

**NINA OPACIC, ASSISTANT EDITOR**

Victoria University of Wellington - Faculty of Law  
[nina.opacic@live.com](mailto:nina.opacic@live.com)

**JOHN PREBBLE QC, EDITOR**

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[john.prebble@vuw.ac.nz](mailto:john.prebble@vuw.ac.nz)

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## Announcements

**Indigenous self-determination - Papers by Catherine J. Iorns Magallanes, Reader in Law and Mark Bennett, Senior Lecturer in Law, Victoria University of Wellington**

## Table of Contents

### **Indigenous Peoples and Self Determination: Challenging State Sovereignty**

[Catherine J. Iorns Magallanes](#), Victoria University of Wellington - Faculty of Law

### **Dedicated Parliamentary Seats for Indigenous Peoples: Political Representation as an Element of Indigenous Self-Determination**

[Catherine J. Iorns Magallanes](#), Victoria University of Wellington - Faculty of Law

### **A New Zealand Case Study: Child Welfare**

[Catherine J. Iorns Magallanes](#), Victoria University of Wellington - Faculty of Law

### **West Papuan Self-Determination: New Indigenous Rights or Old-Fashioned Genocide?**

[Catherine J. Iorns Magallanes](#), Victoria University of Wellington - Faculty of Law

### **'Indigeneity' as Self-Determination**

[Mark J. Bennett](#), Victoria University of Wellington - Faculty of Law

[^top](#)

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

### **"Indigenous Peoples and Self Determination: Challenging State Sovereignty"**

*Case Western Reserve Journal of International Law, Vol. 24, No. 2, pp 199-348, 1993*  
*Victoria University of Wellington Legal Research Paper No. 22/2017*

**CATHERINE J. IORNS MAGALLANES**, Victoria University of Wellington - Faculty of Law  
Email: [Catherine.Iorns@vuw.ac.nz](mailto:Catherine.Iorns@vuw.ac.nz)

This paper aims to directly address the barriers to the legal recognition of the right of self-determination for indigenous peoples in the hope they can be overcome. The author argues that the ultimate barrier currently posed is the concept of sovereignty currently understood and applied by states, specifically that no right of self-determination is recognized in international law due to a clash with the world system of state sovereignty. The author presents the idea of developing a theory that allows for justification and argument based on the interests of those involved, believing a paradigm shift would allow the claims of indigenous peoples to be seriously considered as claims to political organization and state identity.

## **"Dedicated Parliamentary Seats for Indigenous Peoples: Political Representation as an Element of Indigenous Self-Determination"**

*(2003) E Law – Murdoch University Electronic Journal of Law, Volume 10, No 4*  
*Victoria University of Wellington Legal Research Paper No. 23/2017*

**CATHERINE J. IORNS MAGALLANES**, Victoria University of Wellington - Faculty of Law  
Email: [Catherine.Iorns@vuw.ac.nz](mailto:Catherine.Iorns@vuw.ac.nz)

This paper focuses on the relevance of self-determination for indigenous political representation to the debate over indigenous participation in political processes. It presents the argument that decisions regarding indigenous representation in these processes should be better informed by consideration of the methods of best achieving indigenous self-determination. This paper examines indigenous political representation and its response in New Zealand and internationally to evaluate the effectiveness of dedicated parliamentary seats for Indigenous peoples as a means of self-determination.

## **"A New Zealand Case Study: Child Welfare"**

*Recognising the Rights of Indigenous Peoples*, ed. Alison Quentin-Baxter, 132-184, 1998  
*Victoria University of Wellington Legal Research Paper No. 24/2017*

**CATHERINE J. IORNS MAGALLANES**, Victoria University of Wellington - Faculty of Law  
Email: [Catherine.Iorns@vuw.ac.nz](mailto:Catherine.Iorns@vuw.ac.nz)

The focus of this paper is the international law right of self-determination and its relevance for Maori child welfare: namely, its implications for the responsibility for the care and placement of Maori children. The author argues in this 1998 book publication that indigenous peoples have a right to the preservation of their separate and distinct cultural identity through cultural self-determination. This right is independent of the UN Draft Declaration as it is already recognised in customary international law. The first section of the paper describes the international right of self-determination and how states have refused to formally recognise that indigenous peoples have this right. The second part describes the rights of indigenous peoples to the protection of their culture and identity as peoples who have been recognised in international law. The UN Declaration on the Rights of Indigenous Peoples and direction of debates surrounding the right of indigenous self-determination are reviewed along with state practices in context of these international laws.

## **"West Papuan Self-Determination: New Indigenous Rights or Old-Fashioned Genocide?"**

*For the Sake of Present and Future Generations: Essays on International Law, Crime and Justice in Honour of Roger Clark*, edited by Suzannah Linton, Gerry Simpson & William Schabas, pp237-259 (Leiden, Brill, 2015)  
*Victoria University of Wellington Legal Research Paper No. 25/2017*

**CATHERINE J. IORNS MAGALLANES**, Victoria University of Wellington - Faculty of Law  
Email: [Catherine.Iorns@vuw.ac.nz](mailto:Catherine.Iorns@vuw.ac.nz)

This paper addresses the adverse effects of Indonesia's takeover of West Papua. The author examines the human rights and environmental abuses occurring in West Papua, along with the lack of international effort to aid the people of this nation. The author accepts the increasing international awareness of this issue, along with the political, legal and practical difficulties in advancing the West Papuan, but writes to remind us of the plight of the Papuans. This paper suggests that the claims of severe human rights violations in West Papua are extremely important for the international community to address.

## **"'Indigeneity' as Self-Determination"**

*Indigenous Law Journal*, Vol. 4, 2005  
*Victoria University of Wellington Legal Research Paper No. 26/2017*

**MARK J. BENNETT**, Victoria University of Wellington - Faculty of Law  
Email: [markbennettnz@gmail.com](mailto:markbennettnz@gmail.com)

There is presently much controversy concerning the legal and political significance of "Indigeneity" in settler states. Recently, Jeremy Waldron set out to critique what he saw as the uncritical use of liberal property morality by supporters of Indigeneity. This paper argues that self-determination is a liberal principle better suited to founding Indigeneity's political significance. To this end, this paper examines self-determination as a liberal principle, and develops a historical approach to it to support the argument that it provides a firmer foundation for Indigeneity in liberal political discourse than liberal property principles.

## 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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