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Announcements

Victoria University of Wellington Archival Collection Issue 10: Papers on the New Zealand Bill of Rights

The Archival Collection is an addition to the Victoria University of Wellington Legal Research Paper Series that has been under consideration for some time. Covid-19 has caused a slow-down in many areas of human activity. For scholarly publishing, the virus has meant that VUW's Legal Research Paper series has space for older work. We have brought forward the distribution of papers written by Victoria University of Wellington staff from earlier years. To maintain momentum, however, the collection will include recent papers where their topic matches the topic of an issue in the Archival Collection. All papers will remain fully searchable on the VUW pages of SSRN, by both [papers](#) and [authors](#).

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VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

"Cross-Fertilisation of Constitutional Ideas: The Relationship between the UK Human Rights Act 1998 and the New Zealand Bill of Rights Act 1990"

Roger Masterman and Ian Leigh (eds) The United Kingdom's Statutory Bill of Rights: Constitutional and Comparative Perspectives (OUP, London, 2013) pp 251-278

Victoria University of Wellington Legal Research Paper No. 98/2020

PETRA BUTLER, Victoria University of Wellington - Faculty of Law, University of Navarra - School of Law , Institute of Small and Micro States

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This essay explores how the Human Rights Act 1998 (HRA) and jurisprudence of the United Kingdom have influenced New Zealand's legal landscape. In the United Kingdom, the HRA introduced not only greater protection of substantive rights and freedoms, but also a perceived shift in the constitutional

greater protection of substantive rights and freedoms, but also a perceived shift in the constitutional balance between the judiciary and legislature. The judiciary has taken on an expanding role as protector of rights, and with that a (perceived) more significant role in holding the state to greater account. These developments have been viewed with interest in New Zealand, though this country has not followed completely in the United Kingdom's footsteps. This essay discusses the impact of the HRA on New Zealand's constitutional framework and jurisprudence, or the lack thereof.

"The Citation of Overseas Authority in Rights Litigation in New Zealand: How Much Bark? How Much Bite?"

Allan, J., Huscroft, G., & Lynch, N. (2007). *The citation of overseas authority in rights litigation in New Zealand: How much bark? How much bite?*. *Otago Law Review*, 11(3), 433-467.

Victoria University of Wellington Legal Research Paper No. 99/2020

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This paper is concerned with the common law-like system of rule making in regard to rights and freedoms under the New Zealand Bill of Rights Act. It is particularly concerned with citation by New Zealand Judges of the decisions of overseas judges interpreting and applying overseas bills of rights. It is found that overseas authority is not used in a principled or systematic way by New Zealand courts in interpreting the New Zealand Bill of Rights Act. In light of this, the paper concludes that New Zealand courts should be more skeptical of overseas authority than they appear to be, and be prompted to ask pertinent questions around foreign authority when it comes to rights-based internationalism.

"Damages for Breaches of the New Zealand Bill of Rights: Why Aren't They Sufficient Remedy?"

New Zealand Law Review, p. 333, 2008

Victoria University of Wellington Legal Research Paper No. 100/2020

GEOFF MCLAY, Victoria University of Wellington - Law Faculty

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This article attempts to explain the relative lack of cases brought for "public law compensation" or damages under the New Zealand Bill of Rights Act 1990 both by reference to the reluctance of the New Zealand courts to expand the remedy and to the nature of the New Zealand Bill of Rights Act 1990 and its place within the New Zealand legal universe. The author links that lack of success with the marked reluctance by judges in the United Kingdom to use damages as a remedy for breaches of the Human Rights Act 1998 (UK). This article argues that the source of the failure of Baigent's Case, in which the New Zealand Court of Appeal asserted jurisdiction to award compensation for breaches of the New Zealand Bill of Rights Act 1990, lies not only in a combination of factors to do with the sorts of right recognized by that enactment, but also in the fact that Baigent's Case (along with human rights compensation in other jurisdictions) has been undertheorized. The author examines and rejects the usual justifications given for compensation in private law cases, namely compensation, deterrence, and "corrective justice". In the author's view, the Supreme Court of New Zealand's decision in *Taunoa v Attorney-General* in August 2007 hints at, but does not completely explain, a signalling role for monetary awards against the government. Any complete theory of human rights compensation needs to be placed within the body of wider "public" mechanisms that courts have to control public authorities and to assess the extra value that such damages awards have in relation to other remedies. The article suggests that such an inquiry would force a little more light onto the much vexed division between public and private law.

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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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