



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

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Announcements

Victoria University of Wellington Student and Alumni Sub-Series Part 4: General Topics (I)

General Topics (I) is the fourth 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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["'Isms' and Ulterior Motives in Ellen Feldman's Scottsboro"](#) 
[Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 12/2019](#)

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Scottsboro is one of the most significant criminal cases of the twentieth century. Set in the Deep South of the 1930s, the false allegation of rape from two white women against nine black men brought America's prejudices into the global spotlight. A number of historical accounts have been written over the years, but Ellen Feldman's novel, *Scottsboro*, provides readers with a closer look at the personal lives, thoughts and feelings of those involved in the case. Through this the modern audience is able to delve deeply into three key themes: race, class, and ulterior motives. Readers from all backgrounds will find the novel to be an important reminder of the dangers of prejudice - especially prevalent at a

an backgrounds will find it never to be an important reminder of the dangers of prejudice – especially prevalent at a time when instances of racial animosity are seen in the news on a daily basis. For lawyers and law students, Scottsboro provides insight into the nature of the legal profession, and the lengths a lawyer may go to in order to protect his or her career.

["Digitisation, Copyright and the GLAM Sector: Constructing a Fit-For-Purpose Safe Harbour Regime"](#) 
(2019) 50 VUWLR 1
[Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 13/2019](#)

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Copyright law does not currently align with the legitimate activities of galleries, libraries, archives and museums (GLAMs). The GLAM sector plays a central role in collecting and promoting access to cultural works. Increasingly, GLAM institutions are employing innovative digital technologies to expand access to culture and foster greater levels of cultural participation. Despite the utility underlying digitisation, copyright limits the use of digital technologies within the GLAM sphere. This article examines current copyright limitations and demonstrates copyright's significant limiting effect. It argues that reform is necessary to strengthen the right to participate in cultural life and to remedy harms inflicted by the current copyright regime. Creating a fit-for-purpose safe harbour would empower institutions to employ digitisation within a framework of reasonable copyright constraints. Accordingly, this article constructs a potential safe harbor that permits non-commercial GLAM digitisation, while also protecting copyright holders and tikanga Māori. The Copyright Act 1994 is currently under review. New Zealand ought to seize the present reform opportunity to invigorate participation in cultural life and enrich the cultural fabric of society.

["A Principled Approach to Defamation Claims in New Zealand: Untangling the Harm Threshold"](#) 
(2019) 50 VUWLR 33
[Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 14/2019](#)


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The threshold requirement of reputational harm for bringing a defamation claim needs clarification. Although recent case law shows that a threshold exists, precedents conflict as to what exactly the threshold requires, and who bears the burden of proof. There is further judicial disagreement on whether the principle that defamation claims can be struck out if no real and substantial tort has been committed, the Jameel principle, applies in New Zealand. This article suggests that both the harm threshold (more accurately described as a "tendency to cause harm" threshold, as it does not require proof of actual harm) and the Jameel principle have a valuable place in New Zealand's defamation law and their application requires endorsement and clarification at appellate level. Further, this article highlights that the principles are conceptually distinct and their fusion is undesirable in New Zealand.

["Charting the Trajectory of Intensity of Review Following Osborne v Worksafe New Zealand"](#) 
[Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 15/2019](#)

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The courts have used the concepts of justiciability and intensity of review to restrict access to judicial review where it seemed inappropriate to intervene in executive decision-making. The courts have used these concepts to limit judicial review of prosecution discretion. More recently, there has been a trend in favour of widening availability of review, resulting in a shift away from non-justiciability towards intensity of review. This paper examines the trajectory of judicial review away from non-justiciability and towards intensity of review, and considers whether the Osborne v Worksafe New Zealand litigation disrupts or endorses this trajectory. Overall, it argues that the Court of Appeal endorsed the shift to intensity of review. While the Supreme Court appears to disapprove of intensity of review, particularly low intensity of review, it did not overturn the Court of Appeal's position. In the context of judicial review of prosecution decisions, lower courts will apply the Court of Appeal's precedent, and use a varying intensity approach.

["Adaptation Issues in New Zealand's Climate Change Policy"](#) 
[Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 16/2019](#)

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New Zealand is already experiencing the effects of a warming climate and needs to adapt its built, social and ecological systems to reduce vulnerability to climate impacts. Currently, there is no coordinated approach to climate change adaptation in New Zealand. There is no overarching policy or legislation provided by central government to guide adaptation action by other sectors. Amongst other issues, it is unclear how climate change adaptation will be funded. This paper evaluates some of the challenges present in New Zealand's current adaptation framework. It argues that adaptation requires policy response from central government. Mitigation of carbon emissions can no longer be the sole focus of climate change policy. This paper proposes that climate change adaptation be addressed in legislation by requiring central government to engage with the issue through a series of policy documents. These would include a national climate change risk assessment, a national adaptation plan, and an independent adaptation progress report. These documents will be updated every five years and will thus provide for a coordinated response to adaptation that allows progress to be monitored and evaluated.

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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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