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Announcements

Victoria University of Wellington Archival Collection Issue 4: Papers on Māori Legal Issues by Dr Carwyn Jones

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

"Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity"

(2012) February Māori LR 1-20

Victoria University of Wellington Legal Research Paper No. 69/2020

CARWYN JONES, Victoria University of Wellington - Faculty of Law

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Ko Aotearoa Tēnei – This is New Zealand/Aotearoa long awaited report of the Waitangi Tribunal on a number of claims about law and policy affecting Māori culture and identity. The Tribunal has painted New Zealand as poised at crossroads in race relations and the nation's sense of identity. The Tribunal's prescription, based on the principles of the Treaty of Waitangi, is to perfect a Treaty based partnership so that Māori interests are better understood and provided for.

"The MV Rena Grounding - The Interim Report on the MV Rena and Motiti Island Claims"

(2014) August Māori LR 14-20

Victoria University of Wellington Legal Research Paper No. 70/2020

CARWYN JONES, Victoria University of Wellington - Faculty of Law
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This report relates to Crown actions taken in response to the grounding of the container ship the MV Rena (the Rena) on Otaiti (Astrolabe) Reef near Motiti Island on 5 October 2011. In particular, the claimants, Ngāi Te Hapū Incorporated Society (Wai 2293) and the Motiti Rohe Moana Trust and the Mataatua District Māori Council (Wai 2291) raised concerns about the consultation process undertaken by the Crown in relation to the removal of the wreck and whether the Crown would ensure that the wreck of the Rena was completely removed from the reef. Following an urgent hearing, the Tribunal issued an interim report which found that the Crown's consultation process was not sufficient to fulfil the duty of active protection under the principles of the Treaty of Waitangi. The Tribunal recommended that, in determining whether to make a submission in respect of the Rena owners' application for resource consent to leave part of the wreck on the reef, the Crown should take into account the effects on Māori involved and that such effects should be reflected in any submission the Crown makes in respect of the Rena owners' application.

"Customary Law as Part of the Common Law - Burial; Executor's Duties *Takamore v Clarke*"

November Māori LR 1-12

Victoria University of Wellington Legal Research Paper No. 71/2020

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The New Zealand Court of Appeal decision of *Takamore v Clarke* reflects an important development in the role of Māori Customary Law in New Zealand. The case involved a burial dispute, whereby the whānau removed the body according to Tūhoe burial custom. This article summarises the Court's decision to dismiss the appeal in favour of the executor (over the whānau). The judgment of Glazebrook and Wild JJ set out a five step test for recognition of customs as law. Although not meeting the criteria of customary law, the judgment did hold that the custom was still a relevant consideration according to a "more modern approach" towards Māori tikanga. Chambers J, in a separate judgment, decided the case on the basis of individual autonomy, referring to both the Waitangi Tribunal and to the Bill of Rights Act 1990 to decide whether a person fell within the scope of customary law.

"Immigration Decisions; Spouses as Taonga"

(2012) May Māori LR 11-14

Victoria University of Wellington Legal Research Paper No. 72/2020

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The Waitangi Tribunal declined to convene an urgent inquiry into a claim that removal from New Zealand of a person under immigration processes would amount to a breach of the Treaty of Waitangi because that person was regarded as a taonga by his wife's family.

"Remedies Recommendations - The Mangatū Remedies Report"

Māori Law Review, pp. 1-9, April 2014

Victoria University of Wellington Legal Research Paper No. 73/2020

CARWYN JONES, Victoria University of Wellington - Faculty of Law
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In this report the Waitangi Tribunal declined to make any binding recommendations in respect of Crown Forest License land within the Mangatū State Forest. Alan Haronga, on behalf of the Mangatū Incorporation, sought a recommendation from the Tribunal that the land in question be returned to the Mangatū Incorporation. In 2008 and then again in 2009, he applied to the Tribunal for an urgent hearing on the matter of remedies. The Tribunal declined to grant such a hearing. However, in 2011, Mr Haronga obtained a ruling from the Supreme Court that required the Tribunal to convene an urgent hearing on this matter. In addition to the Mangatū Incorporation, three other claimant groups asserted an interest in the Crown Forest License land, also seeking binding recommendations for the return of that land. The Tribunal did not issue any binding recommendations, but did reserve leave for the claimants to return to the Tribunal for a comprehensive remedies process if the Crown and claimants cannot reach agreement on this matter through the settlement negotiation process.

"Reference to Extrinsic Material to Resolve Ambiguity in Definition of Beneficiaries of Whenua Tonu Trust: *Pirika v Fru - Te Ngae Farm Trust*"

(2013) *May Māori LR 20-23*.

Victoria University of Wellington Legal Research Paper No. 74/2020

CARWYN JONES, Victoria University of Wellington - Faculty of Law
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Pirika v Eru, heard in the Māori Appellate Court, was an appeal from *Easthope v Pirika*, and concerned a disagreement among the trustees of the Te Ngae Farm Trust as to who should benefit from the trust. The case turned on the interpretation of the trust deed. The Court held that extrinsic sources could be used as an aid for interpretation. In this particular case, the Waitangi Tribunal report and the following settlement with the Crown were used to decide a narrower interpretation was needed.

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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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