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Announcements

Special Issue: Papers about the Treaty of Waitangi and the Claims Settlement Process by Mamari Stephens, Carwyn Jones, and Julian Ludbrook

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"Kaumātua, Leadership and the Treaty of Waitangi Claims Settlement Process; Some Data and Observations"
Victoria University of Wellington Legal Research Paper No. 115/2015

MĀMARI STEPHENS, Victoria University of Wellington
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This article presents the results of a survey dealing with the role of Kaumātua in Treaty of Waitangi Claims. The author raises a number of concerns – most importantly whether enough older Māori feel confident or knowledgeable enough to contribute to the process. The survey also reveals that tensions exist from the exclusion of younger Māori from the process.

"Settlement Negotiations Measured Against the Treaty of Waitangi"
(2012) August Māori LR 11.
Victoria University of Wellington Legal Research Paper No. 116/2015

CARWYN JONES, Victoria University of Wellington - Faculty of Law
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On 2 August 2012, the Waitangi Tribunal issued The Port Nicholson Block Urgency Report. This report concerned the claim that the Crown had breached undertakings that they had made to Taranaki Whānui, in respect of commercial properties being offered to other iwi around the Port Nicholson area. Their claim was partially upheld in the Tribunal, which found that the Crown had breached their undertaking to not offer property to Ngāti Toa in the Wellington CBD. The Waitangi Tribunal noted that they were permitted to examine pre-settlement negotiations despite the existence of an “entire agreement” clause, as no party may contract out of their Treaty obligations. Finally, it raised concerns about silo risks between different negotiating parties.

"The Principles of the Treaty of Waitangi: Their Nature, Their Limits and Their Future"
Victoria University of Wellington Legal Research Paper Series No. 117/2015

JULIAN LUDBROOK, Independent
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“The "principles" of the Treaty of Waitangi have in the last 40 years become a key measure by which Crown actions affecting Maori have been judged, having been introduced by Government into a wide range of statutes to provide the courts with the means, when asked, to assess whether those actions are consistent with those "principles." The "principles" were also adopted by Government to encourage an approach which looked more, in assessing Crown actions, to the spirit and intent of the Treaty than to its literal words. This paper therefore examines the way in which Government, the courts and the Waitangi Tribunal have articulated and applied the "principles" and how their decisions sit with the terms of the Treaty itself and with what, adopting a broad and liberal interpretation with particular focus on the Maori text, the signatories of the Treaty can reasonably be thought to have contemplated. It also looks at the principles-based approach and, as Government looks to less reliance in future on this approach and instead greater use of specific terms in statutes setting out the Crown’s particular obligations relevant to that statute, what the benefits of its "principles-based approach have been – and can continue to be."

"Procedure in the Waitangi Tribunal after Haronga"
Māori Law Review, pp. 20-28, June 2013
Victoria University of Wellington Legal Research Paper No. 118/2015

CARWYN JONES, Victoria University of Wellington - Faculty of Law
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The New Zealand Supreme Court's 2011 decision in Haronga v Waitangi Tribunal [2011] NZSC 53 overturned the Waitangi Tribunal's decision to not grant an urgent hearing sought by Alan Haronga (on behalf of the shareholders of the Mangatū Incorporation) to address remedies for Treaty breaches in relation to the Mangatū Forest. The decision had potentially significant implications for Waitangi Tribunal procedure, particularly the way that the Tribunal decides applications for urgent hearings. This article considers how the Waitangi Tribunal has applied Haronga.

"Tūhoe-Crown Settlement – Tūhoe Claims Settlement Act 2014; Te Urewera Report of the Waitangi Tribunal"
Māori Law Review, pp. 13-15, October 2014
Victoria University of Wellington Legal Research Paper No. 119/2015

CARWYN JONES, Victoria University of Wellington - Faculty of Law
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Dr Carwyn Jones describes the main elements of both the Tūhoe Claims Settlement Act 2014 and the preceding inquiry and report of the Waitangi Tribunal into claims located in the Te Urewera inquiry district.

"'To Work Out Their Own Salvation': Māori Constitutionalism and the Quest for Welfare"
(2015) 46 VUWLR
Victoria University of Wellington Legal Research Paper No. 120/2015

MĀMARI STEPHENS, Victoria University of Wellington
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New Zealand recently celebrated 75 years of the implementation of the welfare state in 1938. While debate continues about the nature and effectiveness of state welfare provision, welfare is arguably a matter of constitutional concern in New Zealand. Further examination of New Zealand legal history also shows that the welfare of Māori is indeed a matter of deep constitutional concern to Māori, who have consistently sought legislative and extra-legislative ways to have public power used for broad Māori welfare concerns. It is possible to identify a kind of Māori welfare constitutionalism at work, that is arguably in tension with the thinking and practice that produced the welfare state.
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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 Massachussetts 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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