



**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 6: Private Law (I)

Private Law (I) is the sixth 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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["The Role of Unjust Enrichment in New Zealand"](#) 

[Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 21/2019](#)

[TESSA COOKSLEY](#), Victoria University of Wellington, Faculty of Law, Student/Alumni

This paper argues that courts should recognise unjust enrichment as a cause of action, mainly due to the structure and discipline this can bring to New Zealand's private law. This paper explores the historical development of unjust enrichment, and its relationship to the general law of restitution. This involves an exploration of legal taxonomy, and the different roles the concept of unjust enrichment can play in a common law legal system. The current New Zealand position on unjust enrichment is unclear: it can be seen operating as a label, a legal principle and some argue it is a cause of action in its own right. This paper considers how other jurisdictions have treated the concept of unjust enrichment, before briefly outlining how the cause of action should be structured in New Zealand. Given its sometimes broad nature, this paper views unjust enrichment as a supplementary action, within the law of obligations: there to provide a remedy when one is necessary, even in the absence of a wrong or an agreement between the parties.

["Negligence in Schools: Educating Educators About Their Liability"](#) 

[Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 22/2019](#)

[MATTHEW FOWLER](#), Victoria University of Wellington, Faculty of Law, Student/Alumni

Education is one of the most powerful tools a person can have. It allows us to read, calculate, understand, and make decisions. It informs our opinions, our view of others, and allows us to make our way in the world. This paper assesses the liability of those tasked with providing education at primary and secondary schools. It focusses on negligence, and explores the legal position if educators fail to take reasonable care of their students. The presence of the Accident Compensation Scheme renders physical injury actions largely unattainable. Therefore, the first type of claim relates to a failure to take care of a student's mental well-being. Bullying, exposure to objectionable material, and outrageous conduct are the given examples. The second type of claim relates to a failure to adequately educate the student through poor teaching, which is known as 'educational negligence'. The educational negligence doctrine is controversial, and has attracted different responses overseas. Neither of the above types of claim has been successfully litigated in New Zealand courts yet. The writer takes the view that such claims can, and will, arise in New Zealand in the near future. This informs the conclusion that New Zealand educators do face significant potential liability in negligence. In the modern context of teaching shortages and strikes, the bell may be ringing for the Government to incentivise this profession.

["Smart Contracts in Consumer Law: Does New Zealand Need to Wise Up?"](#) 
[Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 23/2019](#)

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Blockchain-based smart contracts represent a shift towards an automated world. While their immutable and self-executing nature present numerous economic benefits, these characteristics give rise to issues. One of these issues is that the burden of issuing proceedings changes from a party looking to enforce the agreement to a party who wishes to relieve themselves of an automatic enforcement mechanism. The 'practical burden', as the paper terms it, could potentially be most problematic in a consumer context, which is characterised by a significant imbalance between contracting parties. The paper assesses consumer law in New Zealand to determine whether this issue will arise under the current law. The paper concludes that New Zealand's current consumer law is practically robust, however it recommends some practical measures that can be taken by the Commerce Commission in order to prepare for smart contracts as a dominant method of transferring property.

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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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