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The Student and Alumni subseries forms part of the Victoria University of Wellington Legal Research Paper Series (VUWLRPS). For more information about both VUWLRPS and the Student and Alumni subseries, see "About this eJournal" near the end of this issue.

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VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

"Hate Speech and Holocaust Denial: The Prohibition of False Historical Discourse in Modern Society"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 29

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The existence and magnitude of the largest genocide of the twentieth century, the Holocaust, are now being denied by individuals worldwide. This paper analyses the European legislation criminalising Holocaust denial from a freedom of expression perspective. The paper argues that Holocaust denial is

inherently anti-Semitic, and is thus consistent with hate speech theory and the hate speech laws that have been enacted internationally in an attempt to remedy the harm hate speech can cause. The thesis of this paper is that the legislative restrictions on hate speech and Holocaust denial are justified from a free speech perspective on theoretical grounds. Such restrictions are a necessary prioritisation of human dignity and equality in the circumstances. Explicit Holocaust denial laws, while performing an essential symbolic function in European jurisdictions, are unnecessary in non-European states, as generic hate speech laws are sufficient to capture the harm caused by upper-level Holocaust denial.

"Hung Out to Dry? Questioning the Legality of Southland Baby-Farmer Minnie Dean's 1895 Murder Trial and Execution"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 30

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In 1895 Minnie Dean became the only New Zealand woman to receive the death penalty. In the Invercargill Supreme Court she was found guilty of the murder of Dorothy Edith Carter, a child Minnie had recently adopted, who was found buried in her garden alongside two other infants. Branded a vindictive baby-farmer, Minnie Dean was widely condemned by the New Zealand press and public during the four months between her arrest and execution. This paper will assess whether, amongst the mania, Minnie was afforded a fair criminal trial and sentencing. It will be argued that while Minnie's fate was largely predetermined from the moment of her arrest, against 1895 legal standards, correct criminal procedure was generally followed. Despite this, when comparing her trial and sentencing with contemporaneous murder trials, it is evident that Minnie Dean received no procedural clemency.

"The Wrongful Imprisonment of the Guildford Four: Who Bears the Blame?"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 31

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This paper discusses the wrongful imprisonment of the Guildford Four, and the reasons why this miscarriage of justice occurred. Contrary to popular opinion that the injustice arose due to police malpractice, this paper will conclude that the blame lies primarily with the judiciary for failing to reverse the 1975 decision even in the face of what seemed to be insurmountable contradictory evidence. This paper analyses the role each branch of government played, as well as discussing the role of public perceptions and societal fears of the time.

"Nuremberg: Procedural Due Process at the International Military Tribunal"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 32

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For over sixty years, lawyers and historians have discussed the credibility and repercussions of the Nuremberg Trial (1945-1946). This paper argues that the defendants' procedural due process rights were partially protected at Nuremberg, although there were gross breaches of particular fundamental due process rights. The Nuremberg Trial at the International Military Tribunal was conducted by the four Allied Powers to try the upper echelon Nazi war criminals following the Second World War. The London Charter, drafted by the Allies, outlined the trial procedure to be adopted, and provided certain guarantees in attempt to secure a fair trial for the twenty-two defendants. This paper examines the history of fundamental due process rights (recognised in both continental Europe and common law jurisdictions) and analyses the extent to which these rights were breached at Nuremberg. This paper further argues that despite the defendants being afforded more rights than they could have expected given the circumstances, such breaches significantly compromised the integrity of the trial.

"New Zealand's Forgotten Appellate Court? The Native Affairs Committee, Petitions and Maori Land: 1871 to 1900"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 33

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The second half the 19th century witnessed one of the most complex and destructive chapters in New Zealand legal history. The Native Land Court, Land Laws and Crown purchase and confiscation policies combined to create confusion, uncertainty and grievance in Maori land ownership and transactions. In

response, thousands of Maori, and some Europeans, petitioned Parliament. Around two thousand of these Maori land related petitions were referred to the Native Affairs Committee of the House of Representatives, many of which involved complex disputes and legal issues in relation to Maori land. In several respects, the petitioners were treating this Committee as a de-facto 'Maori Land Appellate Court'. However, the Committee was no such court. Instead, this paper argues the Committee was effectively operating as a 'Maori Land Ombudsman'. Using petitions, Maori and Europeans would put their grievances and law reform suggestions before the Committee. In turn, the Committee would usually investigate and make recommendations for action. Although the Committee was ultimately unable to resolve many of the alleged grievances put before it, in a system where Maori had little political power, it fulfilled an important constitutional role as a check on judicial and government power in relation to Maori land interests.

"The Legitimacy of Spectral Evidence During the Salem Witchcraft Trials"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 34

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This paper looks at the use of spectral evidence during the Salem witch trials and examines whether its use was legitimate and in accordance with the evidential standards of the time (1692). Ultimately this paper finds that the use of spectral evidence was legitimate as it followed the slim guidelines available at the time. The court followed a strong precedent and the limited statutory guidance and instructions that were available. However there was acknowledgement at the time that spectral evidence was limiting the rights of those accused and was leading to unjust convictions. As such these trials invoked an acknowledgement of more modern standards of evidence. Therefore spectral evidence was legitimately used given the guidelines of the time despite the unjust effect that it had.

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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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