

FOREWORD

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At its heart, law is concerned with the behaviour of human beings in their dealings with one another. Law seeks to influence and regulate human behaviour—to channel it in directions deemed acceptable to the (increasingly global) community.

A good deal of the study of law is concerned with determining what the law is, in a particular place, at a particular time. This has obvious value for those who seek to live within the law. In a common law system such study contributes to the evolution of the law itself, as those determining what the law is look back, for guidance, at what it has been.

A further part of the study of law—I would say a more important part—is concerned with what the law should be. Those who address such normative questions go beyond the lawyer's conventional realm to delve into questions of policy, of principle, of politics. They need to be open to the insights offered by the analytical tools of all relevant disciplines, and to the value of diverse perspectives.

This journal is concerned with public and international law. The general rubric is, of course, wide indeed. Public law is about human interactions with and within the state. Core issues of constitutional structure and process will be the subject of articles in this journal: the separation of powers, the electoral system, parliamentary law, the organisation and functioning of national and local government, constitutional conventions, court structures, the Treaty of Waitangi.

But public law has a further reach than this—it operates wherever a law establishes or invokes a state organ for enforcement, or raises or expends public money, or prohibits or mandates particular behaviour. Administrative law, taxation law, labour law, welfare law, environmental law, accident compensation law, and criminal law are all "public" law. So too are those fields of law that regulate interactions between individuals and groups of individuals where public institutions or procedures are involved: the regulation of the economy, private commerce, occupational regulation, family relationships.

The other concern of this journal—international law—has too an inherently "public" character, whether the focus be relationships between individuals and groups across state

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boundaries or the interactions of states themselves. Indeed, as the boundaries of the Westphalian state are overrun and undercut by supranational organisations and laws, the study of public law in the future will increasingly become the study of what today we call international law.

Across all these fields, what is distinctive about the study of public and international law is the significance of its normative aspect. You cannot struggle with whether some aspect of public or international law is right, whether it is justified or legitimate, whether it should be changed—and how—without struggling, implicitly or explicitly, with basic and momentous principles: justice, democracy, the rule of law, state sovereignty, human rights. This is weighty stuff that matters.

The aim of the New Zealand Journal of Public and International Law is to provide a serious academic forum where these struggles can take place. The enterprise is based in the New Zealand Centre for Public Law at the Victoria University of Wellington Law School. It is guided by an internationally distinguished Advisory Board that includes senior academics from all New Zealand law schools. Its establishment is assisted by the Victoria University of Wellington Law Review and the New Zealand Law Foundation.

This journal will take a wide view of public and international law. We anticipate that the range of perspectives presented in its pages will challenge and provoke. Most of all, I hope that this journal stimulates high quality scholarship in public and international law in New Zealand, thereby influencing the law itself.