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Announcements

Victoria University of Wellington Student and Alumni Subseries Issue XXVI: Law Reform and Policy

The Law Reform and Policy Issue is the ninth in 2017 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 publishes 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

"Henry VIII Clauses: Their Place in Modern New Zealand"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 34/2017

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New Zealand's statutory and regulatory environment is becoming ever more complex in order to respond to the demands of an increasingly technologically and socially diverse world. For law makers, this provides significant challenges, particularly in the way that the relevant regulatory regimes are

drafted. One of the responses made by the United Kingdom Parliament is the proliferation of the controversial so-called "Henry VIII clause". These enable the executive branch of government to amend, suspend or override Acts of Parliament. These clause come with various expedience benefits, but also have some significant drawbacks, particularly in respect of their constitutional implications. This paper seeks to assess why these clauses are used and what about these clauses really is of concern. This paper concludes that New Zealand's concerns, while shared with the United Kingdom's to some degree, are really focused on the issue of policy production, and that if that is the understanding to be taken of these clauses, our use of the term "Henry VIII clause" may take on a different meaning.

"Avenues for Enhancing Social Inclusion: Rethinking New Zealand's Approach to Social Security and Welfare"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 35/2017

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At present, an intense focus on paid work undergirds the Social Security Act 1964. However, many argue that a broad emphasis on social inclusion should be the primary focus of New Zealand's social security and welfare legislation. This paper explores how the idea of social inclusion has developed in New Zealand and analyses two options for implementing a greater focus on social inclusion. It will begin by briefly defining social inclusion and identifying some of the obstacles complicating implementation. Namely, it will discuss the difficulty of identifying when social inclusion is achieved and concerns about sustainability. This paper will also examine the different occasions in the past where the Government has given particular focus to this idea of social inclusion. Finally, in terms of implementing a greater focus on social inclusion, it will explore the prospects of introducing a right to social inclusion into the New Zealand Bill of Rights Act 1990 and the consequences of directly amending the Social Security Act to include a focus on social inclusion. It will argue that making direct changes to the Social Security Act is likely the best option.

"An Analysis of the Design and Implementation of Behaviourally Informed Laws, Regulation, and Decisions to 'Nudge' in New Zealand"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 36/2017

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The advent of behavioural economics and nudge theory provides new challenges for policy designers and regulators. These theories assume a different model of human behaviour than that commonly used by regulators, and also introduce a new type of governance – that of 'libertarian paternalism'. This paper seeks to answer the question of how New Zealand's regulatory design and law reform processes should adapt in light of these two developments.

This paper considers the regulatory impact statement process should incorporate a complementary behavioural economic model, whereas the case for a change to disclosure statements is less clear cut. It proposes that explicit and open consideration of behaviourally informed options regulatory impact statements increases the transparency and accountability of government, without decreasing their efficacy. As behavioural economics and nudging become more prevalent, the suggested changes aim to ensure that New Zealand's law reform processes remain thorough and robust. This should allow complex policy issues to be translated into effective instruments.

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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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