



## LEGAL SCHOLARSHIP NETWORK: LEGAL STUDIES RESEARCH PAPER SERIES

### VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

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### VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

["Reforming the New Zealand Law of Contempt of Court"](#) 


Crown Law Office Te Tari Ture o te Karauna, 2011

[Victoria University of Wellington Legal Research Paper No. 33/2013](#)

[ANTHONY TERRY SMITH](#), Victoria University of Wellington - Faculty of Law

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This paper was prepared as an issues paper for the Crown Law Office, identifying points of difficulty in the New Zealand Law of Contempt of Court. It raises questions as to whether the current law, which is a mixture of common law and statute should be reformed, and possibly codified. Although primarily concerned with criminal contempts, and contempt by publication in particular (including publication via the new media) it also examines the law of civil contempt, which is committed primarily by failing or refusing to comply with a court order.

["Comparing the General Anti-Avoidance Rule of Income Tax Law with the Civil Law Doctrine of Abuse of Law"](#) 

Bulletin for International Taxation, April 2008

[Victoria University of Wellington Legal Research Paper No. 34/2013](#)

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この論文の日本語版は、次のURLで参照することができます

<http://ssrn.com/abstract=1479931>

This article compares the general anti-avoidance rule of income tax law with the civil law doctrine of abuse of law (Rechtsmissbrauch, abus de droit) in eight jurisdictions: Germany, Croatia, New Zealand, Australia, France, the United States, the United Kingdom and the European Union. The article deals with the core concept of avoidance and addresses the statutory and judge-made general anti-avoidance rules in these jurisdictions. The article focuses on transactions that most people would recognize as avoidance and on how these eight jurisdictions either frustrate avoidance or allow it.

Writers who contributed to the article and the jurisdictions that they covered include: Séverine Baranger (France, general anti-avoidance rule), Dennis Becher (Germany, abuse of law), Svenja Brandt (Germany, general anti-avoidance rule) David Dunbar (Australia), Matthew Fountain (New Zealand), Franca Frenzel (European Union), David Pickup (United Kingdom), Philip Postlewaite (United States), Rebecca Prebble (Croatia), Viktoria Preusker (Germany, abuse of law), Yves-Louis Sage (France, abuse of law).

["Indigenous Political Representation: Latin America and International Human Rights Law"](#) 

Journal of New Zealand Studies, NS11, pp. 93-107, 2011  
[Victoria University of Wellington Legal Research Paper No. 35/2013](#)

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Indigenous peoples claim greater control over and participation in decision-making over their lives. A lack of such control and participation has been identified as a significant problem and impediment for achieving indigenous peoples' human rights. As a result, indigenous peoples claim substantive rights to political participation and representation for the group, not just for the individuals within it.

In this paper, I first outline the traditional approach to rights of electoral participation within international law, offering some examples from the European Court of Human Rights to illustrate this position. I then discuss the indigenous rights approach, and show how this is the approach adopted in Latin America. I discuss the example of the YATAMA decision from the Inter-American Court of Human Rights in order to illustrate this.

The paper concludes that the Latin American approach best integrates human rights concerning both electoral participation and indigenous peoples. It therefore provides the best example currently available for reconceiving the existing principles of international law to better integrate indigenous rights more generally across the body of human rights law and, thus, to better provide for indigenous representation within domestic representative political bodies.

["The Prisoners' Dilemma Posed by Free Trade Agreements: Can Open Access Provisions Provide an Escape?"](#) 

Chicago Journal of International Law, Vol. 11, pp. 631-661, 2010  
[Victoria University of Wellington Legal Research Paper No. 36/2013](#)

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This article explains why free trade agreements (FTAs) that are not compliant with the spirit of GATT Article XXIV's requirement that such agreements cover "substantially all the trade" between the parties pose serious challenges for the multilateral trading system. It notes the paradoxical behavior of WTO members in continuing to negotiate such free trade agreements to the detriment of the WTO. It characterizes this paradox as a form of Prisoners' Dilemma, in that although members would be better off pursuing trade liberalization via the WTO, their dominant strategy is to pursue FTAs. The article goes on to propose a pragmatic solution to resolve the dilemma that attempts to navigate the difficulties posed by both retrospective and prospective solutions.

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## About this eJournal

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 Judicial 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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