildered when attempting to understand legal rights and obligations, and professional users (whether legally trained or not) are frustrated by the time taken to ascertain required conduct. Consequently, New Zealand legislation can be disempowering, has significant productivity costs, and undermines fundamental principles of the rule of law. In a country led by one of the most open and transparent governments in the world, at the forefront of delivering user-centred digital services, this is not good enough.

This paper examines the evolution of the statute book, with a focus on accessibility. It suggests this evolution was informed by a legislative paradigm rooted in tradition, with constrained aspirations of how legislation could be experienced by citizens. It then proposes a new legislative paradigm – designed around the users of legislation, to support and empower every New Zealander to understand the law. Developments consistent with this paradigm are explored, and constraints in the law reform process are assessed, before recommendations are made for 'first steps' to set the stage for legislative transformation.

## "What Is Successful Reform? Regulating the News Media for Sustainability"

*Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 23/2018*

**ANTONIA LEGGAT**, Victoria University of Wellington, Faculty of Law, Student/Alumni  
Email: [antonia.lleggat@gmail.com](mailto:antonia.lleggat@gmail.com)

The last decade has seen a rapid increase in the creation and use of technology. Laws around the globe have struggled to keep up with media that has changed in response to technological convergence. The 2013 Law Commission Report — The News Media Meets 'New Media' — proposed the creation of a single regulatory body, covering all news media who voluntarily join, but its recommendations were rejected by the Government.

This paper tracks the industry's self-regulation following the Law Commission report. It asks the question which has divided stakeholders and differentiates New Zealand, Australian and British drives

at reform: what is successful reform of the news media? It concludes that "success" means a responsive, consistent, clear, cohesive and independent self-regulatory system. The New Zealand attempt at reform has led to some short-term benefits, but the current regulatory system's lack of sustainability represents long-term failure of reform. This failure was due to an absence of public or political motivation for reform, the Law Commission's over-emphasis on an industry-preferred scheme, and because New Zealand media has not reached the legal and ethical lows of overseas media. The extent of this failed regulation will become apparent as convergence continues, increasing functional gaps and making harms more evident. Looking forward, a bolder model, including fining and greater incentives, presents the best chance of successful reform.

## "Confronting New Zealand's 'Workable' Abortion Laws"

*Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 24/2018*

**OLIVIA LEWIS**, Victoria University of Wellington, Faculty of Law, Student/Alumni

Email: [olivia.lewis.nz@gmail.com](mailto:olivia.lewis.nz@gmail.com)

Abortion is illegal in New Zealand except in limited circumstances. In spite of this, it has been claimed that our abortion laws are "workable". This paper confronts this claim and looks at whether it is justifiable from four different perspectives including the legal, pro- and anti- abortion, and political perspectives. This discussion sheds light on important issues that arise when it comes to law reform in the context of the contentious and polarising issue that is abortion law in New Zealand. The subjectivity that surrounds the concept "workable" has material implications on the conclusions under each perspective. Nevertheless, it is found that overall, the claim that New Zealand's abortion laws are workable is misconceived. Therefore, this paper goes on to consider whether the abortion system could be made better through law reform. Again subjectivity permeates this issue as we are confronted with the question "better for whom?"

It is acknowledged that Parliament is never going to be able to please everyone when it comes to New Zealand's abortion laws. However, this paper argues that Parliament should attempt to make the laws better for the majority of the population and ensure that they uphold fundamental legal principles such as the rule of law. Three options are proposed but based on the favoured perspectives, it is found that law reform involving the decriminalisation of abortion would be the most effective solution. This seems like a constructive conclusion, but the next question that arises is "is it going to be politically feasible?"

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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 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.

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 North American associate professor in rank.

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