

FACULTY OF HUMANITIES AND SOCIAL SCIENCES

VA'AOMANŪ PASIFIKA PACIFIC STUDIES

PASI 302

SPECIAL TOPIC: PACIFIC JURISPRUDENCE: A STUDY OF CUSTOM AND LAW IN THE
PACIFIC
20 POINTS

TRIMESTER 1 2016

Key dates

Trimester dates: 29 February to 29 June 2016 **Teaching dates:** 29 February to 5 June 2016

Easter break: 24-30 March 2016

Mid-trimester break: 25 April to 1 May 2016 Last assessment item due: 10 June 2016

Withdrawal dates: Refer to www.victoria.ac.nz/students/study/withdrawals-refunds. If you cannot complete an assignment or sit a test in the last three weeks of teaching, or an examination, it may instead be possible to apply for an aegrotat (refer to www.victoria.ac.nz/students/study/exams/aegrotats).

Class times and locations

Lectures: Mon and Thurs 10am- 12pm, 6KP/102 (6 Kelburn Parade, Room 102.)

Tutorials: There are no additional tutorials for this course.

Names and contact details

Coordinator: Dr Sailau Suaalii-Sauni	Administrator: Melissa Fiu
Room 203, 6 Kelburn Parade	Room 101, 6 Kelburn Parade
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E: sailau.suaalii-sauni@vuw.ac.nz	E: melissa.fiu@vuw.ac.nz
Office Hrs: immediately after class or by	Office Hrs: Mon to Fri 9am – 3.00pm
appointment.	

Communication of additional information

Additional information will be communicated in lectures and on Blackboard. You will automatically receive all Blackboard announcements as an email sent to your @myvuw.ac.nz email address. If you are not going to use this Victoria email address set up for you, we strongly encourage you to set a forward from the Victoria email system to the email address you do use.

Prescription

This course explores theories and philosophies of custom and law in the Pacific. It analyses the cultural and historical nuances of Pacific customs (such as "bride price" and the "ifoga") and related case law to reflect on whether there is such a thing as a "Pacific jurisprudence".

Course content

This is a lecture and seminar based course. This means that some topic areas will be taught in a lecture format while others expect students to engage in open and respectful class discussion chaired either by the course convenor or the students themselves. The course probes the following questions:

- What is law and how does it usually work in the Pacific?
- What is custom and how does it usually work in the Pacific?
- What is the relationship between law and custom in the Pacific?
- What is jurisprudence?
- Is there a common jurisprudence for the Pacific? If so, what does it look like? If not, why not?
- Why would a common jurisprudence for the Pacific be important?

The course examines the laws, customs and jurisprudence of four Pacific countries as case studies: (1) Aotearoa New Zealand, (2) Papua New Guinea, (3) Samoa, and (4) Palau, noting similarities and differences. The course introduces postcolonial, feminist, Marxist, critical legal and

Foucauldian ideas to students as analytical tools to develop a deeper critical awareness of key jurisprudence issues within and across different Pacific countries.

Course learning objectives (CLOs)

Students who pass this course should be able to:

- 1. evaluate at a basic level key concepts, paradigms, goals and activities associated with the development of a Pacific jurisprudence.
- 2. analyse at a basic level the relationship between customs and laws in at least one Pacific nation state at different theoretical and practical levels.
- 3. show basic understanding of the similarities and differences between the custom and introduced laws of at least four different Pacific nation states.
- 4. participate effectively in group and individual work.
- 5. demonstrate basic knowledge of key literatures and debates surrounding the pros and cons of developing a Pacific jurisprudence.

Teaching format

The teaching format for the course is based on a combined lecture and seminar approach. Students are expected to read all the required readings. A set reading list is provided in the appendix and available on Blackboard and Talis Aspire. The class hosting/chairing exercise offers the opportunity to develop personal confidence in leading intellectual group discussion. Guest lectures are designed to give students the opportunity to engage with an expert directly engaged with law and custom work in the different countries.

A week by week schedule of topic areas for coverage in the course is provided in appendix 1, together with the list of set readings. PASI 302 students have a lighter workload than PASI402 students in line with the requirements of a 20 point BA course.

Mandatory course requirements

In addition to achieving an overall pass mark of 50%, students must attend scheduled fieldtrips in order to that all have the opportunity to see first-hand how two key modern law making institutions work as it directly informs the achievement of the course learning objectives.

Any student who is concerned that they have been (or might be) unable to meet any of the MCRs because of exceptional personal circumstances, should contact the course coordinator as soon as possible.

Workload

The expectations are that students will work 10 hours per point, therefore a 20 point course equates to 200 hours over the trimester. This includes scheduled contact time, individual or group study, and work on assessment tasks.

1st Key Concept & Questions Sheet (KCQ1)	Approximately 8 hours
2 nd Key Concept & Questions Sheet (KCQ2)	Approximately 8 hours
3 rd Key Concept & Questions Sheet (KCQ3)	Approximately 8 hours
4th Key Concept & Questions Sheet (KCQ4)	Approximately 8 hours
5 th Key Concept & Questions Sheet (KCQ5)	Approximately 8 hours
Hosting of a Guest Lecture (Providing Introductory or	Approximately 8 hours
Closing Remarks)	
Chairing a class discussion	Approximately 8 hours
Annotated Bibliography (1000 words maximum,	Approximately 40 hours
references included)	
Oral Presentation on Essay Topic (20 minutes	Approximately 32 hours
minimum)	
Essay (2500 words maximum, references included)	Approximately 61 hours
Participation in 2 field trips	Approximately 8 hours
Office hour sessions with course coordinator	Approximately 3 hours

Assessment

This course is 100% internally assessed.

Assessment items and workload per item		% CLO(s) Due date		Due date
1	1 st KCQ – 600 words	5%	1,2,3	Fri, 18 March, 10pm
2	2 nd KCQ – 600 words	5%	1,2,3	Fri, 25 March, 10pm
3	3 rd KCQ – 600 words	5%	1,2,3	Fri, 1 April, 10pm
4	4 th KCQ – 600 words	5%	1,2,3,5	Mon, 9 May, 10pm
5	5 th KCQ – 600 words	5%	1,2,3,5	Fri, 13 May, 10pm
6	Hosting a Guest Lecture (making either introductory or closing summary remarks) - approx. 5 minutes (students to choose one of	5%	1-5	March 31, 10am

	the four lecture days to host; all hosting sessions are during class time)			April 7, 10am April 14, 10am April 21, 10am
7	Chairing a class review discussion on country case studies (students who choose to review Aotearoa NZ & PNG will chair first, followed by those reviewing Samoa & Palau; all chairing sessions are during class time)	5%	1-5	Mon 2 May, 10am
8	Annotated Bibliography – 1000 words (including references)	10%	1,2,3,5	Mon, 16 May , 10pm
9	In class oral presentation on essay topic (approx. 20 minutes)	15%	1-5	Mon, 23 May, 10am Thurs, 26 May, 10am
10	Written essay – 2500 words (including references)	40%	1,2,3,5	Fri, 10 June, 10pm

To fulfil the annotated bibliography, in class oral presentation and essay requirements all students must schedule at least 3 one hour office hour appointments with the course coordinator. The schedule will be organised with students during Weeks 1&2.

Assessment information:

Key Concept & Question (KCQ) Sheets

This assignment comprises answering a key question relating to a key concept associated with a designated topic within the course. There are 5 KCQ sheets in total. The first three KCQs ask: "what is law"; "what is custom" and "what is jurisprudence". The last two KCQs explore one or more of the five theoretical frameworks explored in the latter part of the course. All KCQs are worth 5% each. All KCQ sheets will be posted on Blackboard by end of Week 1. The marking schedule is provided within each KCQ sheet.

Hosting a Guest Lecture

This assignment involves either the introduction of the guest lecture and of the lecturer or providing the closing comments for that closes the guest lecture and thanks the guest lecturer. Introductory comments should include providing biographical information, professional areas of expertise, noting any academic or research or government sector work relevant to the lecture topic. Closing comments involve not only thanking the guest lecturer for his/her lecture and presenting the class gift, but also drawing out key summary points from the guest lecture and relating these to course learning objectives and course content covered to date. Students are encouraged to take into account Pacific indigenous cultural hospitality protocols where appropriate. Guidelines and the marking schedule for this assignment will be posted on Blackboard.

Chairing a Class Review Session on Country Case Studies

This assignment involves preparing discussion activities and facilitating these activities in a way that generates full class discussion on key issues of interest relating to the country case study. Students are to draw on course readings and information provided by the guest lecturer in their review. Guidelines and the marking schedule for this assignment will be posted on Blackboard.

Annotated Bibliography on Proposed Essay Topic

This assignment requires searching, compiling and writing brief annotations for 8 different academic sources relevant to a proposed essay topic. A brief one paragraph explanation of no more than 100 words must be included that explains the search methodology employed to find the sources. The assignment must include the proposed essay topic, full citation of each source and annotations of approximately 100 words that describes the main contents of each source and its relevance to the proposed topic. All sources must be fully referenced using an accepted academic referencing style. A template with the format to be adopted for this assignment and the marking schedule will be posted on Blackboard.

In Class Oral Presentation on Essay Topic

This assignment involves a brief explanation of the student's essay topic, including (but not limited to) an overview of the key issues to be explored within the proposed essay, key sources to be used (including the chosen theoretical framework/s to be employed), and a discussion of the relevance of the proposed essay topic to the debate on the development of a Pacific jurisprudence. Guidelines for the in class oral presentation and the marking schedule will be posted on Blackboard.

Essay

This assignment involves writing a 2500 word academic essay on a topic of relevance to the course and of interest to the student. Over the course of at least 3 scheduled office hour sessions the student will work together with the course coordinator to help focus his or her essay topic. The essay is to utilise one or two of the theoretical frameworks explored in class and provide discussion on how the findings of the research essay may inform the development of a Pacific jurisprudence for the region. The marking schedule for this assignment will be posted on Blackboard.

Submission and return of work

Written assignments are not to be submitted in hardcopy, but in electronic format only. Electronic assignments are submitted as a MS Word file through Blackboard. How to name your file and instructions for uploading your electronic assignment can be found on Blackboard in the

"Assignments" section. Your mark and marked assignment with feedback will be found on Blackboard in the same section or through your course coordinator.

Your grade and feedback comments for hosting, chairing and oral presentation assessments will also be entered on Blackboard.

Extensions and penalties

Extensions

Assignments submitted more than seven days after a due date or authorised extension will still be accepted, but will not be marked. For more information about circumstances warranting extensions, refer to the section on extensions in the Victoria University Assessment Handbook.

Penalties

Late submissions for student assignments in all Samoan Studies and Pacific Studies undergraduate courses are subject to a penalty, except when accompanied by a medical certificate or evidence of other exceptional circumstances. The exact deduction will be calculated on the basis of one half mark per day late.

Field trip arrangements

There are two field trips for this course: (1) to the New Zealand Parliament in Wellington, on Monday, 16 May 2016, 10am; and (2) to the Wellington District Court on Thursday, 19 May 2016, 10am. There is no cost to attend these field-trips. Both fieldtrip sites are within Wellington City. Students are to meet in the entrance foyer of the New Zealand Parliament and the District Court. The New Zealand Parliament Building is located on Molesworth Street, Wellington Central. The Wellington District Court main entrance is on Ballance Street, Wellington Central. All students are to participate in these two field-trips.

Set texts

There is no set text for this course. All required readings will be posted on Blackboard and Talis Aspire for students to print and read before lectures.

Students are encouraged to read widely and engage with the Pasifika Subject Librarian, Vaisagote Keneti Vaisagote (email: keneti.vaisagote@vuw.ac.nz or DDI: 04-463-6307) if they need assistance with library resources.

Class representative

The class representative can communicate feedback to the teaching staff during the course. A class representative will be selected by the class by Week 2.

Student feedback

You will have an opportunity to participate in the formal evaluation of this course. Formal and informal student feedback on PASI302 has resulted in improvements to the course. Previous cohort of students in this class expressed that the course encouraged them to think critically and stimulated their interest in learning more about Pacific jurisprudence. They felt comfortable asking questions of the lecturer, and appreciated use of guest lectures, real life case law examples, video materials and field-trips. Most students found that although "readings were great" but there was "a bit too much to go through". Last year's students fed back that more time ought to be given to the theoretical frameworks covered by the course. Your lecturer has taken this feedback into account and has reduced the number of required readings from previous years and reorganised the lecture content to ensure more time for theoretical frameworks.

Student feedback on University courses may be found at www.cad.vuw.ac.nz/feedback/feedback_display.php.

Other important information

The information above is specific to this course. There is other important information that students must familiarise themselves with, including:

- Academic Integrity and Plagiarism: www.victoria.ac.nz/students/study/exams/integrity-plagiarism
- Academic Progress: www.victoria.ac.nz/students/study/progress/academic-progess(including restrictions and non-engagement)
- Dates and deadlines: www.victoria.ac.nz/students/study/dates
- FHSS Student and Academic Services Office: www.victoria.ac.nz/fhss/student-admin
- Grades: www.victoria.ac.nz/students/study/progress/grades
- Special passes: refer to the Assessment Handbook, at www.victoria.ac.nz/documents/policy/staff-policy/assessment-handbook.pdf
- Statutes and policies including the Student Conduct Statute:
 www.victoria.ac.nz/about/governance/strategy
- Student support: www.victoria.ac.nz/students/support
- Students with disabilities: <u>www.victoria.ac.nz/st_services/disability</u>
- Student Charter: www.victoria.ac.nz/learning-teaching/learning-partnerships/student-charter
- Subject Librarians: http://library.victoria.ac.nz/library-v2/find-your-subject-librarian
- Terms and conditions: <u>www.victoria.ac.nz/study/apply-enrol/terms-conditions/student-</u> contract
- Turnitin: www.cad.vuw.ac.nz/wiki/index.php/Turnitin

- University structure: <u>www.victoria.ac.nz/about/governance/structure</u>
- Victoria graduate profile: www.victoria.ac.nz/learning-teaching/learning-partnerships/graduate-profile
- VUWSA: <u>www.vuwsa.org.nz</u>

PASI302/402: WEEK BY WEEK TIMETABLE WITH MAIN READINGS

Week/Day	Topic & Reading
Week One:	What is law and custom?
Day 1: (Mon, 10am; 29 Feb)	What is law? Main readings: 1). Harris, P. "Law and Society", in An Introduction to Law, 6 th edition, 2002, Halsbury House, London: ButterworthsTolley, LexisNexis Group. Chapter 1, pp. 1-27. 2). Harris, P. "The Making of Legal Rules", in An Introduction to Law, 6 th edition, 2002,
	Halsbury House, London: ButterworthsTolley, LexisNexis Group. Chapter 7, pp. 196-222.
Day 2: (Thurs, 10am; 3 March)	 What is custom and custom law? Main reading: 3). New Zealand Law Commission, "Understanding Custom Law", in Converging Currents: Custom and Human Rights in the Pacific, Study Paper 17, 2006, Wellington: NZ Law Commission, Chapter 4, pp.41-59. *Watch also the Stori Tumbuna video by Paul Wolffram
Week Two:	What is jurisprudence?
Day 3: (Mon, 10am; 7 March)	 What does jurisprudence mean in theory and in the Pacific Islands? Main readings: 4). Simmonds, N.E., "Introduction", in Central Issues in Jurisprudence, 3rd edition, 2008, London: Sweet & Maxwell, pp.1-8. 5). Narokobi, B., "The Black Islands – Melanesia: Melanesian Jurisprudence". In Lo Bilong Yumi Yet: Law and Custom in Melanesia. Crocombe, Ron and Roche, Paul (eds)., 1989, Suva, Fiji: The Melanesian Institute for Pastoral and Socio-Economic Service and the University of the South Pacific, Chapters 1&4, pp.3-16, 50-74. 6). Tui Atua, T.T. T.E., "Samoan Jurisprudence and the Samoan Lands and Titles Court: The perspective of a litigant", in Su'esu'e Manogi: In search of fragrance: Tui Atua Tupua Tamasese Ta'isi and the Samoan Indigenous Reference. Suaalii-Sauni, T et al (eds)., 2009, Apia: National University of Samoa, Chapter 14, pp.153-172. 7). Lealofi, E., "Samoan Jurisprudence': A Commentary"", in Su'esu'e Manogi: In search of fragrance: Tui Atua Tupua Tamasese Ta'isi and the Samoan Indigenous Reference. Suaalii-Sauni, T et al (eds)., 2009, Apia: National University of Samoa, Chapter 29, pp.340-346. 8). Judge Ida Malosi's Samoa court decision – Police v Muliagatele APB Lima
Day 4: (Thurs, 10am; 10 March)	 What are some examples of the theory of jurisprudence in practice in the Pacific? Main reading: 9). New Zealand Law Commission, "A Pacific Jurisprudence", in Converging Currents: Custom and Human Rights in the Pacific, Study Paper 17, 2006, Wellington: NZ Law Commission, Part 3, pp.147-166. (Class reflective feedback session in last hour of this class on what has been learnt about what is the theory of jurisprudence and how it might work – or not – in the Pacific)
Week Three	What are the theoretical tensions between law and custom in the Pacific? How might these tensions manifest themselves within a Pacific jurisprudence?
Day 5: (Mon, 10am; 14 March)	What are the theoretical tensions between law and custom in the Pacific? Refer to readings from Weeks 1&2.
Day 6: (Thurs, 10am; 17 March)	How can a common jurisprudence for the Pacific cope, if at all, with these theoretical tensions? Refer to readings from Weeks 1&2. (Class reflective feedback session in last hour of this class on what has been learnt about the theoretical tensions inherent in a Pacific jurisprudence)

Week Four	Country Case-Studies: 1. Aotearoa/New Zealand
Day 7: (Mon, 10am; 21 March)	What is the relationship between Tikanga Maori (Maori custom or lore) and New Zealand law? How is this relationship reflected in current New Zealand jurisprudence?
	10). New Zealand Law Commission., "Māori custom law", in <i>Māori Custom and Values in New Zealand Law</i> , 2001, Wellington: NZ Law Commission, Chapter 3, pp.15-59.
	11). Mead, A.T.P., "Sacred Balance". Unpublished paper for Global Biodiversity Assessment, Cultural and Spiritual Values of Biodiversity, United Nations Environment Programme (UNEP), Online at: http://www.ubcic.bc.ca/files/PDF/sacred.pdf . [Accessed 25 June 2013].
	12). Frame, A., "A few simple points about customary law and our legal system". <i>Yearbook of New Zealand Jurisprudence</i> , Benton, R., (ed),2010 & 2011, v13&14 (combined), Hamilton: University of Waikato, pp.20-28.
24-30 March	EASTER BREAK
Week Five	Maori Jurisprudence Cont
Day 9: (Thurs, 10am; 31 March)	Guest Lecture: Mamari Stephens No readings set for this class
Week Six	Country Case-Studies: 2. PNG
Day 10: (Mon, 10am; 4 Apr)	What is the relationship between PNG custom and PNG law? How is this relationship reflected in the jurisprudence of PNG today? Main readings: 13). Revisit Narokobi reading (see Week 2). 14). Muganaua, T., "Mambe Area, East Sepik Province", in Customary Law in Papua New Guinea: A Melanesian view, Scaglion. R (ed), 1983, PNG: Law Reform Commission of Papua New Guinea, Monograph No. 2, pp.24-35.
Day 11: (Thurs,	Guest Lecture: Speaker from the PNG High Commission (TBC)
10am; 7 Apr)	No readings set for this class
Week Seven	Country Case-Studies: 3. Samoa
Day 13: (Mon, 10am; 11 Apr)	What is the relationship between Faasamoa (Samoan custom or lore) and Samoa law? How is this relationship reflected in the jurisprudence of Samoa today? Main readings: 15). Revisit Tui Atua reading (set for Week 2). 16). Suaalii-Sauni, T. "It's in your bones!': Samoan custom and discourses of certainty", in Yearbook of New Zealand Jurisprudence. Benton, R. (ed), 2010&2011, v13&14 (combined), Hamilton: University of Waikato, pp.70-88. 17). Patu, F.S., et al. "Law and Custom", in Samoa's Journey 1962-2012: Aspects of history, Leasiolagi, M.M. et al (eds), 2012, Wellington: Victoria University Press, pp.18-43.
Day 12: (Thurs, 10am; 14 Apr)	Guest Lecture: Assoc-Prof Luamanuvao Winnie Laban (TBC) No readings set for this class
Week Eight	Country Case-Studies: 4. Palau
Day 13: (Mon, 10am; 18 Apr)	What is the relationship between the customs or lore of Palau and Palau law? How is this relationship reflected in the jurisprudence of Palau today? Main readings: 18). Yamase, Dennis K., "Organization of the Unified Judiciary of Palau", in Pacific Courts and Legal Systems. Powles, Guy and Pulea, Mere (eds)., 1988, Suva, Fiji: University of the South Pacific in association with the Faculty of Law, Monash University. 1988. Chapter 49, pp.255-261. 19). Graham, T. and Idechong, N., "Reconciling customary and constitutional law: managing marine resources in Palau, Micronesia", Ocean and Coastal Management, 1998, 40, pp.143-164.
Day 14: (Thurs, 10am; 21 Apr)	Guest Lecture: David Tibbetts/Wayne Andrew No set readings for this class

25-29 April	MID-TRIMESTER BREAK
Week Nine	Reflective Class Discussion on Country Case Studies& Introducing Theoretical Frameworks for analysing relationship between law and custom
Day 15: (Mon,	Reflecting on the New Zealand/Aotearoa and PNG cases: Student hosted/chaired sessions
10am; 2 May)	Discussion hosted/chaired by students who hosted/chaired the guest lecture. Reflections to focus on key issues/themes raised in guest lecture and readings. Format to be explained in class and posted on Blackboard.
	Reflecting on the Samoa and Palau cases: Student hosted/chaired sessions
	Discussion hosted/chaired by students who hosted/chaired the guest lecture. Reflections to focus on key issues/themes raised in guest lecture and readings. Format to be explained in class and posted on Blackboard.
	No set readings for this class
Day 16: (Thurs, 10am; 5 May)	What might a Feminist and Marxist reading of the relationship between law and custom in the Pacific look like?
	Main readings: 20). MacKinnon, C., "Feminism, Marxism, Method and the State: toward feminist jurisprudence", In <i>Feminist Legal Theory: Readings in law and gender</i> . Bartlett, K and Kennedy, R (eds). 1991, Boulder: Westview Press., pp.181-200.
	21). Zorn, J.G., "Issues in contemporary customary law: women and the law", in <i>Passage of Change: Law, Society and Governance in the Pacific.</i> Jowitt, Anita and Cain, Tess Newton (eds)., 2003, Canberra: Pandanus Books, Research School of Pacific and Asian Studies, The Australian National University, Chapter 6, pp.125-142.
	What might a Foucauldian and 'Postcolonial' reading of the relationship between law and custom in the Pacific look like?
	22). Mohanty, C.T., "Under Western Eyes: Feminist Scholarship and Colonial Discourses". <i>Feminist Review</i> , 1988, 30 (Autumn), pp.65-88.
	23). Foucault, M. "Governmentality". In <i>The Foucault Effect: Studies in Governmentality, with two lectures by and an interview with Michel Foucault.</i> Burchell, G et al (eds)., 1991, London: Harvester Wheatsheaf, pp.87-104.
Week Ten	Theoretical frameworks cont & summary student-led class discussion on theoretical frameworks
Day 17: (Mon, 10am; 9 May)	How might a critical legal studies (CLS) perspective address the relationship between law and custom in the Pacific?
	Main reading:
	24). Matsuda, M.J., "Looking at the Bottom: Critical Legal Studies and Reparations", <i>Harvard CR-CL LR</i> ,1987, 22, pp.323-399.
Day 18: (Thurs, 10am; 12 May)	Summary Student-led Class Discussion on Feminist, Marxist, Foucauldian, Postcolonial& CLS contributions to an understanding of the relationship between law and custom in the jurisprudence of Pacific countries
Week Eleven	Field trips to Parliament &District Court
Day 19: (Mon, 10am; 16 May)	Field trip to Parliament (Meet at Parliament House, 10am)
Day 20: (Thurs, 10am; 19 May)	Field trip to District Court (Meet outside District Court, 10am)
Week Twelve	Student Essay Topic-based Oral Presentations
Day 21: (Mon, 10am; 23 May)	Student oral presentations on essay topic & class feedback

Day 22: (Thurs, 10am; 26 May)	Student oral presentations on essay topic & class feedback
Week Thirteen	Course summation, Formal Student Evaluation Feedback & Shared Lunch
Day 23: (Mon, 10am; 30 May)	Course Summation
Day 24: (Thurs, 10am; 2 June)	Student Formal Evaluation Feedback & Shared Lunch
STUDY WEEK & Exam Period (7-29 June)	