

Auckland Law

TE WĀHANGA TURE O WAIPAPA TAUMATA RAU

AUCKLAND LAW SCHOOL ALUMNI ANNUAL 2024

Teaching Tikanga

*Maureen Malcolm and
Eru Kapa-Kingi*

Honourable Justice Simon Moore

Retiring from the Bench

Dr Claire Achmad

*Auckland law graduate
and the Chief Children's
Commissioner*

Anaru Erueti

*Commissioner on the
Abuse in Care Royal
Commission of Inquiry*

Karan Kalsi

*Forging ahead in
social philosophy*



UNIVERSITY OF
AUCKLAND
Waipapa Taumata Rau
NEW ZEALAND

AUCKLAND
LAW SCHOOL

Auckland Law

TE WĀHANGA TURE O WAIPAPA TAUMATA RAU

AUCKLAND LAW SCHOOL ALUMNI ANNUAL 2024

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ISSN 2703-3139 (Print)
ISSN 2703-3147 (Online)

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Lorraine Correia, Joshua Yuvaraj,
Mark Henaghan, Rose Stringer.

The academic editors of Auckland Law magazine want to thank Rose Stringer and Lorraine Correia for all their highly professional, good-humoured and patient work in putting this magazine together and making sure it is delivered on time. Mark and Joshua.

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Rārangi take Contents



On the cover

06

Teaching Tikanga

Maureen Malcolm and
Eru Kapa-Kingi

04

From the Dean

Auckland Law School Acting Dean
Warren Swain sums up 2024

34

Judicial appointments

92

Philanthropy

Donor Wall

94

In memoriam

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Ngā Kōrero Motuhake Features



12

Honourable Justice Simon Moore

Retiring from the Bench

14

Dr Claire Achmad

Auckland law graduate and the
Chief Children's Commissioner

38

Anaru Erueti

Commissioner on the Abuse in Care
Royal Commission of Inquiry

50

Karan Kalsi

Forging ahead in social philosophy

*Nō ngā ākonga
onamata*

Alumni news

16

Dr Jim Salinger

New Zealander of the Year and
Auckland Law School graduate

17

Barbara Edmonds

Making a difference through law and politics

18

Justin Sobion

Graduate champions climate justice
in world's highest court

19

Ervin and Priscilla

Lavea-Gatoloai

Fulfilling dreams

21

Taylah Johnson

From Law School to Sky commentary:
balancing motherhood and multiple careers

23

Jonathan Woodhams

Litigation funder creating access to justice

25

Haya Khan

Small business success flows from
Law School

27

Christian Poland

Life as a Supreme Court Clerk

28

Hannah Yáng

Harvard bound: four scholarships
fuel constitutional research

29

Paul Koraua

From Munchy Mart to financial markets

30

Joseph Xulué

We are not French, we are Kanak

Nō ngā ākonga

Student news



50

Student profiles

Karan Kalsi

Gabriel Gerente

Haden Te Haara

Elizabeth Buchanan

Jack Paine

Connor Settle-Smith

John Land

Catherine Lycett

58

Academic excellence

Student awards

59

Mooting competitions

60

Mock trial competition

High schools battle it out

62

Student clubs

68

Graduates overseas

Erica Burke

Alexander Young

Sehj Vather

Chye-Ching Huang

Hartley Spring

Harry Pottinger-Coombes

Jack Alexander

Nō Te Wāhanga Ture

Faculty news



35

Faculty appointments

38

Staff features

Anaru Erueti

Michael Littlewood

Suliana Mone

Guy Fiti Sinclair

Peter Watts KC

Alex Allen-Franks

Jayden Houghton

48

Newly published

74

Pacific Law Week

Auckland Law School's inaugural
Pacific Law Week

76

Substantive Equality Month

77

Supreme Court Conference

80

Events

82

Professor Adrienne Stone

2024 Legal Research Foundation
Visiting Scholar

83

Research Centre Updates

From the Dean

Nō Te Manukura

KIA ORA KOUTOU KATOA,

It is my great privilege to write a few words by way of introduction. As Acting Dean I have very much enjoyed meeting alumni and supporters. This year there was a new special event to celebrate those who have helped the Law Faculty in various ways – from financial support to supporting moots and mentoring students. To all those many readers who have generously given their time or financial support to the Law Faculty, thank you. I hope there will be plenty to interest you in this edition of *Auckland Law | Te Wāhanga Ture o Waipapa Taumata Rau*.

This year the Faculty hosted a wide range of events. It was a particular pleasure to launch the inaugural Pacific Law Week, which culminated in the Olive Malienafau Nelson Public Lecture delivered by Tugaga Misa Telefoni Retzlaff (former Deputy Prime Minister of Samoa, former Attorney General of Samoa and Auckland Law School alumnus).

The Faculty remains rightly proud of the contributions of its members to public service. Associate Professor Anaru Erueti was one of three Commissioners on the Royal Commission of Inquiry into Abuse in Care. Dr Jane Norton was also involved in the work of the Commission. Associate Professor Scott Optican was on the expert advisory group for the Law Commission's third review of the Evidence Act 2006. Nikki Chamberlain was appointed as adviser to the Office of the Privacy Commissioner's Children and Young People's Privacy project.

As always, there are significant student successes to celebrate. A special highlight was the win by a team of our students in the national round of the Red Cross International Humanitarian Law Moot. This team will now represent the country at the Asia-Pacific finals in Hong Kong.

And there are exciting additions to our academic staff. Professor Alexandra Andhov and Associate Professor Marta Andhov join us from the University of Copenhagen and will strengthen expertise in law and technology and commercial law as joint appointments with the Business School. Alexandra will head a relaunched Centre for Law and Technology. Also joining this year were Associate Professor Marcelo Rodriguez

Ferrere from the University of Otago, Dr Peter Underwood from the University of Exeter in the UK as a Senior Lecturer and Matt Bartlett as a Professional Teaching Fellow.

The Faculty is fortunate to be supported by a superb group of professional staff, not least my Executive Assistant Nadine Schneemann. Also joining this year were Daniel Kreig (Programme Portfolio Manager), Donald Lawrie (Development Manager), Hannah Wightman (Facilities and Services Specialist), Jane Zu (Group Services Co-ordinator), Jeremiah Lafaele (Student Support Adviser, Moana Oceania), Krishna Ogwaro (Web Content Co-ordinator), Maia Thompson (Pouāwhina Māori), Michelle Hoon (Career Development Adviser) and Yang Du (Senior Research Programme Co-ordinator).

This has been a busy and successful year for everyone connected to the Faculty. It is also time at the end of another year to take stock. We acknowledge the deaths of several distinguished alumni and former colleagues who have contributed so much to the legal profession in this country. We also look forward to 2025, which promises to be another exciting year. □



Professor Warren Swain
Ahorangi Ture, Manukura Ture
(Kāingaruā) | Acting Dean

The Dean's highlights

Ngā kōrero whakanui a Te Manukura mō te tau 2024

Appointments and achievements of faculty members

Scott Optican won the 2023 student choice teaching award. Twenty colleagues were nominated last year. Honourable mentions to **Mark Henaghan**, **Anna Hood** and **Simon Schofield**.

The UoA Careers Team won the 2023 NZAGE Best Careers Service Award.

Lorraine Correia and her team were among winners of a Vice Chancellor's award for International Open Week 2023.

Katherine Doolin, a Co-Principal Investigator with a team of researchers from across the university, has been awarded a Transdisciplinary Ideation Fund of \$60,000. The Lead Principal Investigator is Professor **Marek Tesar** from Education and Social Work. The other researchers are from CAI, Business, Arts, Psychology, Engineering and Computer Science.

Nikki Chamberlain won a grant for her successful application to the University's Change One Thing Challenge. This initiative provides the chance to share innovative changes to teaching practices including assessment design. Michael Littlewood and Janet McLean organised a very successful Supreme Court Conference.

Scott Optican played a vital role in the Law Commission's third review of the Evidence Act 2006. **Alex Allen-Franks** and **Carrie Leonetti** both contributed submissions to the review process.

Congratulations to Associate Professor **Anaru Erueti** for his work as a Commissioner on the Abuse in Care Royal Commission of Inquiry. **Jane Norton** and **Kat Arona** also worked for the commission.

Nikki Chamberlain was appointed as adviser to the Office of the Privacy Commissioner's Children and Young People's Privacy project.

Dylan Asafo won the Faculty of Law Student Choice Teaching Excellence Award for Semester 1 2024.

Dr Alex Allen-Franks received her PhD from Cambridge University.

Achievements of graduates and students

Holly Bennett and **Kingi Snelgar** were both named in November as the 40 under 40s for 2023 from the Law School.

Karan Kalsi, one of three New Zealand recipients, was awarded a 2024 Rhodes Scholarship to undertake a Master of Science in Comparative Social Policy and a Master of Public Policy at the University of Oxford.

The Auckland Law School team of **Maddison Lewis**, **María Romero De Medeiros** and **Leticia Alvarez** won the annual Red Cross IHL Moot Court Competition and represented the University and the country at the Asia Pacific Red Cross International Humanitarian Law Moot in Hong Kong in March. They were coached by **Andrew Fu** and **Hayley Botha**.

Student **Jack Paine** ran a personal best in the 1500m at Mt Smart in a time of 3 minutes 46 seconds and represented New Zealand at the Pacific Games where he won gold in the men's 1500m and silver in the 800m. He also did very well in his law exams which he was sitting around the same time.

Francis Wee and **Elijah Kasmara** won the John Haigh Memorial Moot 2024 held in the Auckland High Court.

Jimin Seo and **Daniel Tran** won the Meredith Connell Law and Technology Moot.

Congratulations to **Justin Sobion** who was placed on the Dean's list for his doctoral thesis "Earth Trusteeship: A Framework for a more Effective Approach to International Law and Governance". Congratulations also to his main supervisor **Klaus Bosselmann** and co-supervisor **Timothy Kuhner**.

The Auckland Law School team attended the Australian Law Students' Association Conference in Hobart and participated in various competitions against representatives from most of Australia's law schools. Two teams progressed to the grand finals – **Neil Hutton** for Paper Presentation and **Samuel Turner-O'Keefe** and **Faiz Chanaria** for Client Interviewing. Each team placed second overall.

Josh Boshra and **Jake Inskip** made it to the quarter-finals of the Negotiations competition, and were awarded the Spirit award for their efforts. **Vincent To** represented Auckland Law School in the Witness Examination competition, in which Paris Tod from the University of Canterbury was a grand finalist.

Events

The Designing our Constitution Conference co-hosted by the Iwi Chairs Forum, Human Rights Commission and the Te Puna Rangahau o Te Wai Ariki | The Aotearoa New Zealand Centre for Indigenous Peoples and the Law quickly sold out with a capacity of 200 in-person attendees and 250 virtual participants. Joining the line-up of some of the most important advocates and thinkers on Māori rights and constitutional law in the country was the UN Special Rapporteur on the Rights of Indigenous Peoples José Francisco Calí Tzay.

Congratulations to **Guy Sinclair**, **Suliana Mone**, **Beatrice Tabangcora**, **Jeremiah Lafaele** and the rest of the FOLAU team, PILSA and MALOSI for the inaugural Pacific Law Week. Calmly and with a smile on her face, Event and Conference Planner **Paige Chong** did an incredible job with the organisation of a complex range of activities. **Tugaga Misa Telefoni Retzlaff** (former Deputy Prime Minister and Attorney General of Samoa and Auckland Law School alumnus) delivered the first Olive Malienafau Nelson Public Lecture at the closing event. This was followed by the Pacific Law Scholarship and Awards Recognition Ceremony celebrating the success of our Moana Oceania students.

Alumni and supporters

Dr **Jim Salinger** (Law alumnus, MPhil 1999) was awarded New Zealander of the Year 2024. Dr Salinger was recognised for advancing climate science, his ground-breaking research on southern hemisphere climate change and his advocacy for environmental responsibility. King's Birthday Honours for Law alumni in 2024: Ms **Allison Ferguson** ONZM – (LLB/BA). For services to netball. Mr **William Holland** CNZM – (LLB). For services to community governance and philanthropy.

New Year's Honours for Law alumni in 2024: Dr **Tamasailau Suaalii** MNZM – (LLB/BA, MA, PhD). For services to education. **Alumna Hannah Yang** (BA/LLB [Hons]) has received four significant scholarships in 2024. She was awarded the Frank Knox Fellowship from Harvard University, the Ethel Benjamin Scholarship for Women in Law, a William Georgetti Scholarship and an Yvonne Smith Scholarship.

The following alumni were appointed King's Counsel in 2024: **Sarah Armstrong** KC, **Zane Kennedy** KC, **Kelly Quinn** KC, **Nura Taefi** KC.

Teaching Tikanga

Maureen Malcolm and Eru Kapa-Kingi

MARK HENAGHAN

The Council of Legal Education requires the teaching of tikanga to be a core requirement of the law degree in Aotearoa New Zealand.

How did you go about designing the tikanga programme for our law students?

Me tiro whakamuri kia anga whakamua. This proverb talks about looking back into the past in order to walk forward into the future and I guess that's exactly where we started when designing our tikanga programme. We looked back at what we have already been teaching in the tikanga space to understand the changes we might need to make moving forward – what worked for us and what didn't work so well. We needed to consider everything, which included things like class size, style, location and content and the types of resources needed. Most importantly we thought about what we wanted Waipapa Taumata Rau law students to learn about tikanga Māori. One of the biggest difficulties we had was deciding in which year the compulsory tikanga Māori class would be

taught. While it's important students understand tikanga from the start of their law degree we also have between 800 and 1000 students in first year. That number of students coupled with the desire for us to teach tikanga in smaller wānanga groups made teaching this content in Part 1 unrealistic. So we really had to think about the logistics of teaching in the way we want to teach. I will say it was an easy decision to move away from teaching tikanga in Part 1 given the content that is taught in LAW 121G.

What are some of the details of the tikanga programme?

The full and final version of our tikanga programme is still to be confirmed but one of the things we want to do is to teach tikanga Māori through a te ao Māori lens, which means immersing students in our world. This was really something Eru raised and pushed for. He wanted tikanga to be taught outside

Auckland Law School
Te Tai Haruru team.



its relationship with the state legal system and I think it is these decisions that set our students up for success. We are lucky to have people like Eru on board.

Teaching through a te ao Māori lens does present some difficulties but Otago have started taking their students on marae wānanga, which we think is a good way to immerse students in te ao Māori, and we are hoping to implement similar wānanga here at Waipapa Taumata Rau.

How will the wānanga work?

Our marae wānanga will focus on tikanga Māori in its own right. Students will need to complete the marae wānanga at the start of Part II. This is the first requirement students need to complete to fulfil their obligations for the tikanga programme.

The wānanga will begin with a pōwhiri, then students will rotate in smaller groups to different pouako who will cover different tikanga topics. This means students will be exposed to more than one tikanga expert. This is a great way for them to get as much knowledge about tikanga Māori as possible before starting the other compulsory Part II papers.

What happens after the second-year tikanga wānanga?

The second requirement of the tikanga programme is a semester paper that students can take at any stage from Part III onwards. This paper will be run like our current tikanga Māori elective. The class will focus on both tikanga Māori through a Māori lens and the relationship between tikanga Māori and the state legal system.

What size will the wānanga be?

For the marae wānanga we hope to run a few one-day wānanga where students will be grouped and given a particular day to attend. Part II tends to have around 500 students so it is important we split students into groups where wānanga can take place.

For the Part III/IV course students would do one large lecture-style session. This would allow for guest speakers to talk to all the students in one go. Following this students would break into smaller wānanga groups. The wānanga groups would allow students to build off what they have learned from the lecture through class discussions.

What else did you need to consider when designing the tikanga programme?

There have been a number of considerations in addition to class sizes such as the safety of our mātauranga and of our Māori students – how we teach students there needs to be a level of respect given to our content. We also need to be aware that it is often Māori students who deal with any criticisms as a result of our decisions. We need to ensure our Māori students are protected through the implementation stage.



Eru Kapa-Kingi delivering whaikōrero at a kura reo for descendants of Te Tai Tokerau known as Te Taumata. Photo: Julie Zhu

You are a tikanga teaching pioneer in Aotearoa New Zealand universities, including at the University of Auckland, which has the country's biggest law school. How does that feel on a personal level?

What I would say is I'm just following in the footsteps of those who have come before me. We are lucky to have some amazing past and present members of Te Tai Haruru who have paved the way for us. People like Nin Tomas who was a really big part of this Law School. I also have to look back to my original tikanga Māori lecturer at Waikato University, Matiu Dickson. Going to law school can be quite a scary experience for Māori students and it was Matiu who showed me there was a place for tikanga here.

I am still on my own learning journey. I'm lucky to have grown up with tikanga Māori in my day-to-day life but my knowledge about tikanga is restricted to my own whānau, hapū and iwi. I am proud I get to share some of my own learnings with our students.

I am also incredibly proud of where we are heading and it gives me great hope for this new generation of lawyers. I see these students come in and the majority of them have absolutely no knowledge of tikanga Māori and no idea that there is a whole Māori world out there. A world where our children are raised with te reo Māori as their first language and with tikanga Māori as a vital part of day-to-day life. The number of students that come up to me after our lectures to express how much they have learned is incredible and I can't wait to see where they end up. □

Jayden Houghton on Tikanga Māori

A new book on tikanga Māori promises to be a significant resource for judges, lawyers, scholars and students.

JAYDEN HOUGHTON (Rereahu Maniapoto), a Senior Lecturer and Assistant Dean (Teaching and Learning) at the Auckland Law School, has written a book that explores the tikanga Māori legal system, its relationship with the state legal system, and collisions between the two systems in over 50 case studies. Justice Christian Whata, who led the Law Commission's *He Poutama* project, contributes the foreword. The book is in three parts.

The first part introduces the tikanga Māori legal system. It begins with a study of tikanga Māori focusing on cosmogonic accounts and their continued relevance, the arrival of tikanga Māori in Aotearoa New Zealand and the traditional and contemporary functions of tikanga Māori. It explores tikanga Māori concepts in a structure developed in *He Poutama*, focusing on concepts of connection (whakapapa and whanaungatanga), concepts of balance and equilibrium (mauri, utu and ea), relational concepts (mana, tapu and noa) and concepts of responsibility (kaitiakitanga, manaakitanga and aroha and atawhai). It also looks at key tikanga Māori processes and procedures: karakia; rāhui and aukati; pōwhiri; tangihanga; and take, utu and ea.

The second part delves into the relationship between tikanga Māori and state law. It begins by tracing the historical and contemporary recognition of tikanga Māori in the common law and statutes. Next it considers how we might represent intersections and interactions between tikanga Māori and state law, focusing on the Matike Mai Aotearoa overlapping-spheres model and Associate Professor Nicole Roughan's interlegality model and how we might think about the implications of such intersections and interactions, particularly hybridisation and distortion. It also considers how judges should adjudicate cases that engage with tikanga Māori.

The book's final section explores collisions between tikanga Māori and state law. The case studies are organised by subject area in 18 chapters: Criminal Law; Procedure and Evidence; Constitutional Law; Administrative Law; Law of Torts; Law of Contract; Employment Law; Family Law; Equity, Trusts and Succession; Land Law; Environmental Law; Local Government Law;

Corporate Law; Tax Law; Competition Law; Intellectual Property; Legal Education; and Legal Ethics.

The book is structured to assist with teaching and learning tikanga Māori, not only at the New Zealand law schools but also in-house at courts, firms or chambers or as part of continuing professional development.

The New Zealand Council of Legal Education Professional Examinations in Law Regulations, which prescribes the subjects of examination for the Bachelor of Laws degree in Aotearoa New Zealand, now requires tikanga Māori to be taught as a standalone subject as well as in each of the existing compulsory subjects: the legal system; criminal law; public law; the law of torts; the law of contracts; and property law, comprising land law, and equity and the law of succession. The book's first and second parts service the standalone subject. The third part services the existing compulsory subjects as well as other core subjects, including legal ethics, which is required for admission as a barrister and solicitor.

The chapters are designed to be read individually before being discussed with others. Each chapter provides context to the subject area, narrative with excerpts from relevant commentary and judgments and discussion questions prompting active engagement. The book features more than 300 discussion questions in total.

It is hoped the book will be a useful resource for teaching and learning tikanga Māori.

The author wishes to acknowledge his Research Assistant, Charlie Matthews, whose expert research, writing and referencing skills and sustained commitment to the project have ensured its robustness and publication in time for the 2025 academic year. Many others have contributed in various ways and are acknowledged in the book. □



Jayden Houghton is a Senior Lecturer and Assistant Dean (Teaching and Learning) at the Auckland Law School. Jayden's research focuses on tino rangatiratanga and the protection of mātauranga Māori and taonga and is published in leading international journals including the International Journal of Human Rights, the Torts Law Journal and Legalities, and premier domestic law journals New Zealand Law Review and New Zealand Universities Law Review. Jayden is an author with Stephen Penk and Mary-Rose Russell of Aotearoa New Zealand Law: Foundations and Method (3rd ed, Thomson Reuters, Wellington, 2024) and an editor with Professor Emeritus David V Williams of Protecting Indigenous Knowledge: Perspectives from Aotearoa New Zealand (Auckland University Press, Auckland, forthcoming).

Jayden Houghton
Tikanga Māori: Cases and Materials
(Thomson Reuters, Wellington,
forthcoming)

Justice Whata's whakaaro on the book *Tikanga Māori: Cases and Materials*

This piece is adapted from Justice Whata's foreword to Jayden Houghton's new book.

JUSTICE CHRISTIAN WHATA, a Judge of the High Court of New Zealand, led the Law Commission's recent *He Poutama* study on tikanga Māori and state law. Justice Whata reviews the book and explains why he thinks it is an essential resource for law students, legal practitioners and judges in Aotearoa New Zealand.

This book is a first of its kind – a comprehensive in-depth text addressing the interaction between tikanga Māori and state law. It gathers together the teachings of leading tikanga philosophers and jurists, historians and anthropologists. Each chapter is full of detailed description of important concepts and is structured in such a way as to both teach core content and encourage active engagement with key themes, issues and principles in “kōrerorero” segments designed to build theoretical and practical understanding. It is an essential resource for students, practitioners and judges – in fact anyone trying to understand tikanga and how it works in Aotearoa New Zealand's modern legal landscape.

The book is in three parts. The first part begins with an introduction to the sources of tikanga and Māori knowledge frameworks, locating the reader at the outset where it should in any genuine treatment of tikanga – within te ao Māori. It includes references to creation pūrākau (narratives) and explains their core themes and significance. An account is also given of traditional Māori social structures that lay the foundation for tikanga as practised and lived today. The next chapter provides an account of core tikanga Māori concepts, providing both description and illustrations of their central meaning and their interrelationship with each other. Acknowledging their significance to Māori social order, another chapter is devoted to tikanga Māori processes and procedures – kawa. Importantly the reader is invited to examine the operation of these key processes and how they give effect to different tikanga concepts.

The second part, which focuses on the interaction between tikanga and state law, starts with an overview of common law and statute law engagement with tikanga, identifying settled and emerging categories. This provides a useful starting point for the in-depth review of engagement between

“This book is a first of its kind – a comprehensive in-depth text addressing the interaction between tikanga Māori and state law.”

these two systems. The chapter that follows, “Intersections and Interactions”, is a much-needed assemblage of leading jurisprudential thinking about the relationship between tikanga and state law as systems of law. It identifies the complexity of systems engagement, as well as opportunities for systems engagement in the future. This theme continues into the next chapter, which examines the risks associated with the hybridisation of tikanga and state law. The cautionary note expressed in this chapter is an important tohu (warning) to all those with responsibility for building recognition of tikanga while at the same time maintaining its integrity. The part then turns to the courts' critical role in the process of recognition, and manaakitanga, of tikanga within state law, providing a helpful overview of the work of the Law Commission's Study Paper *He Poutama*.¹

A further major unprecedented achievement of the book is that it examines in detail the application of tikanga in each of the major categories of state law. The third part comprises 18 chapters, each focusing on a different area of law (or law school subject).

The criminal law chapter introduces the reader to the fundamental characteristics of tikanga in a criminal law context, drawing on tikanga concepts that provide order within traditional Māori society. It is a realistic account of the current place of tikanga within criminal law. The chapter highlights the lack of express recognition of tikanga in centrepieces of criminal law, such as the Crimes Act 1961 and Sentencing Act 2002, as well as the developing threads of recognition in case law. Key authorities are also explained, providing an

informative insight into tikanga within the criminal law landscape. This leads to, in the next chapter, a discussion of procedure as it relates to tikanga, with an in-depth examination of *Ellis v R* and the frameworks for potential engagement identified by the judges in that case.² Further, the chapters on public law identify two major zones of intersection: human rights and judicial review. They explore a few case studies. One identifies the tensions between aspects of tikanga and human rights norms and actively engages the reader to explore them. Another is premised on the famous whakataukī of Te Kooti, “ka kuhu au ki tē ture, hei matua mō te pani”, powerfully illustrating the inherent worth of the rule of law.

Next there is a remarkable collection and review of leading authorities dealing with tikanga in civil contexts. The chapter dealing with tort law provides a detailed examination of the tikanga-related case law relating to this foundational pou of the civil law. The case studies selected provide an ideal introduction to the ways in which tikanga is being interwoven, or not, into these core kaupapa of tort law. The chapter discusses cases in which novel torts have been argued, as well as an academic proposal for a tort of cultural misappropriation; together, these provide a useful base from which to consider the potential for further recognition of tikanga in the tort context. The next chapter on contract law compares transactions in tikanga and state law and explores points of overlap and potential synthesis.

The chapters dealing with the specialist areas of employment law and family law identify synergies between tikanga and state law in these areas of the law affecting the lives of every person and their communities. The employment law case studies provide educative examples of the potential for tikanga to influence the shape and direction of state law where tikanga is clearly relevant. The review of the family law framework and jurisprudence similarly provides valuable insights into the historical and contemporary interweaving of tikanga into family law. Two focal points of this chapter, whāngai and adoption, help to illustrate the contrast between settled norms of tikanga and state law.

The next three chapters address what are perhaps the areas of greatest overlap between tikanga and state law: equity, trusts and succession; land law; and environmental law. In each context the core operative tikanga are explained and the state law's attempt at recognising those tikanga is explored. The breadth and complexity of the subject matter in these chapters are vast, yet the text is admirably succinct without losing any of the depth needed to properly understand the engagement between tikanga and state law in these contexts.

By now the foundations of civil law – including tort, contract, property and equity – have each been robustly examined. This enables exploration of some more specialised yet nonetheless important areas of law. The next five chapters explore the relevance of tikanga and challenges in its application in the local government context, and four commercial contexts: corporate law; tax law; competition law; and intellectual property. These chapters consider the relevance of tikanga in: governance; typical legal structures (such as companies, limited partnerships and incorporated societies) and Post-Settlement Governance Entities (PSGEs); taxation policy; market studies and merger clearances; and intellectual property disputes, as well as in the operation of Māori advisory and decision-making committees for trade marks, patents and plant variety rights.

The final two chapters consider collisions between tikanga and settler thinking in the context of legal education and legal ethics. The first examines legal education in traditional Māori society, before exploring the kaupapa to teach tikanga Māori in the law degree programmes in Aotearoa New Zealand and the responses to that kaupapa. The second is a new frontier as little has been written on tikanga and lawyers' ethical and professional obligations. Essentially leaving no stone unturned, these chapters round out the book's sweeping review of tikanga in every significant area of law (and law school subject) in Aotearoa New Zealand.

In conclusion, the legal community of Aotearoa New Zealand has been waiting a very long time for a book that provides a comprehensive introduction to tikanga in the law. It has finally arrived. The book is designed for pouako to set readings and "kōrerorero" for taura to review in advance of class, to come ready to discuss in groups in class. The readings and questions are succinct and manageable, making it much more likely that students will come prepared for class than if they had to read the sources in their original unedited forms.



In this way, the book is designed for flipped classroom teaching methods and invites blended learning supplements.

This remarkable text challenges the reader to grasp both the potential for and the limitations of the recognition of tikanga within each of the main categories of state law, as well as several specialist categories. Reflecting the reality that the law is in a state of transition, the book itself marks a significant step in the ongoing evolution of state law's engagement with tikanga. It is a must-read for any person genuinely interested in the relationship between tikanga and state law, from students who are beginning their journeys in the law to senior counsel and judges who are beginning their journeys with tikanga. □

Rukuhia te mātauranga ki tōna hōhonutanga me tōna whānuitanga

Pursue knowledge to the greatest depths and its broadest horizons

1. Te Aka Matua o te Ture | Law Commission *He Poutama* (NZLC SP24, 2023).
2. *Ellis v R (Continuance)* [2022] NZSC 114, [2022] 1 NZLR 239.

The Hon Justice Christian Whata, Ngāti Pīkiao, Ngāti Tamateatūtahi – Kawiti of Te Arawa, High Court, Auckland

Justice Whata was appointed a High Court Judge in 2011. He has adjudicated on a wide range of subject matters, including major common law, commercial, public, environmental, Māori and criminal matters. Justice Whata is also a member of the faculty of Te Kura Kaiwhakawā | Institute of Judicial Studies responsible for the Tikanga Programme. While in practice, Justice Whata specialised in Māori legal issues and public and environmental law. In 2021 Justice Whata was appointed to Te Aka Matua o te Ture : the New Zealand Law Commission as a Law Commissioner. While there he led the completion of the Study Paper 24, He Poutama: Tikanga. He returned full time to the High Court in September 2023.

What is law and does it matter?

Rutherford Discovery Fellow and Co-Director of the New Zealand Centre for Legal and Political Theory
Nicole Roughan's paper "Interlegality, Interdependence and Independence" was published as an appendix to *Te Aka Matua o te Ture | the Law Commission Study Paper He Poutama* (NZLC SP24, 2023)

WE OFTEN NEED to know what *the law* is on some particular issue, but seldom spend time puzzling over what law is. Questions like, is law any different from force, how does law relate to morality, or what is the "rule of law" are key questions for philosophers of law, but do they matter?

Current controversies about the relations of state law and tikanga illustrate the importance of answering the question "what is law?" Gary Judd KC drew attention to the question with his complaint to the Regulations Review Committee that law students should not have to learn about tikanga because tikanga, in his view, is not law. Direct responses from experts on tikanga and state law have pointed to a wealth of resources for those who wish to learn more about the operation of tikanga as law and its practical significance for lawyering in New Zealand (for example, the Law Commission's *He Poutama* Study Paper at www.lawcom.govt.nz/assets/Publications/StudyPapers/NZLC-SP24.pdf). The Law Society and many other professional associations have recently made submissions supporting compulsory tikanga education within the law degree.

Yet there are also those who recognise tikanga as law within te ao Māori but worry about the possibility, value and impact of applying tikanga more broadly. Some advocates of state law worry that the courts' recognition of tikanga unsettles the "rule of law" by introducing uncertainty about law's content, or offends against a "one law for all" principle. Some advocates of tikanga argue that state law's "recognition" of tikanga is really a form of continuing colonisation or what Annette Sykes has called the "redefining and misrepresentation of Māori knowledge, law and philosophy". These are points of principle that invoke theories of law and law's value.

At some level it should not be surprising if lawyers whose education focused on theories of state law struggle to recognise non-state law. It should be equally unsurprising if those who recognise tikanga as law get tired of having to argue that point with those who don't. At its worst the debate reduces to arguments that some people's non-recognition of tikanga should trump other people's recognition of tikanga and vice versa.

Some of the responsibility for polarised understandings might be shouldered by philosophy of law, which has historically done a poor job of theorising non-state law, and an even worse job of examining interactions of state and non-state legal orders. Could remedial work on the question "what is law" better support a debate about relations between state law and tikanga?

Some theorists argue that law is just power, politics and force disguised in fancy robes and technical reasoning. That's not the view of tikanga-sceptics or those who worry whether applying tikanga is consistent with the rule of law. They think law is something distinctive and the rule of law is something valuable. I agree.

Law is not the mere imposition of power by some persons over others. Law claims a kind of "rightful" power, a legitimate authority to bind persons. Sixty years on from the publication of HLA Hart's book *The Concept of Law* students are still taught his evocative contrast between law and the demands of an armed robber. Law presents standards of behaviour to obligate (not just coerce) persons. Law's agents are not the gunman, they are authorities with the standing to make, apply and enforce those standards. Law orders societies through standards that are applied and imposed collectively and institutionally in a community, rather than leaving people at the mercy of other persons and their raw power.

When we understand law to claim authority, not just use force, then the ideal of the "rule of law" holds that private and public power should be constrained and organised so that societies are "ruled by law, not men" and "ruled by law, not force". Martin Krygier, a leading Australian legal theorist, argues that the rule of law "tempers power". It's a powerful metaphor. Tempering not only constrains power, but also changes its character.

However, if law is to differ from coercive power persons subject to law must be able to recognise it as something other than the imposition of force and something other than the whims of powerful persons. Without the recognition of law's authority and law's agents we are stuck with force and the gunman.

Our local debates highlight how the rule of law is disrupted by the overlapping and

sometimes conflicting recognition of two legal orders: state law and tikanga. One of the great ironies of the more heated exchanges over the recognition of tikanga is that those who don't recognise tikanga as law should be in the best position to understand the counter view, of persons who don't recognise state law as law. Both positions reveal how the collective recognition of one legal order complete with its own forms of authority, its own agents, institutions and content can stand in the way of the recognition of another.

This is not about race-based divisions between persons but the impact of histories of interaction upon the recognition of legal ordering in contrast to mere force. State law and tikanga don't operate in isolated bubbles. Instead their histories of interaction affect whether each is (or can be) recognised as law. When state law dominates the forms and agents of tikanga it imposes itself forcefully upon persons who recognise the institutions, rules, principles and authorities of tikanga as an operative legal order. For those who recognise tikanga as law such state "law" may well appear as the gunman.

This raises the second irony of the current controversy. Those who would deny the recognition of tikanga on the basis of "one law for all" insist upon all persons being equally subject to law. Yet if the state resorts to power to displace the recognition of tikanga then some people are governed through law and others through force. That structure is fundamentally at odds with equality and therefore disrupts the rule of law for everyone, not just for those who directly recognise and apply tikanga. It turns out this is not a matter of division between persons at all.

When there are overlapping legal orders equal subjection to law is served when those legal orders interact through law not power. Legal experts in tikanga and state law have long been developing and challenging techniques for such "interlegal" relations. There is much work to be done and much of it will fall to emerging generations of lawyers. As an educator my hope is the new legal education requirements will better support law students to develop the critical, analytical, problem-solving and advocacy skills to rise to the challenges posed by overlapping legal orders. □

Honourable Justice Simon Moore

Retiring from the Bench

MARK HENAGHAN

When you were young did you have an idea of what you wanted to be when you grew up?

I come from a medical family. Both my grandfathers were doctors and my father was an ear, nose and throat surgeon. Both my older brothers trained in medicine so there really wasn't much question when it came to what I would do after school.

I went to Dunedin to do medical intermediate. I failed comprehensively, but despite that, I probably had one of the best years of my life. It may have been wasted academically but it taught me a lot about life and how to readjust when things don't go the way you expect.

I was forced to recalibrate. Which I did. I had always had an interest in archaeology and although I had not completely abandoned my ambition to do medicine, I knew a complete rethink was required.

I did Anthropology 101, which was taught by the fabulous Professor Charles Higham who transfixed me from the very first lecture – it was on hominid evolution. Charles was an inspirational teacher and his infectious enthusiasm led me to carry on with anthropology through to postgraduate level.

Charles, now an Emeritus Professor, and I have remained in touch and it is serendipitous and a great honour to have been asked by him to preside over his granddaughter Katie's admission to the Bar in November.

It will be my last admission ceremony. Judges enjoy these ceremonies. We don't have to make a decision or write a judgment and unlike other hearings everyone seems to be happy with the result.

Admission to the Bar is neither a prize-giving nor a graduation. It is a rite of professional passage and a wonderful celebration for our industry.

You went to Otago to study anthropology. What made you want to do that? You also met your wife Jane at Otago. How did that happen?



There is, as you inferred, a connection between Jane and my decision to do law, or at least finish my degree. My brother Chris was doing law at the time and was loving it. And so I took some law papers while I was doing anthropology because I knew a career in anthropology would be difficult. It was in my last year that I met Jane who was studying nutrition. After she graduated she decided to move to Auckland and that seemed to me to be a natural point to return home as well.

What were some of the highlights of studying law at Auckland?

I think it fair to say I was not a sophisticated law

Simon Moore.

“Never lose your sense of humour. Laugh a lot and most of all laugh at yourself.”

student nor a particularly academic or gifted one. I completed an undistinguished degree but I thoroughly enjoyed my last two years at Auckland Law School, with wonderful teachers and the making of a group of new friends who included Jo Manning, now Professor Manning, Andrew Becroft, now Justice Becroft, and Judith Collins, now the Honourable Judith Collins KC.

What was your first law job?

Even back in 1982 jobs for law graduates were thin and hotly contested. I somehow managed to secure a clerkship with Meredith Connell before actually realising it was the Crown Solicitor's firm.

I now recoil at such a level of naivety no modern law student would share. I confess initially I was a little disappointed going into prosecution because I had always harboured aspirations to be a defence lawyer. But that was not to be.

It proved the most wonderfully rewarding and challenging job. I remained with that firm, becoming a staff solicitor, then partner and later chair of partners and Crown Solicitor. Chris joined me in partnership and the firm grew significantly. It was a very happy and fulfilling time.

What are the trials you remember most?

As for the trials I remember most, it is hard to go past my very first criminal trial in the Ōtāhuhu District Court. The defendant had been charged with theft of tyres. The issue was identity. It all came to an inauspicious ending when my key witness identified the foreman of the jury as the defendant.

As for notable trials, it is probably hard to go past the prosecution of William Bell for the RSA triple murders and the attempted murder of Susan Couch. What is most memorable was Susan Couch's courage and her determination to give evidence. She abandoned her wheelchair and struggled on crutches, unaided, from the public gallery to the witness box to face the man who had left her for dead and who never expected anyone would survive to tell their story. You could have heard a pin drop in that vast courtroom. That memory is seared into my consciousness.

Obviously the prosecution of the men charged with sexual offences on Pitcairn Island, which ended up in the Privy Council, is another highlight, albeit for quite different reasons.

You were appointed Senior Counsel and then to the High Court Bench. How different is the life of a High Court Judge from that of a senior Crown prosecutor?

I came to this job reasonably confident that there would not be many surprises in acclimatising to the new role – of being umpire rather than player. I found myself very surprised at how different life as a High Court Judge was.

No one will ever know what it is like to be a judge until they actually put their knees under the bench. There are stresses, but they are different from the stresses one faces as counsel presenting the case for the party that you represent. Having said that I have never worked harder than I have as a judge.

You have done a number of very high profile trials like the Grace Millane murder. How do you handle the pressures of such a trial?

Obviously I can't say much about the trial itself but the greatest pressure was making sure it ran smoothly. The eyes of the world were on us all and it was important New Zealand's criminal justice system was seen to operate smoothly and effectively and fairly. I think we showed it did and much of the credit for that must go to the media who, for the most part, acted responsibly and co-operatively, and to counsel who made the trial run smoothly from start to finish. The value of good counsel cannot be overstated.

What advice would you give a young law student about planning their future?

I think the overwhelming advice I would give if they want to be advocates is to think about what attributes are most consistent with persuasion because persuasion is what advocacy is all about. I started as a rather "shouty" and slightly aggressive advocate. I learned from bitter experience how ineffective that approach is, particularly in front of juries. No one likes to be shouted at or told what to do. I remember Sir Graham Speight, former Crown Solicitor and long-serving High Court Judge, kindly calling me up to his chambers after I had just lost a murder trial before him and gently pointing out that what I had thought was a highly effective cross-examination of the accused had in fact been the very opposite. The jury were with me when I started but thought I was a bully by the time I finished. It was the best bit of advice I ever got. The greatest advocates by far are those who understate their propositions and beguile their audience.

Never lose your sense of humour. Laugh a lot and most of all laugh at yourself. □

"I started as a rather "shouty" and slightly aggressive advocate. I learned from bitter experience how ineffective that approach is, particularly in front of juries. No one likes to be shouted at or told what to do."

Dr Claire Achmad

Auckland law graduate and the Chief Children’s Commissioner

MARK HENAGHAN

What made you want to do law?

I was an idealistic optimist full of hope and motivation to change the world. As a child I was interested in the world around me and in helping others in some meaningful way. I had a real keenness to learn more about these things and how I could be part of something bigger than me, to have an impact.

At school I was into social justice issues and human rights. Those were always the kaupapa that fired up my attention and made me want to make a positive difference in the world. I railed against injustices in our own communities and globally. I thought studying law would be a helpful pathway into working in spaces that would mean I could practically make a difference to addressing injustices and inequalities. Combining my law and arts degrees – focusing on a political science major and minors in history, English and art history – gave me a well-rounded view of things, new ways to think about addressing problems big and small and practical skills that I’ve taken into my career.

What attracted you to doing a PhD?

It was because Professor Mariëlle Bruning, founder of the Child Law Department at Universiteit Leiden, who was my Master’s thesis supervisor, invited me to do my PhD that I ended up down that path. I actually laughed at her suggestion and discounted it as something realistic that I could do. Wonderfully, my husband Peter – at the time my fiancé – encouraged me to give the invitation proper consideration. I realised despite my self-doubt I had what it took to do a PhD and if Professor Bruning was inviting me I should explore what it would involve.

Many conversations with her later to properly understand the opportunity and what PhD study would involve, I realised I was excited by the prospect of continuing to deepen my scholarship and research in international children’s rights law focusing on a topic that was highly evolving and dynamic internationally. I also saw the opportunity for my research to have a practical positive application to influence better outcomes for children’s rights. Undertaking the PhD itself was a challenge but it was an incredible opportunity and I learnt so much. It was very satisfying to dedicate my research



focus to one area and go deep with it over a sustained time, seeing the ways my research and recommendations have ended up being practically applied to advance children’s rights.

You have been passionate about children’s rights throughout your working life. How did that start?

Even as a child I was interested in making the world a better place for other children. For example, I was dedicated to causes like raising money through the 40 Hour Famine and local environmental clean-ups. Then at Auckland Law School, through my role leading the Equal Justice Project, I had further opportunities to focus on access to justice for young people and refugees and resettled children and families.

But it was during my first job out of Law School at the Ministry of Social Development that I got to focus more on children’s rights. I was the first legal graduate the ministry took on as part of its graduate programme and I got to work in a wide range of practice areas. As time went on I saw more closely the injustices and challenges children in Aotearoa New Zealand and around the world face – for example, when dealing with cases relating to adoption, international surrogacy, child statelessness and the rights and

Chief Children’s Commissioner
Dr Claire Achmad.

“At school I was into social justice issues and human rights. Those were always the kaupapa that fired up my attention and made me want to make a positive difference in the world.”

well-being of children in the care-and-protection and youth justice systems. With the support of amazing mentors and senior lawyers and leaders at MSD I was encouraged to pursue my focus and interest in human rights, and more specifically children's rights. I became an internal advocate within the Ministry for finding new ways to progress and uphold the rights of children under the UN Convention on the Rights of the Child in practice. Positively, my clients – professionals leading in a range of areas within the Ministry – were usually open to hearing my advice grounded in children's rights and together we took opportunities to better protect children's rights.

During this time I participated in a Ministry-wide emerging leaders programme, an international human rights training programme in the US and published a paper relating to children's rights that I presented at a national conference. I think these opportunities made me realise the broader possibilities to advocate for change grounded in children's rights.

What is your strongest Law Faculty memory?

My time as a foundation member of the executive then volunteering as the Co-Director of the Equal Justice Project (EJP), and the amazing people I worked with through this pro bono project – fellow student volunteers and the people and communities we supported.

It was a privilege to get to apply my developing legal knowledge directly in the community through the EJP, supporting initiatives like an advice clinic for refugee and resettled families, running educational sessions for children at schools about the law and researching human rights legal issues to help out on pro bono legal cases. I learnt a lot through this pro bono work – it showed me the application and reality of what I had been learning in the classroom. It also showed me what is possible through a career in or related to the law and it meant once I became a lawyer I actively continued my volunteer legal work through the Community Law Centre once I moved to Te Whanganui-a-Tara Wellington. I think in large part this was because my commitment to pro bono work and seeing this as part of my duty as a lawyer had been developed through my time leading and supporting the EJP.

What do you most like about being Commissioner for Children?

What I love the most is the time I get to spend meeting with and listening to mokopuna – children and young people – around the motu, in the communities, spaces and places that are meaningful to them and where they are growing up. Mokopuna are generous with me, they will often share very openly with me their aspirations and hopes, as well as the challenges they are facing in their lives and that are affecting their families and whānau. What I have learned since taking up the role last November is that the mokopuna

of Aotearoa New Zealand are incredible – and I see that they are leading us towards intergenerational change, because they are the aroha generation, the kotahitanga generation. They truly care about one another, about their communities and about the things that are bigger than them, like taking care of te taiao and addressing inequities and injustices like poverty, homelessness and educational barriers. Every time I advocate for and with mokopuna, whether that's in Parliament, through the media, or in the community, I am committed to grounding my advocacy and calls to action in what my team and I hear directly from them, alongside what the wider data, evidence and research tells us.

What advice would you give to those wanting to embark on a PhD?

Be clear on why it is you want to undertake PhD study and seek to make sure your research can have some practical, real-world application that will make a positive difference. Make sure your topic is one you will be able to sustain an interest in for many years and that you will find ways to be excited about even when the process gets challenging – because it will at some point. Find a supervisor who you know you can be honest with, who will give you honest and constructive feedback and who has the energy and time to test your ideas robustly and respectfully and to encourage you along the way. Don't underestimate the importance of your supporters – your family, whānau, friends and fellow students. Remember that even though you are the one who will be carrying the load of the research and writing it is your wider support crew who will collectively sustain and support you over the years of PhD study. □

“Mokopuna are generous with me, they will often share very openly with me their aspirations and hopes, as well as the challenges they are facing in their lives and that are affecting their families and whānau.”



Dr Achmad with two young people from the Mana Mokopuna – Children and Young People's Commission Youth Voices Group.

Dr Jim Salinger

New Zealander of the Year and Auckland Law School graduate

MARK HENAGHAN

AUCKLAND LAW SCHOOL was privileged to host a visit by New Zealander of the Year Dr Jim Salinger.

Jim received the accolade in March 2024 from Kiwibank recognising his decades of dedication to climate science.

The highly celebrated international researcher's achievements include the first detection of global warming in 1976, leading southern hemisphere studies of climate change and being awarded the New Zealand Science and Technology medal from the Royal Society in 1994.

Jim also received an award for exceptional service from the World Meteorological Organization's Commission for Agricultural Meteorology, to which he was New Zealand's principal delegate from 1986 to 2010 and a former president.

Jim is a prolific communicator on climate change. He is credited with at least 190 publications on the subject. He has been involved in climate research over the past 40 years in both New Zealand and the South Pacific.

Jim completed a Bachelor of Science at the University of Otago in 1971, a PhD at Victoria University of Wellington in 1981 and an MPhil in Environmental Law at the University of Auckland in 1999.

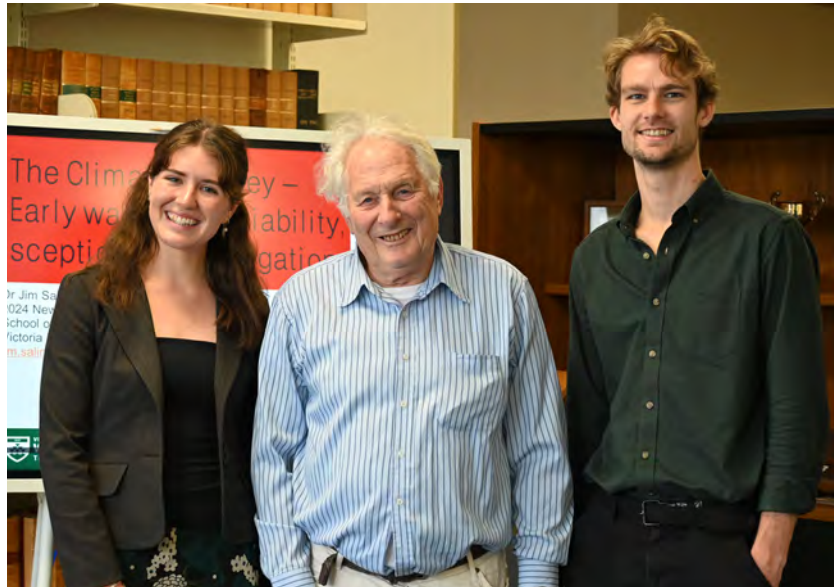
He has been an Honorary Research Fellow at the University of Auckland since 1994.

Jim was a lead author of the Intergovernmental Panel on Climate Change, which collectively was awarded a Nobel Peace Prize in 2007 "for efforts to build up and disseminate greater knowledge about man-made climate change and to lay the foundations that are needed to counteract such change".

He has written about why we have extreme precipitation on consecutive days more often. He has also written about how climate change is affecting extreme heat and rain worldwide as has been recorded by thousands of weather stations.

His Law Faculty presentation featured revealing graphics and photographs including of ice loss on Westland's Franz Josef glacier.

He explained how meticulous temperature recording over a long period leaves no doubt about the reality of climate change.



Dr Jim Salinger presenting his climate presentation at Auckland Law School and (above) with students Bella Belcher and Nicholas Langrell-Read.

Barbara Edmonds

Making a difference through law and politics

MARK HENAGHAN

What attracted you to law?

I came to Law School after working for a large fire and general insurer, where I really enjoyed the contractual element of my job as a claims assessor. As a quite typical young Samoan there was always a thought of becoming either a doctor or a lawyer. After initially studying physiotherapy and not enjoying it, then getting a job in the insurance industry, the law seemed the obvious choice.

What do you most remember of Auckland Law School?

Being pregnant – haha! I had my first four children while I was studying for my conjoint degrees. With number four I actually went into labour at the Law School café after a healthcare law class. What I remember most was the support I received from my lecturers, especially one of my mentors at the time, the late Associate Professor Nin Tomas, and the faculty staff. I couldn't have finished my degrees without their understanding – and the odd extension for assignments – that came with studying and raising a young family.

What attracted you to politics?

The ability to make a difference. I got into politics because I realised the opportunities I had as a child – brought up on the benefit by my widowed solo dad – and those my husband and I could give our eight children were not available to all the children in the community of Porirua where we live. I wanted to make sure other children had an ability to reach their potential and the state had a role to play to ensure there were safety nets for them. I also realised there was only so much I could do at a community level to help drive change. So politics and being at the decision-making table was the next level. As the Hon Luamanuvao Dame Winnie Laban would say, "If you're not at the table then you are the lunch."

What do you like about being in the middle of politics and what challenges does it throw up?

The people. Every day I meet people across the country who are doing their bit to make Aotearoa New Zealand a better place to live and it's inspiring to know there are more people who are in this camp than are in it for themselves as individuals. Most people in Parliament come for that same purpose. We just have different ways of achieving those



Hon Barbara Edmonds.

goals. The politics itself is the most challenging aspect. I've spent most of my career working with people and the community to find and implement solutions. The argy-bargy of politics and debates are not my natural home as it goes against how I work and also my Pacific cultural values of people in the village supporting each other. I find it distasteful that to score points against your opponents there is an element of condescension. Let's debate the policy, but we can do it in a respectful way where everyone keeps their mana.

What keeps you going in the highly charged political realm?

Again, the people. Every day I come into Parliament I have to remind myself of why I am here, otherwise you can get lost in the busy-ness. I'm here to be a voice for those more vulnerable, for the children – like I was – who through no fault of their own need a safety net to support them to get ahead, and to ensure particularly in my Labour Party finance spokesperson role the economy works to support these safety nets, encourage sustainable growth and allow people to achieve decent pay for their day's work.

What advice would you give to undergraduates and graduates with political aspirations?

Experience life. Parliament is full of people who bring a diverse set of life experiences. Come with a clear purpose and let that be the compass to guide your decisions. □

“Every day I meet people across the country who are doing their bit to make Aotearoa New Zealand a better place to live and it's inspiring to know there are more people who are in this camp than are in it for themselves as individuals.”

Justin Sobion

Graduate champions climate justice in world's highest court

SOPHIE BOLADERAS

PHD GRADUATE Justin Sobion is helping to tackle one of the biggest global problems in the world's highest court.

It was an article about Aotearoa's "human river" that inspired Caribbean-born international environmental lawyer Justin Sobion to embark on his doctoral studies at Waipapa Taumata Rau University of Auckland.

Despite living in Switzerland and enjoying a role at the UN as a human rights officer, his interest was piqued by an article about the Whanganui River being the first in the world to be recognised as having the same legal rights as a person.

"It was fascinating to read about this legislation that sought to protect the river and aligned with the Māori worldview that the river is a sacred living entity. It got me interested in the country, tikanga and the legal system here," says Justin, who graduated in Tāmaki Makaurau this year with family, friends and colleagues.

Celebrating the end of his "scholarly marathon" felt amazing, says the Auckland Law School graduate, who missed his family and often felt bad for his wife as he spent hours working on his thesis, which he began in 2019.

"I'm indebted to my family, my mother Judith and brothers Jules and Darien in Trinidad for their love and support," he says in the acknowledgements section of his thesis, which is recognised on the Dean's List for its exceptional quality.

"To my wife Aurélie, you have been very patient with me," he writes.

"On many occasions I felt like a mundane husband electing to stay indoors like a hermit, in solitary study, instead of exploring the great outdoors with you."

Titled "Earth Trusteeship: A Framework for a More Effective Approach to International Environmental Law and Governance", Justin's thesis begins with a quote from politician, iwi leader and activist Debbie Ngarewa-Packer: "The moment you become attached to the water, the ocean, you become guardians, kaitiaki."

Guardianship is a major element of earth trusteeship, an idea that posits that the Earth and its resources could be held in trust by states for current and future generations.



Justin Sobion pictured at his graduation.

The aim of Justin's thesis was to explore whether earth trusteeship could provide a framework for a more effective approach to international environmental law and governance, thereby addressing head-on the ecological crisis.

"To be a trustee means you give up some authority because you're acting on behalf of someone else," he says. "That's a challenge, especially in a world where many states prioritise their own interests."

"Despite these challenges I think earth trusteeship will become increasingly important as the global community grapples with environmental crises," says Justin, who along with being a senior law tutor, author, artist and new dad is working on one of the world's most significant climate justice cases to date.

Initiated by Vanuatu, 132 nations are asking the International Court of Justice (ICJ) in The Hague to establish the obligations of countries to address the climate crisis – and the consequences if they don't.

Eight Caribbean countries have filed written submissions at the ICJ for an outcome that will strengthen the region's legal position in terms of climate loss, damage claims and negotiations. And Justin, born in Trinidad, is representing Grenada, Saint Vincent and the Grenadines and Saint Lucia. □

“... earth trusteeship will become increasingly important as the global community grapples with environmental crises.”

Ervin and Priscilla Lavea-Gatoloai

Fulfilling dreams

JOSHUA YUVARAJ

BROTHER AND SISTER Ervin and Priscilla Lavea-Gatoloai graduated from the University of Auckland in 2023 with Bachelor of Laws/Arts degrees. In honour of their grandfather who dreamed of being a lawyer, the Samoan title So’oalo was bestowed on the pair. Ervin and Priscilla, who have both secured roles with the Public Defence Service, talk to *Auckland Law*.

What has working for the Public Defence Service been like?

PRISCILLA: I couldn’t think of a better way to kick-start my career in criminal law. The training and support available plus the exposure to in-court advocacy is unmatched.

I feel well equipped and supported at every turn. Senior lawyers are ready to offer guidance and supervision to ensure we put our best selves forward when facing clients and appearing before the judges. The wealth of experience floating around the office makes you realise there are many different ways to deal with issues that arise, and solutions are easy to come by to ensure the best outcomes for those we’re tasked to help.

I couldn’t recommend the Public Defence Service more highly for anyone with an interest in criminal justice.

ERVIN: I was fortunate to start at the Manukau Public Defence Service as a law graduate in 2023 after applying unsuccessfully for other positions within the Ministry of Justice. Early on, I realised I had to proactively search for learning and employment opportunities and see setbacks as opportunities to grow. I had been an unpaid legal intern with the Police Prosecution Service for seven months in 2022. This role stemmed from my active engagement with a senior police prosecutor in court, which led to my introduction to criminal law.

My graduate role at the Public Defence Service was mainly drafting legal submissions, completing disclosure reviews and conducting legal research for the lawyers. I was part of the sentencing-ready team and had to ensure sentencing submissions were drafted and ready for the assigned lawyer. I was in this role for about four months. After I was admitted to the Bar in September 2023 I took on a new role as a Criminal



Defence Lawyer – Supervisor Provider – with the service. It has been an exceptional experience. The work–life balance and office culture are everything I expected and more. I couldn’t have started my legal career with better colleagues, initially under the amazing leadership of Public Defender for Manukau Mark Williams – since appointed a District Court Judge – and now Acting Public Defender Amy Jordan.

The in-house and in-court training is enabling me to grow to not only expand my knowledge of the law but also build on my advocacy skills. Like Priscilla, I would also encourage students and recent graduates to consider applying for a role at the Service.

Ervin and Priscilla Lavea-Gatoloai.

How did Law School prepare you for the practice pathway you are now on?

PRISCILLA: Networking with alumni and practising lawyers in my area of interest – criminal law – was important. Attending events with guest speakers from all areas of law was particularly helpful. Hearing their stories – and visualising myself in their shoes – inspired me to keep going during some of the harder days as a student.

They offered advice on what papers would be helpful when in practice, which gave me a clear pathway. Although I'm still in my early years of practice those recommendations have paid off in giving me familiarity with helpful ideas, vocabulary, terms and concepts.

ERVIN: I knew before starting Law School that I wanted to be a courtroom lawyer, either as an advocate or prosecutor, which made it easy for me to pick appropriate subjects including evidence, criminal procedure, civil procedure and other electives. This introduced me to criminal law and advocacy. Law School also taught me how to absorb information and recall it when needed – especially points of law that I can then add on in practice. One thing I think students often fail to take advantage of at Law School is the opportunity to network and make contact with lawyers in practice. A pool of contacts and good relationships will take you far in the profession.

Are there things you didn't learn or experience at Law School that would have helped you?

PRISCILLA: I wish I'd spent more time enjoying the study of law than worrying about a career. I felt avenues for a career in criminal law practice were limited because not many criminal lawyers came to Law School events, whereas there was a lot of emphasis on commercial firms and job opportunities that didn't align with my interests.

Since working at the South Auckland Bar I've come to realise there are endless opportunities and many amazing advocates doing what I aspired to do while studying. I hope students reach out beyond what is advertised at Law School and have their eyes opened to the many ways that lead to a career in criminal practice.

ERVIN: I wish I'd taken part in more moots and similar activities. Mooting gives you an understanding of court procedure and helps you to think on your feet when making submissions or answering a line of questions from the judge or prosecution on a contested point of law. I think it can build advocacy skills and be of benefit in practice.

How do you feel your cultural and family background have influenced the way you practise law and how do you think other students and young lawyers can apply their heritage in their work?

Priscilla: I believe my cultural values, belief in God

and my village – my aiga – have propelled me this far in my career and in life. I feel privileged to live a life my grandfather and my ancestors once dreamed of, a life my migrant parents envisioned when we left Samoa in search of opportunities. We honour those who have paved the way for us.

I think too often we are afraid of our uniqueness in culture, in values, in beliefs. We fear our differences might hinder our career progress. But I've come to realise those are the very things that fuel my success. They allow me to lead with love, patience, compassion and understanding for others.

ERVIN: My family is my backbone. My Law School and legal profession journey is one of sacrifice by those before me. It stems from my parents leaving the comforts of their Samoan home in search of brighter days for their children here in Aotearoa New Zealand. Two very special people for me on this journey are my grandparents, especially my late grandfather Tagaloamatua Te'omatavu'i Mulitalo Lavea Lisona Lavea. My grandparents stressed to us the importance of education having been the first couple to graduate together with their Bachelor's degrees from the National University of Samoa.

My grandfather dreamed of doing law, but forfeited the opportunity for the sake of supporting his family. But he was known at the local Samoan courts for his knowledge of the law and its processes. He wished his children or grandchildren could undertake that journey for him. I am proud to have built on his legacy and to be fulfilling his dream. He was a pillar of Samoan culture, a chief of chiefs with an innate understanding of our cultural heritage and practice. He embedded in our family values of respect, integrity and faith. His reminder for us to take our culture into every room, space or courtroom we enter remains with me.

My wife and two daughters are inspiration for me to stay on the path and encourage more Pacific students to take on the challenge of Law School. The profession needs more Pacific advocates.

I encourage all students to bring their individual cultural backgrounds and heritage into the profession, which helps it to grow.

Do you have any advice for law students considering criminal law?

PRISCILLA: There are enough seats at the table for all of us. You will bring a unique perspective and experience to the criminal bar that will benefit those we serve. It's hard work but it's the most rewarding and life-changing work you'll do.

ERVIN: Be proactive and look out for any learning or employment opportunity with either the Public Defence Service or a private barrister. If you are leaning towards the Crown or police prosecution services, seek out those prosecutors either at court or via LinkedIn. It pays to network with those already in the profession as those encounters can lead to opportunities. □

“I encourage all students to bring their individual cultural backgrounds and heritage into the profession, which helps it to grow.”

Taylah Johnson

From Law School to Sky commentary: balancing motherhood and multiple careers

MARK HENAGHAN

TAYLAH JOHNSON is a Sky rugby commentator who has played in the Farah Palmer Cup and has represented Samoa in rugby. Taylah is an Auckland law graduate, and she is also an Auckland University graduate of commerce and accounting. Taylah is a member of the World Rugby Council and as this story shows she still continues using her legal and accounting skills. She was also a three times NZ champ for her age group in BMX.

What attracted you to studying law?

When I was younger my dad was a rugby coach and we used to see young athletes getting contracts in which they were being done over by their agents. It made me want to be a player agent – I thought I could write up contracts and deal with the numbers. When I started my degree I thought, “Actually, I don’t want to be a player agent, I want to be in a position of power in rugby.” Still being involved in the game but at the decision-making table. I thought if I know the law and I know money surely I can get a foot in the door somewhere.

I chose to study law because there were certain aspects that really interested me such as social justice. I grew up in Te Kūiti in the King Country, which was heavily run by gangs. I wanted to be on the right side of the law. I wanted to understand the law – understand the way New Zealand works from a legal perspective. No one in my family is a lawyer or has studied law so it was a dive into the unknown. As my degree progressed I started to really enjoy all that I was learning. One of my favourite subjects was evidence – the lecturers played a big part in this.

What was your experience studying at Law School? Did you find a good group of people?

Yes. As only a select number go through to Second Year you do become a close-knit group. Some of my best friends to this day studied with me. People say it’s competitive but that is what drives you to achieve your best. If your peers are aching it you want to be up there as well. I was also involved in student clubs – Te Rākau Ture for Māori students and the Pacific Island Law



Students’ Association as I am both Māori and Pacific. It was cool to be able to walk into both those worlds. I enjoyed the environment and everyone I studied with.

Taylah Johnson commentating for Sky Sport, alongside Jeff Wilson.

How did you juggle playing international rugby and studying?

It was quite tough because when I was studying classes weren’t recorded so I always had to be present. If I couldn’t make it I had a great group of friends who would share their notes with me and let me know what happened in the class. It’s quite funny because I never read outside Law School – I think the last time I did was in about Year 9. I’m just not a reader. But staying on top of the law readings really helped. If I was on tour I would always make time to do my readings – highlighting things and reviewing my notes. Even though the readings took a lot of time it was extremely helpful.

What do you remember most about studying law?

The lecturers. Associate Professor Scott Optican was one of my favourites. He loved a story – they were often more interesting than what we were learning that day in class. I used to think, “What story will Scott share with us today?” It made me want to go to his lectures. I don’t think

“No one in my family is a lawyer or has studied law so it was a dive into the unknown.”

I missed a single one. So the lecturers made it. Often the cases you read are quite heavy and you find yourself getting angry and upset at society. Lecturers who were bubbly and able to lighten the mood definitely helped. Kylee Quince was great – she would provide insights and give us a holistic view of the world.

What attracted you to working in the media?

When I was in high school my dad coached the Suburbs premiers rugby team. I would go along to games and volunteer to write match reviews for Auckland Rugby. I would write them, send them in and they would post them online. So I guess that was my stepping stone into the media.

While I was still studying law and business I kind of fell into the industry even though I never had a desire to work in it. I always loved rugby and I wanted to work in the sport somehow. Sky Sport was looking for a female who knew about rugby so I was put in touch with Alan Henderson who was producing the First XV coverage at the time. I went along and he asked me to interview Steven Luatua. I'd gone to school with him so I found it very easy and relaxed to interview him. I guess it helps that I am a confident person. They loved the interview and then asked me to commentate a game. I wasn't necessarily trying to get into the media – I just love rugby and that's how it happened.

Having played the game helps immensely when you commentate – you can draw on your knowledge and be really analytical. The skills from my conjoint law and business degree also help. They taught me to be able to communicate eloquently and law's analytical side helps me dissect things quite quickly.

What do you like most about broadcasting?

The people I meet. To pull together a broadcast is massive – there are the camera crew, director, sound team, producers, people who work at the venue – so I get to mix and mingle with more than 60 people. I love the connections I've made with all of them.

I also enjoy being able to be a part of rugby. I always hope people who watch our broadcasts go away having learned something new. A rugby game doesn't necessarily need a commentary – people can just watch it. I guess when I'm commentating I want to resonate with the viewers or teach them something. I like challenging myself with each game, thinking about what I can portray to the viewers.

There's lots to enjoy on top of that, such as is the travel. Last year I commentated the France Sevens in Toulouse while I was 36 weeks pregnant. Doing that sort of stuff is awesome. I often have to pinch myself: I have the best job in the world getting paid to talk about rugby. I am so grateful.

What's your career away from broadcasting?

I am a chartered accountant so broadcasting is not my only job.

I was at KPMG for six years, starting in audit, which was hard work. I did that for four years then moved to consulting so I could use some of my legal knowledge. I helped write policies and manuals and worked on mergers and acquisitions. It was great to be able to apply both the law and business sides of my degree.

I then took a career break to help build Moana Pasifika after Sir Michael Jones gave me a call and said he wanted to build a Super Rugby team – not a small project. KPMG was very supportive in giving me a break, which was meant to be one year but turned into three. By the time the initial year was up I was seven months pregnant. I took extra time as there was unfinished business at Moana Pasifika. I plan to go back to the corporate world next year.

It's been really rewarding and challenging being in the Pacific space and setting up this franchise. We are in a really good place, having signed Ardie Savea and with new owners who have really good direction. With the strategy work done I feel it's time to go back to the corporate world.

I am doing broadcasting during the weekend and Moana Pasifika during the week so I'm a bit of a workaholic.

What advice would you give to undergraduate students?

Always make sure you have an identity outside Law School. It's important to stay involved in things you enjoy so you have interests outside your career. If I wasn't actively involved in rugby I wouldn't be in the position I am with Sky.

When I was at Law School I would be so stressed about studying for exams I would go and commentate on a game and feel much better. It's important to give your mind a break and focus on things you enjoy.

It's also important to network and make friends. The further you get into your studies the more you will realise the value of friends in different spaces from both a career and social perspective.

Take all the opportunities you can get. There is no harm in applying for things – I joined the Sport Waikato Board when I was 24 and have been on it ever since. It's important to get our youth voice out so there's a diversity of opinions. □

“Always make sure you have an identity outside Law School. It's important to stay involved in things you enjoy so you have interests outside your career.”

Jonathan Woodhams

Litigation funder creating access to justice

NIKKI CHAMBERLAIN

JONATHAN WOODHAMS, the executive director of LPF Group, New Zealand's only locally owned and operated litigation funding entity, talks to Senior Lecturer Nikki Chamberlain about his work.

What do litigation funders do?

We fund litigation for plaintiffs to enhance access to justice. We assist plaintiffs in levelling the playing field by funding good claims, which provides access to the courts and an opportunity for plaintiffs to have their cases heard. Funders don't guarantee a successful outcome in all cases but we do help people access the courts.

How did you get involved in this work?

I have a background in finance and law. But interestingly I have never practised in litigation. Phil Newland, who established LPF Group in 2009, contacted me in 2012 and said LPF might be a good fit for me. I knew little about litigation, case management or litigation funding at the time. However, I saw it as a good opportunity to help plaintiffs and hold defendants to account and change defendants' behaviour using the courts. After graduation and before my time at LPF, I practised at Chapman Tripp, Russell McVeagh and Slaughter and May in the UK. I was in the commercial and banking teams before undertaking various roles in a non-law firm environment. I studied for a BCom/LLB at the University of Auckland from 1990 to 1994.

What does your job entail?

We look for a range of opportunities to fund such as complex commercial disputes, leaky-building claims, shareholder class actions and consumer affairs cases. It is intellectually challenging. My typical day involves dealing with company administration, considering new opportunities and managing existing cases LPF is funding. In relation to considering cases to fund, we are closely involved in case selection and helping with case management.

At present we are funding eight cases and one – an abuse claim against Dilworth School – on a pro bono basis. We were approached by a number of survivors who had been talking to law firms about the potential of commencing litigation against Dilworth. They had been advised litigation is really hard and expensive



and they were unlikely to get very much money in the end. We looked at it from a social justice point of view – Dilworth has used the system to defend itself through decades of cover-up. We couldn't let it go. The legal team, including Rachael Reed kc and Wilson Harle, agreed to act on a pro bono basis and LPF agreed to meet costs that need to be done outside of legal fees. We are not charging a fee – this is a deserving case and we wanted to ensure a well-funded defendant isn't using the legal system to prevent the plaintiffs from getting justice.

What do you look for when determining what to fund?

We look at the merits of the case, the character of the plaintiffs – are they credible, deserving and meritorious – the financial metrics of the case – how long it will take, its cost, its likely

Jonathan Woodhams is the Executive Director of LPF Group, New Zealand's only locally owned and operated litigation funding entity.

outcome if it goes all the way to the Supreme Court – and whether the defendants can financially meet any judgment against them. We often will get an independent lawyer to do a “black hat” review as part of this process. Then LPF’s investment committee will decide whether to go ahead. Litigation funding is a highly uncertain and risky endeavour. It is important to get the initial due diligence right. However, we also need flexibility as things often don’t turn out how you initially anticipated.

Can you give examples of types of cases you’ve funded?

Of the eight cases we are funding at the moment, there are two class actions, two liquidator claims, one body corporate claim, one relationship property claim and two general commercial disputes. Then there’s the pro bono claim against Dilworth School.

What are the benefits of litigation funding?

We help plaintiffs by providing both financial resources and case-management expertise. Often plaintiffs will say our case-management expertise is as important as the money we provide to fund the proceedings. Only if a case is successful do we get repaid the funds we have advanced and a fee for our investment.

Some think that litigation funding can be punitive – what is your response?

Without LPF most plaintiffs we fund have no prospect of recovery whatsoever. There are many benefits from litigation funding of which providing access to justice and obtaining money for plaintiffs is only one. It is also a mechanism to hold wrongdoers to account and to help provide clarity and develop the law.

Plaintiffs can choose whether to use our services or fund themselves. Both parties enter into an agreement for funding with uncertain timeframes. Often the actions of defendants and insurers drive up costs. In this respect both parties make assessments of time, costs and risks at the outset when the funding terms are agreed. The bargain struck in many cases is what the parties contracted for and is within the parameters of what they thought the outcome would be.

Regarding whether funding is punitive on defendants, I have not heard of a “greenmail” proceeding – in which an action without merit is filed solely to shake down a settlement – being brought in New Zealand with the assistance of funding. If defendants put as much time and care into ensuring they were not breaching their obligations as they do in defending cases plaintiffs would often not need to resort to the courts.

Do you think it is problematic that litigation funding is not regulated in New Zealand?

The elephant in the room is the cost and time litigation takes, not whether there is regulation. The system favours defendants who want to use delay and costs to prevent plaintiffs from obtaining justice. Our business is risk mitigation – so not knowing what the rules are or uncertainty around the rules adds time and costs. We support regulation that provides certainty for plaintiffs to access litigation funding, not reducing the amount of funding that is available and thereby effectively reducing access to the courts. We have the advantage of looking at what has worked in other jurisdictions and what can be done better.

What is the most useful part of your Auckland Law School degree as a litigation funder?

What I enjoyed the most was engaging with people from different backgrounds at Law School and in the Business School. What has been most useful for me are the skills I acquired to think laterally and problem-solve – take a set of facts and a new problem and apply the law. My favourite paper at Law School was medico-legal law taught by Ron Paterson. It was an interesting class although I’ve not used it since. When I entered Law School I thought I would eventually work for an accounting firm or banking practice, but I didn’t think I would be practising as a lawyer. I then got swept up with the magic of Chapman Tripp and its Summer Clerk programme.

What career achievement are you most proud of?

We have achieved outcomes for plaintiffs who without our help would have got nothing. Our clients have ranged from mum-and-dad investors who lost money in a failed investment scheme to kiwifruit growers seeking to get the Ministry for Primary Industries to improve standards after the devastation of PSA in the 2010s. That keeps me coming to work each day. Positive changes are made on the back of these cases in addition to providing plaintiffs with compensation.

What would you advise those interested in a career in litigation funding?

Ask questions – and be prepared to challenge the status quo. Don’t accept the way you are told it’s done as being the only way or that you can’t do things better. □

“Litigation funding is a highly uncertain and risky endeavour. It is important to get the initial due diligence right. However, we also need flexibility as things often don’t turn out how you initially anticipated.”

Haya Khan

Small business success flows from Law School

JOSHUA YUVARAJ

HAYA KHAN IS a graduate of Auckland Law School and an entrepreneur with a number of businesses including Masala Scents and Masala Bazaar. It is empowering to see our graduates pursue careers both within and outside legal practice and Haya's story serves as an encouragement to those considering the latter.

How would you describe your experience of Auckland Law School?

Law School was an interesting time for me as it was entirely different from the creative side of education to which I was accustomed from high school and my arts degree. My learning style and interest in education came from drawing my own inferences, connecting dots and thinking outside the box. At Law School I learned straight away that there were limits to "thinking outside the box" and that translated into everything including the social aspect of the Faculty of Law. That made it a very challenging time for an inherently creative person – but valuable nonetheless.

Law School constantly challenged me and encouraged me to think at a deeper level. Whether or not you were a creative, everyone at Law School brought their own talents to the table. Being in a space full of brilliant minds, innovative thinkers, ambitious leaders and out-of-the-box thinkers was a privilege in its own way. To be in a space where everyone shares the same appetite for knowledge as you is a rare experience that people can not always come by in life and I will always be grateful for that.

However, as a Muslim woman who was not visibly presenting as Muslim I found myself out of place and ultimately not quite gelling with my peers in a social setting where alcohol was the norm, although I enjoyed their company during study and relished our shared intellect and drive.

I feel I missed out on many opportunities through not understanding the socialising culture of "networking" events at firms. The smell of alcohol causes me nausea and severe migraines, which I didn't speak up about, believing it was something I had to tolerate at these events to get a role. There was no guidebook on how to navigate such spaces – knowing what was appropriate to say or not say – and as someone who does not drink, you end up preoccupied the whole time making sure you're not consuming something that is against your



Haya Khan.

religion. You spend more time explaining to people why you're not drinking than asking the questions you want answers to about career opportunities. This might be a very unfiltered experience but I still believe it's valuable to share for the people who might be in the same position I was at Law School where you feel at a disadvantage because you don't participate in the culture. You're spending time catching up learning a system that excludes you while those who already know it are speeding ahead.

Did any particular subjects resonate with you and if so what were they and why?

My favourite subjects were family law, intellectual property, trademark law and consumer law. Although they cover very different areas of practice they were my focus of interest. I particularly enjoyed family law because of the way it was taught. I was able to completely delve into a creative process while also maintaining the parameters of the legal framework and be hands-on. The way we were able to touch on essentially every area of the subject, as if we were already family lawyers, was something no other paper was offering at the time. I am a practical learner so that was ideal for me: to be left to my own devices

"I'm grateful that I completed a legal education as it gives me an advantage in my business journey."

and apply the law practically to a situation as opposed to being examined in a time-controlled setting. Each student performs differently and the hands-on approach helped my enjoyment and efficient retention of information. It also helped that I was working in the family law field and went on to be a deputy registrar at the Auckland Family Court, so the paper was invaluable in its knowledge and teaching method.

While I was in Law School I had already started my Masala Scents business, which was just a side hustle at the time. But I think I had in the back of my mind that I someday wanted to grow it. To do this I had to have the right tools, which explains my affinity for intellectual property, trademark and consumer law. My conjoint topic and special area of interest was media and communications. The way these subjects overlapped in my course fascinated me. I also found the way the subjects were taught in a shorter and faster format for summer school (consumer and trademark law) helped embed them so I still retain that content. These papers opened avenues in the law that I could choose to pursue in the future. But most importantly they helped overcome my “fear of the unknown” in the world of business.

When did you think you might be moving towards entrepreneurship and running a small business rather than a career in the law?

I started Masala Scents in 2018 and it started to grow quite rapidly from the end of 2019. Law School remained my priority until I completed my degree in 2020 and that was when I started to genuinely consider taking my business full-time and delving into entrepreneurship. My law degree gave me the confidence to dip into entrepreneurship without feeling like it was a big risk as I had been steadily building it for two years. However, it took me from then until 2022 to actually take the leap after completing at least one full year of postgraduate work and ensuring that I knew what I was walking away from, if even temporarily.

The specific event that made up my mind took place in court at a sitting with an Auckland Family Court Judge and then-Queen’s Counsel. I was excited to be involved in what was a week-long hearing in the company of some of the most brilliant and experienced minds of family law. Come Friday the Judge directed one of the QCs to file submissions by the following Monday. The QC responded that they had submissions due that day for another long-cause hearing starting on the Monday. The Judge refused an exemption so the QC had to oblige. Maybe this would not be a big deal to others but I found myself thinking is this the life I want for myself?

Flexibility to choose my schedule and step away from work is a priority and non-negotiable for me. This is not to say I don’t want to work hard – entrepreneurship means working 24/7 and

harder than in any corporate role. However, I thought about where I wanted to be in the future. If I pursued a legal career I would want to be in the ranks of the most well-established family lawyers. But that would come at the expense of my mental health, time and flexibility and the quality time my family would need from me. If I chose entrepreneurship, what sacrifices would that include? How would it affect my long-term mental health, flexibility and availability to my family? Having already grown the business to the point it was in 2022, I knew I wasn’t starting from scratch and the decision to become a full-time entrepreneur was right there in front of me.

I knew I had made the right choice when towards the end of last year I came to a point similar to when I had made the decision to quit my job. There were several major life events happening in my family including illness, weddings, reunions and more and this was all at the peak of the retail season. All these events required me to have an extremely flexible schedule and be able to be there uninterrupted for my family. I found myself truly glad at the end of it all that I’d made the decision I did because not only was I able to be present for everything I was needed for, it did not come at the expense of my work – my business still thrived. This life that I wanted, to have the best of both worlds, would simply not be possible in a corporate career. Something would have to give. I did not want it to so ultimately entrepreneurship was the right choice for me.

What advice do you have for law students who may be thinking about pathways that diverge from private legal practice?

Do it. You won’t know if it will succeed until you try. Always remember that every experience within or outside the legal field imparts skills that will make you a better lawyer if you keep score of your lessons and grow from them professionally. As a law graduate you are equipped with a world-class education and the ability to negotiate your way into any space or field you choose. You need to use those tools to better yourself and the spaces you are in. There are many career doors – do not box yourself in to the ones you think you “have” to choose. The right opportunities make way for you at the right time. □

“Law School constantly challenged me and encouraged me to think at a deeper level. Whether or not you were a creative, everyone at Law School brought their own talents to the table.”

Christian Poland

Life as a Supreme Court Clerk

MARK HENAGHAN

CHRISTIAN POLAND graduated from the University of Auckland in May 2024 with a Bachelor of Laws (Hons) and Bachelor of Science. In January he started working as a Judges' Clerk at the Supreme Court.

What drew you to the Judges' Clerk role?

Clerks work "behind the curtain" by serving the judiciary for two years before moving on to the next stage of their careers. I knew the role would allow me to work in many different and intriguing legal areas while I figured out where I should head next.

What tasks do Judges' Clerks perform?

A Judges' Clerk's day-to-day work depends on the court in which they work and the Judge to whom they are assigned. At the Supreme Court I've been tasked primarily with working on substantive judgments. This mainly requires me to conduct extensive research and write memoranda for my Judge and the panel. This is often a collaborative and iterative process with the Judge while they write the judgment – I play no role in drafting the judgment itself. I'm often asked to provide feedback on my Judge's reasoning. Together we may spend weeks or months on a case.

Once a draft judgment has taken shape clerks have the job of checking its factual and legal accuracy and comprehensiveness, editing it for clarity and compliance with the New Zealand Law Style Guide, assisting the panel where required to manage any concurring or dissenting reasons and then assisting with the final tasks required for delivery of the judgment to the parties and public. Several clerks check a substantive judgment before it is delivered. Clerks also draft pre-hearing case synopses and media releases summarising judgments.

Supreme Court clerks generally do not attend hearings but we often listen in virtually. During hearings we may be asked via email to find something for the Judge, whether that be a case or something in the evidence. This requires a working knowledge of all of my Judge's cases.

The Court also receives many leave applications each year. I've worked on several of these. Sometimes these applications require a clerk to conduct initial research and analysis before the leave panel decides whether leave is warranted. Again, though, I am not involved in the drafting itself.



How were your nerves when you first started working with Judges of the Supreme Court?

Some anxiety is natural in any graduate position and it was no different in this role. Initially there was a lot to learn about how the Court operates and what was expected of me as a Judges' Clerk. However, I soon found my feet and developed a strong working relationship with my Judge, the other Judges, my fellow clerks and the other court staff.

What do you do on your time off?

During the first half of this year I studied part-time for profs during evenings and weekends. Now that is out of the way I fill my time with hobbies including watching TV, reading, cooking and exercise. The "clerkery" also occasionally socialises outside work and every so often I return to Auckland to be with family and friends.

What advice would you give aspiring Judges' Clerks?

Although editing is a vital skill for any Judges' Clerk the bread-and-butter of the position is in the research and analysis that underlies judgments. Prospective clerks should take any opportunity to further these skills, whether that be editing a student law journal, working as a research assistant, interning at a law firm or drafting moot submissions.

Clerks also need a broad working knowledge of the law because of the variety of legal questions that come before the courts. □

Christian was awarded the Legal Research Foundation's Unpublished Undergraduate Student Paper Award for his dissertation entitled "The Scope for Child Participation in Conflict of Laws Proceedings in Aotearoa New Zealand". Pictured left to right: Justice Edwards, Christian Poland, Justice O'Regan, Simon Ladd.

Hannah Yáng

Harvard bound: four scholarships fuel constitutional research

SOPHIE BOLADERAS

RECEIVING ONE scholarship is gratifying in itself but to Hannah Yáng’s surprise she was awarded a William Georgetti Scholarship, an Ethel Benjamin Scholarship, a Knox Fellowship and an Yvonne Smith Scholarship. Buoyed by the support of the scholarships, Hannah is now attending Harvard Law School.

“I applied for several only because I was sure I wouldn’t be awarded all of them, so it was unexpected and I’m incredibly grateful for the generosity of the various organisations that have supported me,” says the University of Auckland alumna.

Hannah, a junior barrister at Thorndon Chambers in Wellington, graduated with a joint Bachelor of Arts and Laws (Hons) from the University in 2019.

She intends to use her time at Harvard Law School to further study constitutional and democratic theory. This will allow her to consider the bases for legislative and judicial authority, how New Zealand’s unique history affects those justifications and what this means for legal developments in New Zealand in such areas as climate litigation and the incorporation of the Treaty of Waitangi into law.

Hannah says greater recognition of te Tiriti as a constitutional document in New Zealand law is long overdue, although there are questions about how such recognition should be effected and whether it’s legitimate for development to continue solely through the courts.

Hannah hopes to contribute meaningfully to Aotearoa’s Treaty jurisprudence and the direction in which the law is headed in the near future.

Auckland Law caught up with Hannah before she left for Harvard in August, starting by asking what she expects from life in Cambridge, Massachusetts.

What are you most looking forward to about studying at Harvard?

I will be living on campus in the law school residences so there’s a real risk I won’t see much of Cambridge at all. But otherwise, generally, I’m looking forward to experiencing a winter with actual snow – I hear there will be lots of it.

What are you nervous about?

I’m sure there will be more important things to worry about once I get there but right now the logistics of flying 17 hours, moving in and immediately starting orientation the next day.



How was your time studying law at Waipapa Taumata Rau, University of Auckland?

University, and particularly Law School, was initially a bit of a culture shock for me coming from Mt Roskill, which is very multicultural with low-average-decile schools. But I was lucky to meet a good group of friends I studied with right through Law School.

Standout classes that occur to me include jurisprudence, commercial law, contract theory, rights and freedoms, tax and the medico-legal honours seminar I was in – so a bit of a mix. I also really enjoyed the psychology and philosophy papers from my conjoint arts degree, and while I never intended to work in those areas, I’m glad I studied in them because they’ve been useful to my work in the legal field in an indirect way as well – also minds and brains are just interesting.

What inspired you to get into law to begin with?

I enrolled in law for no deeper reason than because, as a 17-year-old, I liked English at school, I didn’t want to study science and I was too risk-averse to commit to studying for a career in media design-visual arts, which was and still is an interest of mine. At the time I didn’t know any lawyers and had no idea what they actually did, but it worked out, and now I do. □

Hannah Yáng intends to use her time at Harvard Law School to further study constitutional and democratic theory.



Professor Michael Littlewood drawn by Hannah Yáng

Paul Koraua

From Munchy Mart to financial markets

SOPHIE BOLADERAS

AUTUMN LAW SCHOOL graduate Paul Koraua was in his second year of a Bachelor of Commerce / Bachelor of Laws conjoint degree when he was offered a permanent role with Heartland Bank. Suffice it to say, his schedule took a turn towards the hectic.

“In the summer of my second year at university I started working at Heartland Bank. I was initially interning two or three days a week before I was offered a permanent position. Juggling the role and university work was challenging.”

At the end of his day job as a junior treasury analyst in Newmarket, Paul would hop on a bus and head to the University, stopping at Munchy Mart for some snacks before going to the library. He would often spend hours there studying for exams before finally leaving for home, sometimes as late as 11pm.

The opportunity to work with Heartland Bank arose after Paul, who is of Papua New Guinea and Kiribati descent, applied for the bank’s Manawa Ako internship programme, which provides opportunities for Māori and Pacific rangatahi to experience work in the financial sector.

This chance early in his studies meant that although he missed out on getting involved in student clubs and other extracurricular activities he gained real-world experience and a foot in the door to his current role as an associate equity analyst at Forsyth Barr.

Paul, who graduated on 14 May, was born in the Solomon Islands and is one of seven siblings. Civil unrest in 2000 drove the family from the Solomons to Papua New Guinea, but safety was also uncertain there and they decided to move to Aotearoa. Paul’s aunty had lived on Waiheke Island for many years and they were able to base themselves there and get settled.

“Both my parents grew up in small villages in their respective homelands. Through hard work and education they managed to create opportunities for me and my siblings that they never had,” says Paul, whose education would have been very different if it hadn’t been for the move his parents made.

“When we go back to the islands to visit we see what the schooling system is like there, and it’s tough. Many families can’t afford to put all their



kids through school, and even then they don’t have the infrastructure and resources to ensure every young person is able to continue with their education even if they want to. In some cases if you don’t get certain grades you’re basically out of the schooling system.”

Paul says he’s immensely grateful for the moves his parents made to provide opportunities for him and his siblings.

“A lot of the hard work I do is to repay my parents for the sacrifice and opportunities they gave me.”

The further Paul got through Law School the more he wanted to take classes and courses that related to his cultural heritage.

“Thankfully there were a number of different avenues to participate in Pacific-related studies, which I took advantage of.”

Last year he won the Moana Oceania Issues Moot.

“It not only proved to me I can get up and present myself confidently in such a setting but also meant I finished my degree advocating for Pasifika issues that are important to me, my family and my communities.” □

Paul Koraua finished his degree advocating for Pasifika issues.

“A lot of the hard work I do is to repay my parents for the sacrifice and opportunities they gave me.”

Joseph Xulué

We are not French, we are Kanak

TEUILA FUATAI

In May, protests in support of Indigenous rights in Kanaky (New Caledonia) captured headlines around the world and reignited debate about the imperial legacies of European nations in the Pacific region.

*Joseph Xulué is a Kanak-Samoan lawyer based in Tāmaki Makaurau. He talks to **Teuila Fuatai** about the ongoing fight for rights in his birthplace and father’s homeland.*

WHEN FRANCE colonises it implants French views and ways of life wherever it lands. Whatever and whoever was there before are replaced and in many circumstances killed off. You become French, according to France. And that is exactly how things have transpired in Kanaky.

Kanaky is not viewed as an island with a unique, Indigenous people and culture. In our own land Kanaks are treated as a minority community group. Our school system is French as is the healthcare system. The political system is French and of course the dominant language is French.

Yet Kanak people speak 28 different languages as well as 11 dialects and one Creole language (Tayo, spoken in Saint-Louis). These languages are not just separate dialects – they are whole and incomprehensible to each other. Throughout much of my life and most of my father’s life the New Caledonia government has done little to support Kanak people in learning and speaking this rich array of Indigenous languages.

Only three Kanak languages – Drehu, L’ajjïë and Nengone – are taught in the education system. The importance of such teaching goes far beyond the transmission of Kanak languages and culture. Kanak languages as mother tongues are important tools for personal development and academic success. But even today we don’t have any resources to help us promote the use of our own languages.

In the school system the commitment to being French is so far-reaching that even school terms are dictated by the northern hemisphere calendar. The big break happens in the middle of the year, corresponding to what happens in France, rather than during the December to February period. That means children are expected to attend school in the hottest months of the year when it’s pretty unbearable to be in the classroom.

Essentially France’s approach to Kanaky is that we’re just another French province, part of its republic.



As it stands the political setup in Kanaky means domestic issues are largely decided by a government in New Caledonia while foreign policy is dictated from France.

Nowhere within this arrangement is there space to genuinely recognise Kanak rights and needs. The New Caledonia government isn’t obligated to implement recommendations made by the Customary Senate, which was established under the Nouméa Accord and first sat in 1999. It is composed of representatives from each of the eight customary areas of Kanaky and is one institution in a long political fight to recognise custom as the foundation of Kanak society.

However, the Senate is merely an advisory body. The recommendations made by this parliamentary advisory body, like the Waitangi Tribunal, are non-binding. The New Caledonia parliament also determines which proposed laws or policies can be considered by the Customary Senate in the first instance. This is despite Kanaks making up 40 percent of the population in Kanaky.

Joseph Xulué at his graduation ceremony from Harvard University where he completed a LLM (Master of Laws) as a Fulbright Scholar. June 2023.

France annexed Kanaky in 1853, but it was not until after World War II that Kanaks were allowed to be French citizens. Even then citizenship rights did not come with universal suffrage. The right to vote in our own land was only allocated to people who were considered to be of noble rank. Even today voter enrolment requirements for passports or citizenship documents are barriers to participation because many Kanak people just don't have these.

The end result is that Kanak perspectives and needs are not prioritised in significant policy decisions. That's reflected in our disproportionately high unemployment rate, low education achievement levels and poor health outcomes. Overall life outcomes for Kanak people in Kanaky, like Māori in Aotearoa, continue to be worse than our Kamadra (Pālagi) counterparts. One of the main Kamadra communities in Kanaky is known as the Caldoche. They are descendants of the original French settlers who were mainly prisoners sent to Kanaky to set up a penal colony in New Caledonia. There are also more recent migrants from metropolitan France.

The ongoing lack of recognition for Kanak people's needs and identity reflects France's particular brand of imperialism.

The most recent set of protests in May this year occurred because France proposed changes to our voting laws that would decrease the influence of Kanak people in our elections. The electoral reform by the French state intended to allow some 25,000 mainly French migrants to vote during provincial elections scheduled to take place in December 2024.

At present to be eligible to vote you have to be born in New Caledonia or satisfy certain residency requirements. The proposed reform essentially makes it easier to satisfy these residency requirements. If implemented a larger number of recent migrants and their descendants would be

eligible to vote. That means collectively Kanaks would have even less say in our own governance than we do now.

So the protests were against forced provincial electoral reform undertaken by the French Senate and its National Assembly against the wishes of the independence movement.

France's insistence on doing this, to make decisions for us without real consideration and consultation, has been a staple of its imperial rule.

So it is important to understand that for Kanak people our fight is about two distinct but related principles: independence and Indigenous Kanak sovereignty.

In its simplest form independence is the removal of French involvement from all parts of governance in Kanaky. It involves the total transfer of power from France to our own government structures in Kanaky. When independence is achieved France would have no say in the domestic and foreign affairs of Kanaky.

At the same time we need to realise Kanak sovereignty. This is a separate issue to independence because the starting point is the rights of Kanaks as the Indigenous people of the land.

Ultimately sovereignty for Kanak people means decisions about the land, including how it's used and how the resources are divided, are made by us using Indigenous decision-making structures.

But there are some really significant reasons why France has no interest in our sovereignty and is so insistent on retaining power in our nation.

Kanaky is economically important to France. We're one of the largest producers of nickel in the world. Our land is rich in other minerals too, including iron. The seabed around Kanaky is reportedly rich in minerals as well and that is viewed as a potential future economic benefit to France.

Kanaky's location in the South Pacific is also

“... it is important to understand that for Kanak people our fight is about two distinct but related principles: independence and Indigenous Kanak sovereignty.”



A Kanak flag waves next to a burning vehicle at an independantist roadblock at La Tamoa, in the commune of Païta, France's Pacific colony of Kanaky (New Caledonia) on 19 May 2024. Photo: RNZ, Delphine Mayeur for AFP



A pro-independence supporter talks to French gendarmes outside the headquarters of the Union Caledonienne (UC), after the police intervened in a press conference in Nouméa, on 19 June 2024.
Photo: Delphine Mayeur / AFP

strategically significant for France, particularly in the present global climate. Through its territories like New Caledonia and Tahiti, France views itself as a Pacific nation. French President Emmanuel Macron has made that abundantly clear. It's also reinforced through France's Indo-Pacific strategy, which outlines France's commitment to upholding the international rules-based order in the region as well as the "protection of its citizens and its sovereign territory" and support for human rights in the Pacific.

For Kanaky that self-styled French mission has been ugly, violent and harmful.

In the late 1980s France pursued aggressive anti-Kanak policies in Kanaky. That agenda and the response from Kanak people escalated to a point where Kanaky was on the verge of civil war.

The unrest and violence came to a head with the Ouvéa hostage crisis in 1988, when Kanak freedom fighters took a group of local gendarmes hostage. In response the French Army killed 19 of the hostage-takers.

The Matignon Accords, which secured peace in Kanaky and laid a path for decolonisation and development over ten years, were ushered in following this. It was signed by the French government and leaders of the major pro- and anti-independence parties in Kanaky in June 1988.

I believe France only brokered this peace agreement because it realised that a situation like Ouvéa would occur again, and likely be worse, if something didn't change.

My dad Antoine was in his late teens and early twenties during the 1980s protest movements. He and his seven siblings were all involved. Like so many other young Kanaks they'd had enough of the oppressive French regime and wanted to progress the fight for Kanak sovereignty. Kanak

people were also encouraged by the revolutionary movements they'd seen in places like Libya and Cuba. They heard about Che Guevara, Fidel Castro, Malcolm X and the Black Panthers and were inspired. Just as in Kanaky these places and their people had felt the sting of colonial rule and oppression for too long.

My dad's older brother Pierre was among a Kanak group that travelled to Libya around this time. Uncle Pierre went at the request of a Kanak political party known as the Kanak Liberation United Front or FULK. He was in Libya as the programme organiser for young Kanaks and was sent there for a host of training programmes that took place in 1984.

The FULK saw Gaddafi as an ally. Libya was ready to help train Kanaks and other groups to prepare themselves for independence. Kanaks were attracted to the prospect of a country run by the people, for the people. This form of politics aligned closely with Kanak ideals of customary governance.

Then in 1998, at the conclusion of the ten-year period under the Matignon Accords, the Nouméa Accord was implemented. Under this agreement France promised to grant increased political power to Kanaky and the Kanak people over a twenty-year period. That hasn't happened.

Now 36 years after the Matignon Accords, and at the end of the twenty-year period allocated under the Nouméa Accord for a so-called decolonisation process, we've been presented with another political manoeuvre from France that disregards Indigenous rights. And just like in the 1980s it's young people who are standing against it.

My dad, who lives in the wider Nouméa area, has had a particularly visceral reaction to these latest protests, in particular seeing the further militarisation of Kanaky with the arrival of 3,500 gendarmes from France aimed at quelling the protests, which really meant young Kanaks arrested

and imprisoned and even jailed in metropolitan France nearly 17,000km away.

He remembers being one of those young Kanaks in the 1980s, being arrested by heavy-handed French law enforcement. He also sees the irony in how locally formed and armed militia – mainly composed of Kamadra living in the residential suburbs of Nouméa located in the south of the city – are protected by French law enforcement. The purpose of these militia and their roadblocks is touted as allowing citizens to protect their neighbourhoods, although it seems more likely that they stand in defiance to and against Kanak independence and sovereignty. Their actions are felt by many Kanaks as promoting racist ideologies against Kanak people, characterising us as thugs and violent militants.

At each and every stage of the historical and political developments in Kanaky Kanaks had decisions made for us rather than with us. Either we're having something forced on us or we have to make grave concessions about something that's going to be decided for us, regardless. You just have to look at the difference between the areas populated by Caldoche and more recent French settlers and those populated by Kanak people to see the inequities produced by the current system.

Caldoche and more recent French migrants tend to live in the South Province, which includes Nouméa. In this part of Kanaky there's an ongoing stream of development. For example, we see infrastructure projects like new buildings. Just recently a massive shopping mall has gone up in the southern province, which brings money and business opportunities that benefit settler communities.

This type of development doesn't tend to happen in areas where Kanaks live, which are around the North Province and in the Loyalty Islands, where my family are from.

We also know that when development does occur outside of the southern province it tends to go towards business and economic interests that don't benefit Kanak communities. For example, Lifou in the Loyalty Islands has a port where cruise

ships dock. Over the years the infrastructure and construction projects around the port have all tended to employ members of the settler community rather than Kanaks.

We've seen a similar employment pattern in the public sector. One of the ways France has encouraged migration from metropolitan France to Kanaky is through generous job offers in the public service and other essential industries like health and education. Even as the Accords process has progressed we've never seen an influx of Kanak people in these roles. Even Kanaks who've gone to France, trained and come back with degrees, haven't managed to land these jobs.

That systemic discrimination and inequity simply won't be addressed under the current system.

More than that it's perpetuating the loyalty these settler groups have for France. We know they're totally entrenched in the governance and societal structures France has imposed because for so long they've benefited from them.

They've also built an identity around New Caledonia, particularly the older settler communities. That goes back to the belief that they or their ancestors helped create the country they know as New Caledonia.

If we think about Kanak sovereignty, it has to go back to first principles. Kanak people never agreed to be annexed. And we never agreed to being forced on to reservations on our own land for the century that followed.

We never agreed to become French subjects. We never said that it was okay to mine the land for things like nickel and iron ore at the expense of our traditional ways of living.

What we've always said is this: we are not French; we are Kanak. Let us make our own decisions on our own land. □

This article was first published on E-Tangata at <https://tinyurl.com/385pvjxr>



Christina Posner

Recent graduate Christina Posner was awarded runner-up in the 2024 Law and Economics Association of New Zealand essay competition for her paper "The New Zealand-China Double Tax Agreement: Modern China's Effect on New Zealand's Treaty Negotiations". An article based on the paper will be published in the *New Zealand Journal of Taxation Law and Policy*.

Judicial appointments

HIGH COURT

Auckland Law School offers warm congratulations to alumni Greg Blanchard and Michele Marina Wilkinson-Smith who have been appointed as Judges of the High Court.

Greg Blanchard

Justice Blanchard attended the University of Auckland from 1991 to 1995, graduating with an LLB (Hons) and Bachelor of Arts (English).

Justice Blanchard worked in New Zealand until moving to London in 2000. He returned to New Zealand and became a partner of Dentons Kensington Swan in 2004.

Justice Blanchard became a barrister sole in 2008 and had a wide-ranging commercial litigation practice. He was appointed Queen's Counsel in 2017. Justice Blanchard's appointment took effect in July 2024 and he sits in Auckland.

Michele Marina Wilkinson-Smith

Justice Wilkinson-Smith graduated with an LLB (Hons) from the University of Auckland in 1993.

Justice Wilkinson-Smith has been a member of the Legal Aid Performance Review Committee assessing the performance of legal aid providers since 2015.

She was appointed Crown Solicitor for Whanganui in 2016.

Justice Wilkinson-Smith's appointment as a Judge of the High Court took effect in February 2024.

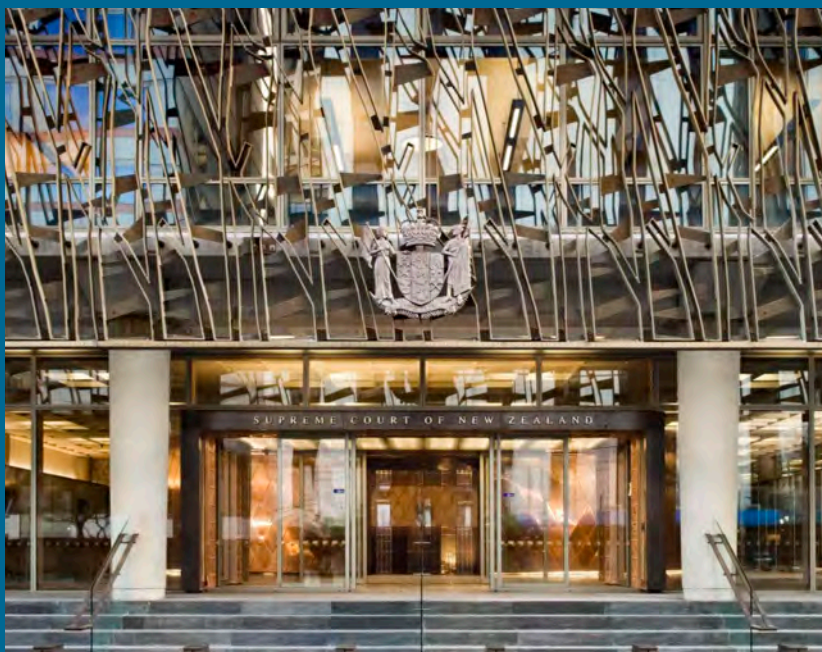
DISTRICT COURT

Warm congratulations from Auckland Law School to alumni appointed as District Court Judges in 2024.

Judge Peter Davey

Judge Paul Murray

Judge Kirsty Swadling



The Supreme Court of New Zealand, Wellington.

ASSOCIATES TO THE FAMILY COURT

Auckland Law School would like to congratulate Auckland Law School alumni for their appointment to the Family Court as Associates:

Mark Tolich

Sonya Singh

COURT OF APPEAL

Auckland Law School would like to congratulate **Susan Thomas**, for her appointment to the Court of Appeal.

Justice Susan Thomas graduated with a BA/ LLB (Hons) (Senior Scholar) from Auckland University in 1982 and was admitted to the New Zealand Bar in the same year.

Justice Thomas worked in the profession in England, Wales and Wellington following her admission.

Justice Thomas was appointed to the High Court in 2014 and was appointed Chief High Court Judge in 2020, leading the Court through the Covid-19 pandemic. She has taken a leadership role in work under way within the justice system to improve access to justice and to improve the courts' processes in the areas of criminal and civil justice.

Justice Thomas was appointed to the Court of Appeal in December 2023.

We would also like to congratulate **Justice Neil Campbell** who has been appointed a Court of Appeal Judge.

Justice Campbell graduated with a BCom and LLB (Hons) from the University of Auckland in 1992. He became an Associate Professor in the Faculty of Law at the University of Auckland in 2008.

Throughout his academic career, Justice Campbell maintained a part-time practice at the Bar before transitioning to full-time practice in 2008.

KING'S COUNSEL APPOINTMENTS

The Auckland Law School has a long line of alumni that have gone to the very heights of the legal profession. We are thrilled to congratulate the following for their appointment as King's Counsel.

Sarah Armstrong KC

Zane Kennedy KC

Kelly Quinn KC

Nura Taefi KC

Marcelo Rodriguez Ferrere

MARK HENAGHAN

ASSOCIATE PROFESSOR Marcelo Rodriguez Ferrere has joined Auckland Law School. Marcelo has a Bachelor of Arts and a Bachelor of Laws with first-class honours from the University of Otago as well as a Master of Laws from the University of Toronto. He is due to complete a PhD from the University of Alberta in 2024.

Early in his career Marcelo was a Judges' Clerk in the High Court of New Zealand and a solicitor at Chapman Tripp. He has also been a research assistant in the Faculty of Law at the University of Toronto.

Marcelo is an enrolled barrister and solicitor of the High Court of New Zealand, a member of the New Zealand Institute of Directors and an executive member of the Australasian Animal Law Association of New Zealand.

Marcelo's stimulating teaching style is to ask lots of challenging and provocative questions. He has expertise in public law, the law of torts, administrative law and animals and the law.

He is the leading Australasian scholar on animals and the law and is the joint author of the seminal work on animal law in New Zealand entitled *Wells on Animal Law*, published by Thomson Reuters in 2019.

He is the joint editor of *The Legal Recognition of Animal Sentience*.

Marcelo has published widely on animal law, administrative law, public law and constitutional law. He is widely cited in the media for his views on how we must do more to protect animals. He is well known in public law for the critical views he takes, particularly on encouraging the courts to take a broader perspective on when judicial review is appropriate. He argues strongly that the courts as one of the three branches of government must play a vigorous role if the balance of power is to be maintained in Aotearoa New Zealand and the rule of law is to thrive.

As a debater Marcelo has won a number of competitions. He was an outstanding mooter as a student and has put a lot of work into training students to be first-class mooters. Marcelo will add further strength to the exceptional range of moots available to Auckland law students. As a thespian he starred in a production of Greg McGee's *Foreskin's Lament* about New Zealand rugby culture.

The Auckland Law Faculty welcomes Marcelo and the energy, humour and passion for teaching and research he brings. □



Marcelo Rodriguez Ferrere.

Peter Underwood

JOSHUA YUVARAJ

DR PETER UNDERWOOD joins the Faculty as a Senior Lecturer specialising in corporate and private law. Peter has previously been a lecturer in law at the University of Exeter and taught a range of papers there including company law, contract law, jurisprudence and principles of corporate law.

Peter was previously the Director of the Research Centre for Commercial and Corporate Law at the University of Exeter as well as being Director of Admissions at the Law School.

Peter's first monograph, *Corporate Group Legitimacy: Reconceptualising the Corporate Group* (Routledge) was published in 2024. He has a PhD from the University of Exeter alongside an LLM degree from the University of Law (Bristol) and an LLB from Nottingham Law School from the University of Law (Bristol) and Nottingham Law School. Outside his academic endeavours Peter is an avid England rugby fan. We are pleased to welcome Peter to the Faculty. □



Peter Underwood.

Matt Bartlett

ANNA HOOD

MATT BARTLETT, who is at the forefront of researching the law of emerging technologies, particularly artificial intelligence (AI), joined the Law Faculty as a Professional Teaching Fellow in mid-2024.

The Auckland Law School 2017 BA/LLB (Hons) graduate worked in employment and litigation at Simpson Grierson before being lured to the Faculty as a Professional Teaching Fellow in 2020. From 2022 to 2023 he completed an LLM at Columbia Law School graduating in the top 10 per cent of his class with high honours.

He then commenced a JSD at Columbia funded by a full scholarship, undertaking doctoral research into the governance paradigm for advanced AI systems and exploring the different forces shaping the regulatory context for lawmakers across jurisdictions.

As a Professional Teaching Fellow he is teaching legal ethics as well as a new elective he has developed, technology law and policy, alongside his doctoral studies.

In addition to what he brings to teaching and research, Matt is passionate about contributing to public discussions about and development of policy on AI, with his writing on the subject appearing regularly in the media. He is also sought after by both government and private entities to provide guidance on law and technology issues.

Outside work Matt is an avid reader and beach-goer. He keeps a sporadic blog about law and policy called *Technocracy* and he and his wife Jess have recently welcomed Bailey, a cavoodle puppy, into their family. □



Matt Bartlett.

Alexandra Andhov

JOSHUA YUVARAJ

AUCKLAND LAW SCHOOL introduces Professor Alexandra Andhov in a joint appointment with the Auckland Business School. Alexandra comes to Auckland from the University of Copenhagen where she was an associate professor and founder and director of the Copenhagen Tech Lab.

Alexandra is a leading voice in scholarship on law and technology and corporate governance. She has published numerous books and articles including with Cambridge University Press and Edward Elgar Publishing. Alexandra was a Fulbright Scholar at Cornell Law School in 2019 and received the Inge Lehman Grant for outstanding female academic talent in 2022 to pursue the PROFIT (Gaps and Opportunities in the Corporate Governance of Big Tech Companies) project, which focuses on “analysing and re-designing the corporate governance of Big Tech companies like Facebook, Google and Apple”. Alexandra also holds and has held visiting scholar and research fellow positions at several leading institutions including the Blockchain Law for Social Good Center at the University of San Francisco Law School, the Oxford

University Law School and the University of Melbourne Law School.

Alexandra has considerable experience integrating her research with pressing industry applications – for example, in receiving a grant from the NASDAQ Nordic Foundation in 2021 to identify financial crime in central bank digital currency data. Fittingly, Alexandra will apply this expertise to head the new Centre for Law and Technology, which will establish the University as New Zealand’s leading law and technology research institution. The centre will strive to engage with the legal profession and external stakeholders in the business community on pressing issues arising from the pace of technological development such as the taxation of digital assets and the privacy implications of generative artificial intelligence for businesses.

Alexandra will also bring valuable teaching experience to classes in her research area in both the Law School and the Department of Commercial Law in the Business School. The Law School warmly welcomes Alexandra and looks forward to her contributions to research, teaching and academic citizenship at the University. □



Alexandra Andhov.

Marta Andhov

JOSHUA YUVARAJ

AUCKLAND LAW SCHOOL welcomes Associate Professor Marta Andhov in a joint appointment with the Auckland Business School. Marta brings expertise in governmental contracts, public procurement law and sustainability. Her research focuses on the legal intersections between public and private law particularly as they relate to governmental contracts in the commercial sector. A key aspect of her work is the integration of sustainability and corporate responsibility principles into these legal frameworks.

Marta has made contributions to the field particularly in the areas of sustainability within governmental contracts in both European Union and US public procurement law. Her experience spans global engagement with academic institutions, professional organisations and forums including the Chartered Institute of Procurement and Supply (CIPS) in Australia, the Attorney-General's Chambers of Singapore and the International Labour Organization in Italy.

Throughout her career Marta has provided expert advice to numerous national and international bodies such as the World Trade Organization, United Nations agencies and the European Commission and Parliament. Her research has been widely cited, including by the Advocate General in a European Court of Justice case, reflecting her influence on legal interpretations and policies.

Before joining the University of Auckland Marta was as an associate professor at the University of Copenhagen Law School, where she played a leading role in several international research projects. Notably she directed the “Purple” project, funded by the Carlsberg Foundation, which explored the intersection of private commercial law and public procurement law. She was also part of the management team for the EU Horizon 2020-funded SAPIENS project, where she oversaw the development and implementation of PhD training at eight universities.

Marta also held visiting positions at various institutions including the Institute for Competition and Procurement Studies in the UK, Pace University in the US and the University of Western Australia. In 2024 she was a Fulbright Scholar at Arizona State University.

Her teaching portfolio covers topics ranging from international commercial arbitration to sustainable business law. Marta also contributed to executive education programmes including the Procurement Regulation Postgraduate Diploma at King's College, UK.

Marta's expertise in public procurement law, sustainability, government contracts and the relationships between private and public law will strengthen the Faculty's research profile and enrich students' learning experience. □



Marta Andhov.

Master of Laws

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**AUCKLAND
LAW SCHOOL**



Find out more

Anaru Erueti

Commissioner on the Abuse in Care Royal Commission of Inquiry

MARK HENAGHAN

AUCKLAND LAW SCHOOL Associate Professor Dr Anaru Erueti (Ngā Ruahinerangi, Ngāti Ruanui, Te Āti Haunui-a-Pāpārangi), one of three Commissioners on the Abuse in Care Royal Commission of Inquiry, described the emotional handover of the Commission’s findings to Parliament on 24 July.

Anaru said after the 3000-page report was presented and speeches were given by seven survivors of abuse in front of a gallery full of survivors that it had been a tearful couple of days for him. Anaru also said we “have to be optimistic and hope that there is real change on the ground and quick” in light of the Commission’s shocking findings.

Commission chair Judge Coral Shaw (a 1970s Auckland Law School graduate) took charge when original chair Sir Anand Satyanand (another Law School graduate) retired from the position. The report, which followed six years of intensive and challenging work, found abuse is rife in state and faith-based settings and the state failed to respond to signs of systemic abuse and neglect. The Royal Commission found at least 250,000 people have been abused and more neglected by state and faith-based institutions from 1950 to 2019. More than 2300 survivors spoke to the Inquiry.

The Commission accepted that torture was used at Lake Alice Psychiatric Hospital. Electric shocks and injections of paraldehyde as punishment were administered to various parts of the body including the head, torso, legs and genitals.

Māori were more likely to be taken into care, dislocated from their culture and faced harsher treatment because of their ethnicity. Pacific people and disabled people were also overrepresented. The Commission also found people who had experienced poverty, family crisis or violence, parental abuse and neglect were more likely to be placed in state and faith-based residential and institutional care.

Many of the survivors of abuse experienced several placements often due to perceived delinquency or lack of support within care residences or institutions.

There was evidence of the state often failing to assess or inadequately assessing children, young people and adults in care for trauma and support



needs when deciding on care options for them.

Those in the care of the state were often cut off from their whānau, hapū and iwi.

The Commission found tamariki, rangatahi and pakeke Māori experienced heightened state surveillance and targeting by police and other state agencies that contributed to the disproportionate number of Māori entering state care. A similar pattern of excessive surveillance of Pacific people lead to a disproportionate number of them entering care.

There was also an overuse of institutional care for deaf, disabled and mentally distressed children, young people and adults.

The types of abuse suffered by those in care were wide-ranging: psychological and emotional abuse and neglect, physical abuse and neglect, sexual abuse, racial abuse and cultural neglect, spiritual and religious abuse and neglect, mental abuse and neglect, solitary confinement, financial abuse and forced labour and educational neglect. Sexual, physical and emotional abuse were the most common. Neglect was pervasive.

The Commission found most survivors of abuse

*Auckland Law School
Associate Professor Dr Anaru
Erueti (Ngā Ruahinerangi,
Ngāti Ruanui, Te Āti Haunui-a-
Pāpārangi).*

**“Those in the
care of the state
were often cut
off from their
whānau, hapū
and iwi.”**

have not been able to live their lives to their full potential. The abuse has had devastating effects on their health and well-being, limited their ability to participate in society, and led to pathways into addiction, sex work, criminality and prison, gang membership and becoming trapped in institutional care.

The Commission found the abusers were able to misuse their positions of power and control over people in their care to inflict at times extreme and severe abuse and neglect and that they acted with impunity. They exploited the powerlessness and vulnerability of those they were charged to care for. There was no accountability for abusive behaviour and no reporting of it by those who knew about it or suspected it. Many abusers did it for extended periods within several residences and institutions.

The Commission has made 138 recommendations to right the wrongs of the past, ensure the safety

of every child, young person and adult in care today and to empower and invest in whānau and communities.

Compared with similar inquiries around the world, New Zealand's had the widest scope, according to chair Judge Shaw.

She described the abuse found as "a national disgrace" and emphasised that the whole country must "take responsibility to ensure that it never happens again".

The Law School thanks Anaru and his Commission colleagues (who include the Law Faculty's Dr Jane Norton and Kat Arona, a Law School alumna and former Pouāwhina Māori) as well as a dozen Law School graduates who worked on the Inquiry for making sure the voices of abuse victims have finally been heard, what they have suffered will be fully addressed and that changes will be put in place to guard against it ever happening again. □

Michael Littlewood

The US government's 1967 plan for the survival of the tax system in the event of a nuclear attack

IN 1967 the US government produced a plan designed to ensure the continued operation of the federal tax system in the event of "a major nuclear attack". The assumptions on which the plan was based were horrific: they included that the number of casualties in the United States might number 100 million; that 50 per cent of the country's real estate might be destroyed; and that its economy might be even more seriously disrupted than those figures suggest. The plan produced in 1967 seems to be the first of its kind. Presumably more recent plans have been formulated, but it seems that almost no information about them has been made public.

This article examines the 1967 plan and the thinking behind it. This is worth doing for three main reasons. First, the formulation of the plan is itself a significant event in the 20th-century history of the United States, but almost nothing has been published about it. Second, an examination of the plan and the relations between the men who devised it provides novel insights into the manner in which the nation was governed in the 1960s and of the extent to which the Soviet threat lay like a cloud over all aspects of the government's decision-making. Third, although the Soviet Union has gone, the threat of nuclear attack has not. The 1967 plan would seem to be the obvious starting point, therefore, for anyone considering what the government's current plans are or should be. □



Michael Littlewood.

Suliana Mone

Suliana Mone's enlightening PhD journey

MARK HENAGHAN

DR SULIANA MONE is an outstanding member of the Auckland Law School. She plays a key role in the Faculty of Law Auckland University (FOLAU) team.

We asked Suliana about her experiences conducting doctoral research through the University of Waikato, and how those experiences led her to follow an academic pathway instead of pursuing legal practice.

What led you to an academic career?

I was always very shy so the courtroom scared me. I have always enjoyed learning new things; I enjoy research and writing.

What were some of the most exciting or interesting things you discovered while undertaking your doctoral study?

I conducted fieldwork in Tonga as part of my PhD research. The most exciting and interesting thing for me was seeing the law through participants' eyes and seeing in real time the ways in which legal theory applied in a particular cultural context.

What were some of the most valuable skills you learned while undertaking your doctoral study?

I learned how to write. My supervisors told me my final drafts could have been written by a different person when compared to my earlier proposal. The PhD experience was challenging; I learned how to persevere. My supervisors, Emeritus Professor Margaret Wilson and Professor Claire Breen, were brilliant, supportive and kind. I learned from them that the cultural values I was raised with in my Tongan culture were practised by others outside my community spaces and that they were necessary for my survival and success. I learned that there was a place for grace, kindness, respect and empathy in the pursuit of knowledge and in the professional academic sphere.

What were some things you wish you had known while undertaking your doctoral study?

I wish I could have known myself more and been more confident in my abilities.



“I learned that there was a place for grace, kindness, respect and empathy in the pursuit of knowledge and in the professional academic sphere.”

What was the community aspect – for example mentors and colleagues – of your doctoral study like?

My supervisors were wonderful and so were many of the Law Faculty at Te Piringa, Waikato Law School. The other communities that supported me were St John's Tongan Methodist Church and Mo'ui Lelei Fitness in Hamilton.

What advice would you give to someone considering a PhD in law?

Choose a topic that you are passionate about and that is meaningful to you. Find really good supervisors.

Dr Suliana Mone summarises the main findings of her important PhD thesis

PHD SYNOPSIS: In May 2017, Tongan women took to the streets to protest the Tongan government’s proposed accession to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Being one of only five nations not to have acceded to CEDAW, Tonga has frequently cited cultural solutions to Tongan women’s issues as a substitute for implementing international human rights norms. At first glance, a culture that claims to uplift women is expected to embrace a global human rights convention promoting women’s equality and well-being. Therefore, Tonga’s rejection of CEDAW is extraordinary in many ways.

The PhD research explored the reasons behind Tonga’s rejection of CEDAW in 2017 to expose the barriers to formal, substantive and transformative equality for women in Tonga and whether Tongan culture provides commensurate protections for Tongan women. The empirical research findings offer explanations from a holistic and transdisciplinary lens; women’s rights and the spirited resistance to them are, for the first time, situated and woven into a complex *fala* (mat) comprising strands from customary law, constitutional law, culture, religion, politics, equality and democracy in Tonga.

Little is written about human and women’s rights in the Pacific region, particularly in Tonga. The PhD addressed this notable gap in the literature and provided novel, cutting-edge analysis and insights into Tonga’s legal, social, cultural, political and religious landscape. Human rights and women’s rights challenges in Tonga, in many aspects, mirror those of the Pacific region and the wider international community; the intersection and impact of equality, democracy, patriarchy, religion, culture, politics and the law as underscored in the findings of this research are applicable as possible explanations for the limitations and absence of women’s rights in other jurisdictions in the Pacific region and worldwide.

The PhD explored the Pacific region, focusing on its history of human rights and its engagement with human rights conventions. Women’s rights and CEDAW are emphasised. An exploration of Tonga’s human rights records and women’s rights challenges were also featured. There was also an in-depth discussion of Tonga’s legal systems, beginning with customary law and customary forms of governance, the promulgation of Tonga’s 1875 Constitution establishing the modern Tongan state, to the democratic reforms of 2010 and touching on events that marked modern times of political turbulence which feature the subject of the PhD; along with Tonga’s very public rejection of CEDAW.

The research employed an empirical research methodology, namely a case study utilising grounded theory and the Tongan-specific Kakala Research Framework, to construct explanations for Tonga’s remarkable rejection of CEDAW.

Analysis of the empirical research reveals the

theories of patriarchy and intersectionist feminist theory, which offer the best explanations for Tonga’s rejection of CEDAW – divided into three thematic sections: constitutional, cultural and political impediments to women’s equality and accession to CEDAW in Tonga.

Results of the empirical research underscore that Tonga’s patriarchal Constitution (drafted by male missionaries and males of the ‘eiki class) established a patriarchal modern Tongan state. Findings elucidate patriarchy in Tonga as maintaining at least two relevant intertwined strands: firstly, the domination of the ruling chief (‘eiki) classes and the suppression of the commoner class; and secondly, men’s domination and women’s suppression. The findings underscore that the “democratic” reforms of 2010 impacted the Constitution’s and the state’s patriarchal elements in minimal ways.

The patriarchal founding document of the modern Tongan state also spawned the research’s second crucial finding: modern Tongan culture embodies Christian patriarchy. The resistance to human rights and women’s rights norms in Tonga is founded on cultural relativism; although not explicitly articulated, Tonga’s patriarchal Christian culture is at odds with equality for women, with many articulating that subjugation of women as biblical doctrine and therefore a crucial component of Tongan culture. The findings posit that Tongan culture, specifically the practice of *fahu*, is mainly ceremonial as opposed to earlier customary law and practice. Tonga’s current culture actively discriminates against women, and in direct contrast to claims of elevation, Tongan women are suppressed through modern Tongan culture.

The PhD’s third significant finding is a consequence of its second finding. Tonga’s patriarchal Christian culture is a barrier to women engaging in Tongan politics. Tongan culture and society do not envisage women as leaders, political or otherwise. Women’s absence from Tonga’s political sphere has facilitated the enactment and retention of laws that discriminate against and do not promote women’s rights and interests. The Tongan government’s rejection of CEDAW is partly attributed to the absence of women from Parliament and Tonga’s pro-democratic movement. Tongan politics and lawmaking remain the exclusive domain of men. The findings suggest that realising any tangible form of democracy in Tonga will require dismantling the constitutional patriarchal elements of class and male domination. For this to occur, a socio-cultural paradigm shift in the Tongan population is necessary, predicated on education and disseminating research and accurate information.

The PhD also featured an analysis of Tongan legislative compliance with CEDAW by applying 103 indicators developed by experts. This has never been done before and will be of significant interest to people in Tonga and the Pacific region more generally. □

“Little is written about human and women’s rights in the Pacific region, particularly in Tonga.”

Guy Fiti Sinclair

Exploring international organisation governance

JOSHUA YUVARAJ

ASSOCIATE PROFESSOR Guy Fiti Sinclair has been investigating the role and governance of international organisations in the Pacific region as part of a prestigious five-year, \$800,000 Rutherford Discovery Fellowship awarded in 2022. *Auckland Law* asked Dr Sinclair to outline the directions of and discoveries from the initial stages of his team’s research.

What are some of the interesting research angles your team has been exploring through the initial part of your fellowship?

The first year of my Rutherford Discovery Fellowship has mostly been spent making sure I have undertaken a thorough literature review of regional organisations and other mechanisms of international legal ordering in the Pacific, as well as applying for ethics approval to undertake talanoa-interviews with individuals in some of those organisations and mechanisms.

It has already been a fascinating journey of discovery. The international institutional ecology of the Pacific is quite crowded, with a lot of organisations and mechanisms with different memberships undertaking overlapping tasks. Part of the challenge is how to make sense of this complex landscape.

One way I have started to approach it, building on previous work I have done in the international economic law space, is to focus on particular moments or points of assemblage where diverse actors and interests are brought together and have to negotiate their differences and shared visions for the future.

Some such moments are international conferences or meetings including in the lead-up to and at the Rio+20 conference in 2012. At the gathering, Pacific Island countries mobilised behind the idea of the “blue economy” as a complement to prevailing notions of the “green economy”, but centred on oceans and concerns of small island – or “large ocean” – developing states. Other kinds of assemblage points are policy concepts and documents such as the “Blue Pacific Continent” imaginary that became the central unifying theme of the Pacific Island Forum’s *2050 Strategy for a Blue Pacific Continent*, which in turn builds on and leads



into a whole series of legal instruments and practices.

I have started to play with the idea of focusing my project on a series of such assemblage points or moments in the history of international legal ordering in/of the Pacific over the past 50 years or so.

How have international organisations handled geopolitical tensions in the Pacific – for example, the growing role of Chinese investment and presence in Pacific nations?

Pacific Island countries tend to dislike being asked to choose between “traditional” partners such as New Zealand, Australia and the United

Associate Professor Guy Fiti Sinclair was awarded a prestigious five-year, \$800,000 Rutherford Discovery Fellowship in 2022.

States and “new” actors like China. At the same time, they are anxiously concerned to keep the Pacific peaceful, united, and nuclear-free. In part the point of the *2050 Strategy for a Blue Pacific Continent* is to chart an independent course that doesn’t simply acquiesce to either China’s “Maritime Silk Road” strategy or the “Indo-Pacific” framing of the Anglo-American alliance. In doing so, Pacific Island countries are building on a longer history of anti-colonial, non-aligned politics that they have pursued collectively and within broader groupings such as the G77. The Blue Pacific Continent strategy has seen some significant successes in shaping the approaches of external actors in the Pacific, but of course it is also always in danger of being co-opted, manipulated or ignored.

How do international organisations represent Pacific concerns at global or regional fora?

Pacific island countries have developed a number of international organisations to represent their interests internationally. The main and most important political organisation

in the region continues to be the Pacific Islands Forum. However, other groupings and institutions have emerged at different times and in different settings, including the Pacific Small Island Developing States (PSIDS) grouping at the UN, the South Pacific Regional Environment Programme (SPREP), the Pacific Islands Development Forum (PIDF) and as part of the Alliance of Small Island States (AOSIS).

More recently some Pacific members of the latter group took the initiative of forming the Commission of Small Island States on Climate Change and International Law, which was instrumental in requesting an advisory opinion from the International Tribunal for the Law of the Sea (ITLOS) that affirmed state parties to the UN Convention on the Law of the Sea (UNCLOS) have specific obligations under that Convention to take all necessary measures to prevent, reduce and control marine pollution from anthropogenic greenhouse gas emissions. So Pacific Island countries have been quite adaptable and creative in finding new ways to use international organisations to advance their shared goals and interests. □

“The Blue Pacific Continent strategy has seen some significant successes in shaping the approaches of external actors in the Pacific, but of course it is also always in danger of being co-opted, manipulated or ignored.”

Peter Watts KC

Doctor of Civil Law from Oxford

I BECAME ELIGIBLE to submit my published work for the Doctor of Civil Law degree as a result of becoming a member of the University of Oxford congregation once I took up a Visiting Professorship at the Oxford Law Faculty in 2017. The DCL conditions stipulate the examination of 12 publications written over an extended period. I confined my submission to articles on the law of agency.

After lengthy deliberation, anonymous internal and then external panels concluded that I had met the requirements for the higher doctorate. I have had strong links with many of the private law teachers at the Oxford Law Faculty since my first sabbatical in Oxford in 1988, when I met Jack Beatson and Andrew Burrows (subsequently Judges of the Court of Appeal and Supreme Court, respectively), and a bit later Peter Birks. In the late 1980s I also met Francis Reynolds, starting a friendship that led to my writing more than 30 pieces for the *Law Quarterly Review*, and then in 2008 taking over as editor of his book *Bowstead & Reynolds on Agency*. I am a Senior Research Fellow at the Centre for Commercial Law at Harris Manchester College.

I am delighted that the DCL has now given me a permanent connection to Oxford.

– PETER WATTS

THE INESTIMABLE Emeritus Professor Peter Watts KC FRSNZ has been awarded the Doctor of Civil Law degree by the University of Oxford in recognition of his work on the law of agency. He is thought to be the first New Zealander to be awarded the DCL by examination and joins a select and distinguished group of Australasians who include JG Fleming, 1959, Zelman Cowan, 1968, Peter Cane, 2005 and Jane Stapleton, 2008. Among those New Zealanders who have held honorary DCL degrees are Robin Cooke, 1991 and Paul Reeves, 1985.

Peter was among those honoured at a ceremony at the University of Oxford on a warm sunny day in May 2024. Among those attending were his wife Stephanie Lees and his long-time friend and colleague Dame Julie Maxton. □

– JANET MCLEAN



Emeritus Professor Peter Watts with Dame Julie Maxton.

Alex Allen-Franks

Human rights and improperly obtained evidence in civil proceedings

JOSHUA YUVARAJ

DR ALEX ALLEN-FRANKS joined the Faculty of Law in 2023, and this year graduated with a PhD from Cambridge University. Her thesis focused on the exclusion of improperly obtained evidence in civil proceedings. She spoke to Auckland Law about her PhD journey.

What inspired you to pursue doctoral studies in evidence and human rights?

After I graduated with my LLB, I worked as a Judges' Clerk at the Auckland High Court and then as an employed barrister doing intellectual property litigation. I always wanted to do further study though so I went to the University of Cambridge where I completed my Master's degree.

I also suspected I might enjoy working as an academic, and knew having a PhD would make that easier. So part of the reason I undertook doctoral study was practical: it was a way to see if I really would enjoy the life of an academic.

I was lucky enough that while I was doing my PhD at Cambridge I was able to teach both human rights law and the criminal procedure and evidence course for some of the Cambridge colleges. I really enjoyed that teaching, as well as being able to conduct research on a topic I was very interested in.

As for why I chose my topic – approaches to admissibility of improperly obtained evidence in civil proceedings – evidence was one of my favourite subjects at law school and being able to combine the law of evidence with some of the material I had learned on the civil liberties and human rights class I took as part of my LLM was appealing.

The idea for the project came from when I was working as a Judges' Clerk because one of the cases going through the Court at the time was *Commissioner of Police v Marwood* [2014] NZHC 1866. I didn't work on the case. In that case Cooper J held that evidence that had been obtained in breach of the New Zealand Bill of Rights Act 1990 could be excluded in a civil proceeding despite s 30 of the Evidence Act 2006 only permitting exclusion of improperly obtained evidence in criminal proceedings.

One of my PhD examiners joked that my whole PhD was about justifying that outcome, and she

was right. My topic enabled me to bring together evidence law, human rights and civil procedure, all of which really interest me.

I continue to maintain my interest in intellectual property law too and the fact that my thesis was focused on civil procedure means my research has relevance in connection with intellectual property litigation as well. It is a reasonably common thing for a party in an IP suit to engage a private investigator to get evidence of infringements. That's not necessarily "improperly obtained evidence" but it is possible it could be depending on the facts of a case.

What was the most interesting thing your doctoral study taught you?

The most interesting thing for me was seeing how approaches to admissibility of improperly obtained evidence have changed over time. In the 19th century there was a case where a judge said very famously that "it matters not how you get [evidence], if you steal it even, it will be admissible in evidence" and it was thought that judges should never exclude evidence based on how it was obtained.

The process of moving away from that view is something that I traced in my thesis. First there were moves away from that view in criminal law, and eventually that process jumped over into civil procedure. Part of the reason for that is a growing commitment to human rights. That's what initially sparked my interest, because in the *Marwood*'s right to be free from unreasonable search and seizure had been breached, and that had led to the evidence being excluded from the criminal proceeding that he faced.

But then in the civil proceeding the Court of Appeal had overturned Cooper J's finding that there was power to exclude the improperly obtained evidence in a civil case, and had admitted it. I thought it was strange that the same evidence could be excluded in a criminal case but not in a civil case because I thought the same right had been breached so why should the response be different? Eventually the Supreme Court overturned the Court of Appeal and held that there is a power to exclude in civil proceedings, but did not exclude the evidence in *Marwood*'s case.

"I was lucky enough that while I was doing my PhD at Cambridge I was able to teach both human rights law and the criminal procedure and evidence course for some of the Cambridge colleges."

Finding out why the response might be different between civil and criminal proceedings was one of the most interesting parts of my work. In the end I proposed that the response should be the same: I think evidence obtained in breach of a human right should be subject to a presumption of exclusion in both types of case.

That doesn't mean the evidence will always be excluded, but we should start from a presumption to recognise the importance of the right.

And then a silly thing I found surprising was that at least three of the very early English cases involving improperly obtained evidence involved the locating by police of illegal salmon. For example, in one case a police officer searched a person's pockets and found "young" salmon. The word "salmon" appears five times in my thesis as a result.

What would you advise students considering doctoral study in law?

A PhD is a big task. For me it was 100,000 words and almost four years of work during a global pandemic at a time when I was not able to feasibly return to New Zealand due to border closures.

I would advise students considering doctoral study to think seriously about what kind of work interests them. Do you like reading? Because – depending on your project – you're going to do an awful lot of reading. I did love the process of research – and I do like reading! – but there were some difficult periods.

Be realistic about what you are signing yourself up for and find a topic that will sustain your interest for the three years or longer that it will take to complete the work. Take advantage of any opportunities to learn new skills or have new experiences while you are completing your studies. □



Dr Alex Allen-Franks completed her PhD degree at the University of Cambridge.

Jayden Houghton

Public Interest Law Journal of New Zealand celebrates 10-issue milestone

MARK HENAGHAN

TEN YEARS AGO the New Zealand Law Foundation provided \$3,285 to support the establishment of the *Public Interest Law Journal of New Zealand*.¹ The Foundation's vision was:²

"The *Public Interest Law Journal of New Zealand* is an annual, refereed publication showcasing articles written by New Zealand law students on topics of importance to vulnerable groups in society as well as the general public. The Journal will provide students with a further opportunity to share their university writing and will provide an interesting insight into the issues that are attracting the attention and concern of those who will become the next generation of lawyers in Aotearoa."

How successful has the *Journal* been at achieving these aims?

The *Journal* has been an annual publication, the first issue being published in 2014 and 2023's marking the 10th issue.

The *Journal* continues to be refereed. The editors-in-chief do a desk review of submissions and decide which will be sent for review. The Academic Review Board manager sends those submissions to one or more academic reviewers who complete a feedback form gauging substance (including originality, research quality, counter-arguments, completeness, accessibility to non-experts and contribution to legal scholarship) and presentation (including writing quality, appropriateness of sources, suitability of citations, syntax, grammar, signposting, clarity of direction and absence of careless errors). The reviewers advise on each submission's publication potential. The reviewers in that year compose the Academic Review Board for that issue.

The *Journal* is a showcase. In 2020 its online home moved to the University of Auckland's website alongside two other Faculty of Law publications: the *Auckland University Law Review*; and *Te Tai Haruru Journal of Māori and Indigenous Issues*.³ The *Journal* is featured on HeinOnline.⁴ The *Journal* is also featured on the New Zealand Legal Information Institute (NZLII) website, which provides open access to its content. NZLII usage data reveal the *Journal's* articles received 37,606 total clicks in 2022 and 50,577 total clicks in 2023 indicating that the *Journal* is widely read.⁵



The *Journal* solely publishes work by New Zealand law students, providing an opportunity for the best student writing to be published and disseminated within this country and around the world. Often these students are graduates by the time the work is published. The authors and editors often go on to be rising stars in the legal profession, government and many other fields in New Zealand and overseas. Many have gone on to be Judges' clerks – for example, two editors-in-chief of the latest two issues are now clerks at the New Zealand Supreme Court. This is a testament to the talent attracted to the *Journal's* Editorial Board and the respect judges have for the skills students develop during their time with the *Journal*.

The *Journal* has an ongoing record of publishing articles on topics of importance to vulnerable groups in society. The last two issues, for example, include coverage of approaches to migrant sex work, assisted dying for people with psychiatric illness, responses to family violence, rehabilitation for young adults from care and protection backgrounds, human rights of incarcerated people, rights of adopted children and healthcare

Public Interest Law Journal of New Zealand editor-in-chief Jayden Houghton.

for the ill. The *Journal* will continue to publish the best available material in the scope of public interest law, a term that has been defined and explored several times in previous notes for the *Journal*.

What are your reflections on 10 years?

I have been the *Journal's* managing editor for 10 issues. The editors-in-chief select articles and appoint and lead the Editorial Board in the preparation of those for publication. As managing editor I have mentored the editors-in-chief and done each issue's final checks, which usually involves minor stylistic edits and citation fixes and casting an eagle eye over the content with the benefit of knowing a decade's worth of decisions by previous editors-in-chief. I have also sorted the front matter, liaised with our online hosts and, for the past five or so issues, appointed the editors-in-chief. Oh, and authored or co-authored 10 editor's notes! Ten years is a long time to commit to a project, especially when it is not part of your academic service load, meaning it is an after-hours, voluntary endeavour for evenings and weekends. I wanted to make it to 10 issues, and I have done! Over the years, many of our editors and authors have thanked me for keeping the *Journal* going – it truly provides New Zealand law students with opportunities they would not otherwise have to develop skills, accumulate work experience and get their work published, supporting many of our hardest-working students to find their way into their career of choice. This was especially so between 2016 and 2022 when the *New Zealand Law Students' Journal*, which previously provided these opportunities, was in hiatus. It has been greatly rewarding.

What's next?

My supervisees often get their work published. But not in this *Journal*. Whilst it is the editors-in-chief who select the articles for publication⁶ and I have not had any role in selecting articles as the managing editor, it is best to avoid any appearance of bias. From the next issue, with no operational involvement, I think I will feel comfortable with encouraging my supervisees to submit their work. It would be excellent to see the *Journal* publish more work on legal issues

affecting Māori specifically, especially given the current political climate and recent assaults on the Treaty of Waitangi.⁷

Althea Tarrosa joined me as a managing editor of issue 10. Althea will take over as sole managing editor from the next issue. Althea is a graduate of Auckland Law School. She was an editor-in-chief of the *Journal* in 2020, an editor-in-chief of the *Auckland University Law Review* in 2022 and a member of the 2023 *Review's* advisory board. Althea is passionate about the *Journal* and a talented editor, as well as being a smart and sensible leader. I wish Althea all the best in this role. I know she will do an amazing job at ensuring the *Journal* continues to achieve its aims. I will still be around for advice, if needed. □

Hāpaitia te ara tika pūmau ai te rangatiratanga mō ngā uri whakatipu

Foster the pathway of knowledge to strength, independence and growth for future generations

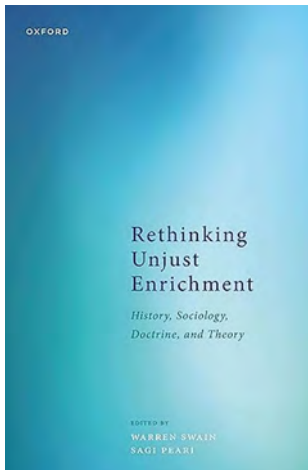
This story is adapted from Jayden's final editor's note for issue 10 of the *Journal*.

Notes

1. "New Online Legal Journal" (June 2014) The Law Foundation New Zealand <www.lawfoundation.org.nz>.
2. "New Online Legal Journal", above n 1.
3. "Research publications" University of Auckland <www.auckland.ac.nz>.
4. "Public Interest Law Journal of New Zealand" HeinOnline <<https://heinonline.org>>.
5. Email from Judi Eathorne-Gould (NZLII Administrator) to Jayden Houghton regarding NZLII usage statistics (18 February 2023); and email from Judi Eathorne-Gould (NZLII Administrator) to Jayden Houghton regarding NZLII usage statistics (9 March 2024).
6. I stepped in as the editor-in-chief for issue 3 and selected the articles for that issue in my capacity as editor-in-chief.
7. See "Equal rights for all" <www.treaty.nz>.

“The Journal solely publishes work by New Zealand law students, providing an opportunity for the best student writing to be published and disseminated within this country and around the world.”

Newly published



Rethinking Unjust Enrichment: History, Sociology, Doctrine and Theory

By Warren Swain and Sagi Peari,
 Publisher: Oxford University Press

THIS INTERDISCIPLINARY volume brings together international scholars to challenge the dominant position of unjust enrichment and suggest more satisfactory alternatives.

Rethinking Unjust Enrichment includes a broad range of voices from the UK, US, Australia, Canada, China, Singapore, Germany, Ireland, New Zealand, Hong Kong and South America. The book includes voices of sceptics who think today's unjust enrichment doctrine must be seriously qualified and others who think it should be eliminated altogether.

The contributions cast doubt on the various parameters of unjust enrichment from an analytical standpoint, representing four interrelated perspectives: history, sociology, doctrine and theory. The four-limb structure of the book provides readers with a clear understanding of the problems of unjust enrichment at the deepest levels of its history, sociological forces, doctrinal fallacies and normative deficiencies. This treatment of the subject serves as the basis for comprehensive reform across jurisdictions.

Comprehensive and multifaceted, *Rethinking Unjust Enrichment* is interesting to both sceptics and supporters of the phenomenon. It opens up a critical and constructive dialogue between the two.

– WARREN SWAIN

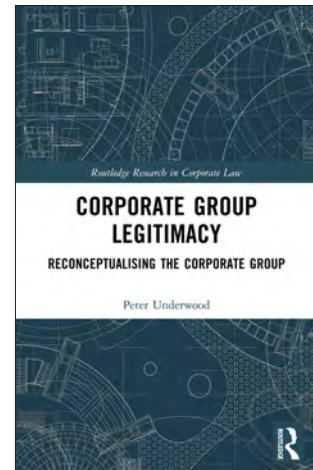


International Courts versus Non-Compliance Mechanisms: Comparative Advantages in Strengthening Treaty Implementation

By Christina Voigt and Caroline Foster,
 Publisher: Cambridge University Press

THIS BOOK explores the best mechanisms for helping bring about states' compliance with international treaties. Many recent treaties include non-compliance mechanisms (NCMs) to facilitate implementation and promote parties' compliance with their obligations. These NCMs exist alongside the formal dispute resolution processes of international courts and tribunals. The authors bring together a wide spectrum of legal views from different parts of the world representing novel insights into NCMs' contribution to treaty implementation and compliance. Their research has cast important light on how procedural innovations may help render NCMs more effective, as well as on the circumstances in which NCMs may be better suited than international courts to facilitate compliance. This applies in particular to issues where states share common interests, such as environmental or human rights protection, that are interdependent, and where implementation makes significant administrative, regulatory and political demands. To enable this research to make an impact around the world the book is available as Open Access on Cambridge Core.

– CAROLINE FOSTER



Corporate Group Legitimacy: Reconceptualising the Corporate Group

By Peter Underwood
 Publisher: Routledge

THIS BOOK FOCUSES on the legitimacy of power wielded by corporate groups integrating legal doctrine, economic analysis and theoretical approaches. It reassesses how such groups can maintain legitimacy while exercising corporate power. Corporate groups are a prominent commercial feature of many jurisdictions and present unique challenges.

The book argues that when analysed through the lens of corporate social responsibility a legitimacy deficiency emerges. This arises from a lack of historical debate, diluted control mechanisms and inflated growth exploiting unique features of the corporate group.

The book explores how the magnified power of the corporate group presents acute challenges for corporate legitimacy. Data is employed alongside contemporary examples of corporate groups to identify structural architectural patterns.

The book explores new technologies such as artificial intelligence and blockchain as ways of attaining legitimacy. It presents methods of attaining legitimacy for the continued wielding of power within corporate groups.

The book spans several research interests under the corporate law umbrella. It will be relevant for traditional black-letter company lawyers and those with an interest in business and the role of technology.

– PETER UNDERWOOD

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***2024 QS University World Rankings*



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AUCKLAND
 Waipapa Taumata Rau
 NEW ZEALAND

**AUCKLAND
 LAW SCHOOL**



Karan Kalsi

Forging ahead in social philosophy

JOSHUA YUVARAJ

KARAN KALSI is an LLB (Hons) student who was selected for a Rhodes Scholarship at Oxford this year. Karan discusses his views on law, his path at Oxford and his advice for younger law students.

What made you want to study law?

For me the law has always been a tool that people can use to enact change – both good and bad. I’ve always been passionate about a range of public-policy issues so it felt natural when I left high school to study law to equip myself to make the change I want. Another reason was I was terrible at maths and hated numbers.

You received the Desmond Lewis Prize in International Law as the top-performing undergraduate student in international law. What have you enjoyed about studying international law and how does it fit with your international relations and French majors?

Before I studied international law I saw it as a relatively abstract concept – something I heard being cited in the news or debates. Only after I did several international law papers was I exposed to some of its more concrete elements. Whether it was the use of non-compliance mechanisms by governments or the attribution of state responsibility, I really enjoyed learning about the different practical avenues international law provided to take action on some of our world’s greatest problems. My arts majors complemented this by providing the broader political context in which international law operates. Also many international organisations and institutions are based or operate in French-speaking countries.

What are some of the problems you are exploring at Oxford and what possible directions do you see your career taking?

Many of our most pressing problems stem from the erosion of capability within public institutions. I intend to play a part in reversing this threat at home and abroad through leading evidence-based policy reform that strengthens institutions’ ability to serve the public good. At Oxford I hope to focus on different models of funding and providing social housing, in particular how these models



might be applied to solving New Zealand’s housing crisis. Some possible pathways after graduation include producing high-impact research at a policy think tank or working in agencies such as the Department of the Prime Minister and Cabinet, which directs policy on child poverty.

Karan Kalsi has always been passionate about a range of public policy issues.

What advice would you give to younger law students or those still in high school thinking about doing a law degree?

From a practical perspective the main thing I would say is to get comfortable with critiquing ideas and writing concisely. In high school and other university subjects you can – mostly – get away with waffling. That’s not the case at Law School. More generally I’d encourage younger law students to not succumb to the pressure of thinking that working at a corporate firm is the goal of a law degree. Many of the brightest people I know who graduated from Law School ended up pursuing amazing opportunities in the public sector or completely different industries. They usually do cool work, work better hours and get paid more – especially as a junior. □

Gabriel Gerente

SGCNZ Young Shakespeare Company 2024

MARK HENAGHAN

FIRST-YEAR Auckland law student Gabriel Gerente has been made a Blues Awards recipient, being bestowed the University's top recognition in the arts and cultural category for dramatic performance. Gabriel represented the country in London as part of the Shakespeare Globe Centre New Zealand's Young Shakespeare Company 2024. The Company spent two weeks working with the Globe's leading practitioners, tutors and directors in rehearsals for a performance featuring scenes from *Much Ado About Nothing* at the Globe Theatre.

From nearly 4,000 students who participated in Shakespeare Globe Centre New Zealand's regional and national University of Otago Sheilah Winn Shakespeare Festivals (UOSWSF), Gabriel was chosen as one of the 48 to attend the nine-day intensive SGCNZ National Shakespeare Schools Productions in Wellington under the guidance of professional directors.

As one of 24 of the 48 students, he represented New Zealand as a member of the SGCNZ YSC 2024, performing at the opening of the 2024 National UOSWSF hosted in Wellington on 2 June and in London on 18 July.

Gabriel calls his participation in SGCNZ YSC 2024 a "dubious yet hopeful epoch of my life". "I had doubts about whether I could truly live up to the expectations of being part of New Zealand's top 24 young Shakespeare actors. The pressure felt immense. Despite the doubts, I remained hopeful that I could do it."

The professional Globe coaching in acting, singing, dancing, movement, text analysis and voice work overcame his doubts, with one exercise helping him develop "natural stage chemistry".

"It involved exchanging the phrase 'it's me, you and the space' repeatedly with a scene partner, constantly changing tones and expressions and experimenting with different dynamics. It was a simple exercise, yet effective, and exemplified the whole trip.

"The SGCNZ YSC 2024 experience was a collage of lessons and experiences that all 24 of us can pull from in the future regardless of whether we pursue the performing arts professionally or not. Lessons in presence, voice work and working as a team are fundamental building blocks for success no matter your field."



Gabriel is studying a conjoint degree in law and arts majoring in politics, international relations and drama. He expects to be able to call on the lessons of the Globe programme whether litigating in court, performing on stage or in everyday interactions.

The time in London wasn't all just rehearsals but included watching plays on the Globe Theatre stage, seeing musicals, visiting vintage markets and sightseeing at Buckingham Palace, Royal Albert Hall and Tower Bridge. "Overall the SGCNZ Young Shakespeare Company 2024 experience and all the trials and tribulations I endured to reach this Shakespearean pinnacle have helped prepare me for the rest of my life.

"What started off as a dubious endeavour crippled by imposter syndrome ended as a hopeful epoch that I will continue to carry with me." □

Gabriel with two of his fellow company members, while he played Don Pedro for their rendition of Much Ado About Nothing during New Zealand's performance.

Haden Te Haara

Law student and jazz musician

MARK HENAGHAN

Where did you grow up?

I grew up in Henderson, West Auckland, where I picked up the guitar at the age of five. My father taught me chords that I then used to develop fingerstyle techniques commonly seen in classical guitar playing. In my teens at Massey High School the music department truly tuned in to my potential. With their support I performed for hundreds of people at a time at various events, occasionally while travelling around Auckland.

What sparked your interest in jazz?

At high school I realised the musicians who were a major inspiration to me were all infusing jazz techniques into their playing of various genres. Once I understood their jazz roots were key to their musical prowess I knew I needed to lay down a jazz foundation myself.

What was it like going overseas and playing jazz?

When I was 17 I flew to Sydney to audition for Berklee College of Music in Boston. The audition involved performing a prepared piece, improvisation, pitch recognition, rhythm imitation and an interview. Before I started my final year of high school I was thrilled to receive an acceptance letter with a US\$10,000 scholarship. Being at Berklee, weeks out of high school and surrounded by more experienced peers in a foreign country, I felt like a kazoo trying to blend in with a symphony orchestra. I was fortunate to learn from Berklee's exceptional instructors – it was clear they were the key to Berklee's phenomenal education.

What do you like most about being a jazz musician?

What I love about playing jazz is how it has taught me to embrace the unknown. Playing in various genres and bands I've grown familiar with unfamiliarity, realising it's perfectly okay to not have all the answers or to feel out of my depth as long as I keep pushing forward.

What made you come to the University of Auckland to study law?

A friend at work suggested since I enjoyed reading I should consider a career in law to achieve a better work balance. Initially I dismissed the idea but it slowly began to weigh on my mind. After



Haden playing Jazz music.

months of consideration I gathered the courage to make the switch and returned to university to study law.

How does studying law appeal to you?

Law was clearly not my forte. My first year required an extraordinary amount of effort to establish these new roots. After classes I would rewatch the lectures several times and still struggle with the content. My first-semester results were average but my determination paid off by the end of the second semester when I got an A and an A-plus in my law papers.

Do you see any relationship between playing jazz and law?

An instrumental element of jazz is improvisation – the art of preparing various musical techniques over time and then using them in the moment to fit the piece of music. In jazz improvisation, although you're interacting with the other band members, you ultimately lead the charge with the responsibility and pressure on your shoulders.

To me, law operates in much the same way. You spend considerable time in preparation, studying, learning the law, hoping that when the time comes your preparation will align with the legal scenario before you. □

“Being at Berklee, weeks out of high school and surrounded by more experienced peers in a foreign country, I felt like a kazoo trying to blend in with a symphony orchestra.”

Elizabeth Buchanan

First-year law student and Under-19 New Zealand cricketer

MARK HENAGHAN

When did you start playing cricket?

It was in 2011 that I was first introduced to the game of cricket. My childhood is filled with fond memories of games played in the backyard. Charlie, my older brother, and I used to wake at the crack of dawn and rush over to our neighbours' house where we would excitedly prepare a grass wicket for the day's play. A coin was flipped to determine batting order and the game would commence. We would play all day, ceasing only briefly for a "drinks break" when we would drink straight from the garden hose, not wanting to waste any extra time going inside. This is where my love for the game started.

What do you love about cricket?

In cricket every delivery is a battle between bat and ball; one side prevails each time. The immediate rewards from winning these small battles may not be noticeable at first but over time they begin to build up and eventually result in victory. What I love about cricket is that each delivery is its own event and a player must apply themselves completely to that battle.

What did you have to do to be selected for the New Zealand Under-19 team?

I have been participating in training camps down in Lincoln throughout winter. A combination of these camps and individual results from representative performances over the last few seasons is what allowed me to gain selection into this New Zealand Under-19 team.

Where will you be touring?

We will be playing in a tri-series against Australia and Sri Lanka Under-19s. The series will take place at three venues across Brisbane and the Gold Coast from 19 September to 2 October 2024.

What do you like about wicketkeeping?

As a wicketkeeper every ball provides an opportunity for me to make an impact and this involvement is something I love about the role. When the opposition form a strong partnership it can feel almost impossible to make a breakthrough but, as a wicket-keeper, I must remain switched on and ready to capitalise on any opportunities.



Elizabeth Buchanan celebrates taking a catch in the Dream11 Super Smash.

Who is your favourite New Zealand women's player?

My favourite White Fern is Melie Kerr. Her actions on and off the field are carving a pathway for young female cricketers in New Zealand to follow.

What attracted you to study law?

I was initially attracted to law because I liked how interwoven it is with society. Law provides the rules for the game in which we are all players. Knowledge of these rules will allow me to help others in a way that would otherwise be impossible. It also provides a space to work out what you believe in and then gives you an opportunity to fight for it.

What do you like about studying law?

The wonderful thing about studying law is that all the answers are provided, you just have to find them. An eye for detail is the key to success in this discipline. Being able to find and apply all the right facts in the best, or perhaps most ingenious, way is a simple concept but it requires certain focus and application. In this way studying law can be compared to playing a game of cricket – I suspect this is why I enjoy it so much.

How do you balance your university study with the demands of cricket?

It takes a certain level of organisation to balance the two. I am fortunate enough to have the support of the University through the High Performance Support Programme. This gives me the confidence to pursue my cricket career as I know there will always be someone available to work with me and the University to manage my academic commitments while I am away. □

“The wonderful thing about studying law is that all the answers are provided, you just have to find them. An eye for detail is the key to success in this discipline.”

Jack Paine

Chasing gold: athletics triumphs and legal aspirations

IT'S 5.13PM on 23 November 2023, I've just stepped off the plane in Honiara in the Solomon Islands with the New Zealand athletics team and I'm hit by a wave of heat and humidity. We're here for the Pacific Games, and on the route to the athletes' village every other street corner has a 10m-tall billboard advertising the event. The butterflies in my stomach turn to lead as the enormity of the competition starts to sink in.

Oceania's multi-sport Pacific Games were first held in 1963. According to the Games' charter, they set out "to create bonds of kindred friendship and brotherhood among people of the countries of the Pacific region through sporting exchange without any distinctions as to race, religion or politics". From archery to weightlifting and everything in between, the dozen or so athlete villages at the Solomons' event fostered this healthy spirit of camaraderie and competition. The excitement of representing Aotearoa combined with the energy of the 10,000-strong crowds made wearing the fern an experience I'll never forget.

These Games are the biggest sporting event on the calendar for most attending athletes, with the Solomon Islands government having poured millions of dollars into stadiums, accommodation and countless other preparations for the event. However, a cloud of tension hung over much of the proceedings as the Chinese government had contributed a significant sum for the staging of the Games in a play for influence in the South Pacific. The New Zealand Defence Force was present to escort all Kiwi athletes the short distance from the village to our events. This was the only time we left the village as the tension between those opposed to Chinese investment and officials led to restrictions on where we could go.

I raced in both the 800m and 1500m, two events that feel like different sports. While the 800m is virtually sprinting from the gun, the 1500 is a practice of patience and discipline. I finished with medals in both, a silver in the 800 and gold in the 1500, one of New Zealand's three running golds out of 10 gold medals in total at the Games.

Although tangible success was gratifying, my main takeaway from the Games was a lesson in persistence. Managing stress is a universal reality that we must all find ways of dealing with. As a law student and athlete I'm often in stressful situations that demand focus. Downtime between competing and supporting fellow athletes in Honiara left me plenty of time for reading and a line by Haruki Murakami became my mantra for the trip: "pain is inevitable, suffering is optional". The reality of



Honiara was harsh: the heat, tension and pressure all inevitable. Persevering through the discomfort and performing at a high level taught me our capacity is far beyond our expectations.

It would be remiss of me to say this ability to persist was purely mental fortitude and resilience as the environment made me very aware of the privileges I enjoy in Aotearoa. I get to weave together my academic and athletics careers and pursue them in tandem. My running has aided me with my life in law. When I find myself complaining about writing an essay or worrying about exam stress, thinking back on Honiara I remember it is often my choice to suffer.

The Games remain a strong motivator long after their end. The feeling of crossing the finish line with thousands of people cheering paired with the satisfaction of knowing you earned the right to win is something I will be forever chasing. However, balancing both my running goals and university remains an everyday challenge. I aim to run 120km a week in addition to cross-training and gym work. I manage this with early-morning runs followed by a shower on campus before spending long hours at the library and jazz school to top off the day. My legal studies have helped me plan this training strategy. It would be easy to run hard every day but that would inevitably lead to injury. Consistency and self-awareness are skills law has equipped me with making me a better runner.

In 2025 I will be trading the heat and humidity of Honiara for the cold of Copenhagen, where I plan to go on exchange to finish the bulk of my law degree and compete against world-class athletes. When I return I'll write my honours dissertation and look to pursue my passion for criminal law while continuing running. □

In 2025 Jack Paine will be in Copenhagen, where he plans to finish the bulk of his law degree and compete against world-class athletes.

“... balancing both my running goals and university remains an everyday challenge.”

Connor Settle-Smith

First-year law student balancing dance dreams with legal ambitions

MARK HENAGHAN

When did you start dance?

At age five. There weren't many hip-hop classes around so I went to Performance Net for a year and then we found a hip-hop class. I loved it so much I was doing two to three classes a week at six years old. I danced for seven years in Auckland and then moved to Tauranga and danced there for five years.

What type of dance do you do?

I have only ever done hip-hop, a street-style dance for which New Zealand is well known.

What do you like about dancing?

It is an escape from everything else going on in life, whether it's uni, school or assignments. I know I can always have a break and just focus on dance. I love that it has connected me with many people – those at dance were my dance family.

What have been some of the highlights?

There are many – competing in Hawai'i, Australia and Los Angeles to name a few. But one of the earliest was my first hip-hop competition when I was seven. We danced against kids much older than us but I remember having no fear and loving being on the stage. We came away with third place, which was pretty special. Another key moment was the 100 per cent I scored in a hip-hop exam.

The most recent highlight was competing at the hip-hop International Championship in Phoenix, Arizona, in 2023 and 2024 – known as the Olympics of dance.

Where do you see dance taking you in the future?

Potentially I might be able to book jobs overseas with various music artists. It would be amazing to dance at the Super Bowl half-time show or something similar. I think it is important to keep having goals and dreams.

What attracted you to law?

Well, Mum said I was good at arguing my case and debating the rules ... but seriously I have always been keen on doing family law. Some of this comes from lived experience as a child whose parents broke up. Navigating that path was hard at times



and so I think it started from there. I wanted to be able to work with children and support them when life isn't so great for them.

How have you found studying the subject?

It's been both really fun and challenging. It's interesting learning case law and how particular laws became what we know now. It's important for me to find people to study with to bounce ideas off or check I'm on the right track. I'm finding different topics, such as criminal justice, are starting to spark my interest.

How do you balance dance with university?

It's a juggling act but I get lots of support from family and friends. I am also grateful to have been accepted into the University's High Performance Sports Programme, which has been a big factor in being able to balance study and dance in 2024. I try to keep in constant communication with my lecturers so they know when I am away competing. I've had three overseas dance trips this year but have managed to keep up with my work.

Sometimes dance training intensifies to up to 10 hours a day in the lead-up to a competition and it begins to feel difficult to keep up with course content and training. □

Connor Settle-Smith with his team Outkasts performing at the New Zealand hip-hop National Championship in 2023. Photo: Nina Gastreich

John Land

“The Validity of New Zealand Corporate Transactions Undertaken Contrary to the Interests of the Company”

A LACK OF clarity and consistency in the consequences for directors found to have breached the duty to act in the best interests of a company is the starting point of my PhD thesis.

New Zealand law relating to the effect on corporate transactions of a breach of the duty to act in the best interests of the company is complex and not well understood. It involves consideration of aspects of company law, agency law, the law of equity and contract law.

Section 131 of the Companies Act 1993 (NZ) (“the Act”) requires a director of a company to act in good faith and in what he or she believes is in the best interests of the company. This fundamental duty of directors is well known.

What is less well known and understood is the nature of the remedial consequences of breach of this duty and in particular the effect on company contracts entered into as a result of such a breach. There is a lack of clarity and consistency in New Zealand law concerning the validity of such contracts. This makes it difficult for parties to commercial transactions to know where they stand.

The uncertainty in the law exists for a number of reasons. In large part it comes about because of the effect on company contracting in New Zealand of different areas of general law (equity and agency law) that developed without the corporate form in mind and that deal with questions of contractual validity in different ways.

The directors’ duty to act in the best interests of the company did receive significant scrutiny as part of the law reform process leading to the 1993 Act. A key part of the Law Commission’s suggested reform was to make directors’ duties more accessible by setting those out in the Act. However, the Act does not make clear the remedial consequences of breach of those duties including the effect of breaches on corporate transactions. What’s more, the reform of directors’ duties suggested by the Commission in its reports in 1989 and 1990 was only in part accepted by Parliament in passing the Act. That in turn led to some inconsistency of approach within the Act and an apparent lack of clarity as to Parliament’s intention.

My thesis has two objectives.



The first is to set out in one place where the law sits on the approach to validity of contracts entered into in breach of the best interests duty. The thesis aims to eliminate the law’s lack of clarity and consistency taking into account the effect of the law of equity, agency law and company law legislation by setting out a clear analytical framework for the effect on the validity of contracts of a breach of the duty to act in the best interests of the company.

My second objective is to assess whether the lack of clarity and consistency calls for reform of the law, and if so to suggest what reform is desirable. This may be particularly timely given that the Law Commission is planning a review of the law relating to directors’ duties in 2025.

I intend to suggest legislative reform to how agency law affects corporate transactions to enhance the security of such transactions. I also propose clarifying in the Companies Act equitable principles relating to when contracts entered into in breach of fiduciary duty can be set aside by a company, or alternatively affirmed and made binding.

The legislative amendments I propose are intended to assist in advancing the original objective of the Law Commission in making company law more accessible. They are also intended to draw an appropriate balance between policy objectives of encouraging the certainty and security of commercial transactions and encouraging integrity and honesty in commercial dealings. □

John Land practises as a barrister at Bankside Chambers in Auckland and teaches the undergraduate company law course at Auckland Law School.

“I intend to suggest legislative reform to how agency law affects corporate transactions to enhance the security of such transactions.”

Catherine Lycett

Law Revue

STARTING AT Auckland Law School as a first-year student was exciting and intimidating. I expected long hours in the library, mountains of readings I could barely understand and a competitive environment.

Looking back at the year, I can say joining Law Revue changed my first-year experience for the better. Law Revue is a student-run play filled with skits that poke fun at legal life, internet memes and other sources of hilarity the cast come up with.

I was initially unsure about joining the club and putting myself out there. After all, I had just learned the difference between torts and statutes and now I was expecting to try comedy?! But with the encouragement of the directors and senior students I discovered the Revue was a space where anyone could be funny, awkward and even mess up a line without judgement.

From the first rehearsal I felt the warmth of the group – everyone welcomed, supported and laughed with each other.

The directors can't be credited enough for their hard work putting the show together while fitting in their Law School workload. They toiled tirelessly behind the scenes ensuring everything ran smoothly – from co-ordinating rehearsals and booking rooms to organising costumes.

What stood out to me was how much effort they put into ensuring an inclusive and safe environment. They were mindful of everyone's comfort levels – whether with certain types of jokes or stage roles – and fostered an atmosphere of respect and encouragement.

Being a part of the Law Revue became a highlight of the year. It wasn't just about the performances, shared laughs or ridiculous cow and worm skits. It was about the friendships I formed and the confidence I gained.

Rehearsals became something to look forward to in my week, a break from the sometimes overwhelming pressures of the first year. It was a place where I could be myself, joke around and connect with other students who had been in the same place before me.



The sense of community the Revue creates is something special, easing the transition into Law School. Clubs like this remind us university isn't just about grades or landing the perfect internship but also having fun, supporting each other and creating memories that last long after we've left the lecture halls.

Keeping such clubs alive is essential. They are a break from the rigours of academic life and offer a creative outlet that helps balance the intense pressures all students face.

It's not just about the laughs or the performances but also about building a sense of community, fostering inclusivity and making Law School feel less daunting. □

Law Revue performing their final dance.

“Law Revue is a student-run play filled with skits that poke fun at legal life, internet memes and other sources of hilarity the cast come up with.”

Academic excellence

Student awards

Bell Gully Junior Moot

The Bell Gully Junior Moot is aimed at first-year Part II students. This year's problem was a contract dispute. Congratulations to winners **Spencer Withers** and **Syon Kapoor** and to finalists **Fergus Lee** and **Harshitha Murthy**.

Stout Shield Moot

This moot celebrates Sir Robert Stout, a former law teacher and New Zealand Attorney General, Chief Justice and Premier. The Stout Shield Moot is the University of Auckland's premier mooting competition. This year's moot was written by Bell Gully, which also supported the proceedings. Winners **Phoebe Jennings**, who was awarded best speaker, and **Ysabella Stevenson** go on to represent the University in the national mooting competition. Congratulations also to runners-up **Callum Hackston** and **Francis Wee**.

John Haigh QC Memorial Moot

This moot celebrates the contribution John Haigh QC made to the New Zealand legal profession. John was a highly respected barrister and alumnus of the Auckland Law School. A fund to endow the competition was established by the class of 1970, of which John was a member. Thanks to this year's problem writer **Matthew Mortimer-Wang** who created a complex criminal law challenge. The moot's appellants were **Cara Gibson** and **Izzy Ray-Chaudhuri**; the respondents – and winners – were **Francis Wee** and **Elijah Kasmara**.



Bell Gully Junior Moot.



Stout Shield Moot.



Meredith Connell Law and Technology Moot.

Meredith Connell Law and Technology Moot

Our first moot of the year focused on the complex intersection between developing technology and the law, with the finals held at the Meredith Connell Auckland office. **Jimin Seo** and **Daniel Tran** won the moot with **Georgia Hughey** and **David Bates** the runners-up. Thanks to **Dr Joshua Yuvaraj** for writing the problem question.

Kudos for Auckland law students at national competitions

Auckland University Law Students' Association and Auckland Law School

have racked up several competition successes. Of five competitions on offer at the NZLSA conference, four had finalists from the University of Auckland. These were:

- **Samuel Turner-O'Keeffe** and **Faiz Charania** – client interviewing
- **Jake Inskeep** and **Josh Boshra** – negotiations
- **Phoebe Jennings** and **Ysabella Stevenson** – mooting
- **Neil Hutton** – paper presentation
- **Kevin Qian** represented the University in the witness examination competition.



John Haigh QC Memorial Moot.

Mooting competitions

Asia-Pacific Red Cross International Humanitarian Law Moot Court Competition

Leticia Alvarez, Maddison Lewis and Maria Romero De Medeiros

Bell Gully Junior Mooting Competition

Spencer Withers and Syon Kapoor

Buddle Findlay Senior Negotiation Competition

Josh Boshra and Jake Inskip

Brian Shenkin Family Law Moot

Johanna D'Costa and Claire Randall

Chapman Tripp Junior Negotiation Competition

Isaac Chan and Molly Zhou

Duncan Cotterill Junior Client Interviewing Competition

Inaayat Chatha and Samuel Foote

Gina Rudland Memorial Prize for Māori Mooting

Janell Aroha Dymus-Kurei

International Chamber of Commerce (ICC) Mediation Competition

Rose Allison, Joshua Kennedy, Maddison Lewis and Paris Sephton



Moana Oceania Issues Moot – Ryle Vatau (winner), Elaine Ward (Co-President of the Pacific Lawyers Association, Head of Chambers at Liberty Law Chambers) and Oliver Stephenson (runner-up).



Sir Robert Chambers First Year Moot.

IPLS Senior Client Interviewing

Faiz Charania and Sam Turner O-Keeffe

John Haigh QC Memorial Moot

Elijah Tintin Heine Kasmara and Francis Inn Yu Wee

Justice Sir Robert Chambers Memorial Moot (First Year Moot)

Emily Du and Matthew Lee

Kiely Thompson Caisley Employment Law Moot

Ryan Brown-Haysom and Vivienne Bunquin

Meredith Connell Law and Technology Moot

Daniel Minh Kit Tran and Jimin Seo

MinterEllisonRuddWatts Witness Examination Competition

Vincent To

Moana Oceania Issues Moot

Winner, Ryle Vatau, and runner-up, Oliver Stephenson

Simpson Grierson Inter-University Social Issues Moot

James Boland and Nicolas Powell

Stout Shield (Gary Davies Memorial Prize)

Phoebe Jennings

Stout Shield (Gary Davies Memorial Prize)

Ysabella Stevenson

Stout Shield (Geoffrey Powell Prize for Top Mooter)

Phoebe Jennings

Mock trial competition

High schools battle it out

RICHARD ALLEY

THE CROWD RISES. The judges march in. Counsel, competitors and students look nervous. They're right to do so: tonight they face a new member of the bench. Although they know his colleagues, having already mooted before them, guest judge Mark Henaghan is an unknown quantity – and could have the deciding vote in a split decision. The judges bow. Counsel bow in turn. Some eager members of the gallery bow too. The judges sit and fiddle with their papers. Counsel wait expectantly; their papers have come pre-shuffled. This is not the students' first rodeo. Most of the four-person teams have competed in previous years, although the junior bracket – comprising freshmen about 14 years old – haven't faced a judicial panel before. Becoming bored with the tension, the bench asks for appearances. There's more fiddling with papers before prosecuting counsel rises for opening argument.

The case is complex, twice the length of the typical case files. As counsel explains, it concerns theft in a special relationship intertwined with questions of vicarious liability for the offender's employer. A successful prosecution on that basis would be a watershed in party liability jurisprudence. But the competitors are blissfully unaware of that fact – save one, who emailed the competition manager about it a week ago. The case's facts are appropriately scandalous: a national security violation involving the leaking of confidential corporate secrets via an ersatz romance orchestrated by foreign agents. Defence counsel begins to work their magic, illustrating flaws in the prosecution's case. But counsel errs, stating – albeit with absolute confidence – that their learned friends must demonstrate guilt to 100 per cent certainty. Justice Henaghan interjects, querying that figure. Counsel demurs, having already realised the mistake. The case proceeds: both parties have stated a tenable argument, an impressive achievement given the complexity of issues in play.

The prosecution calls their star witness. Only a minute in, opposing counsel are leaping from their chairs – as is the fashion in this mock court – to object on grounds of form and substance: "Hearsay! Leading question! Relevance! Bad character!" A judge barks, "Elaborate!", and objecting counsel oblige. Their objection is overruled. The witness continues their testimony; they have been well prepared. As a member of



Mock trial in action in the moot court at Meredith Connell.

the team, the witness knows the story they need to tell to facilitate its case. More objections. A judge barks, "Elaborate!". A back-and-forth ensues moderated by judicial direction. This eats away the examiner's time, of course, and perhaps they'd be better off to concede the point. But a hearsay objection is too juicy to resist the opportunity to demonstrate their knowledge. Counsel's five minutes are up. Anything else the team needs to establish will have to come from constructive cross-examination; but for now it's opposing counsel's opportunity to deconstruct the prosecution witness.

The defence have spent weeks crafting their cross-examination. They know just what to say to discredit the prosecution's narrative. But alas, no line of questioning survives first contact with a hostile witness – and doubly so when opposing counsel are running interference with their strategic objections. Taking a cue from the bench, they elaborate their argument without being prompted. Meanwhile the cross-examiner, demonstrating the standover technique, has good questions. But the witness is better, dancing around allegations and outcircling the examiner's strategy. They go too far on occasion: although being evasive is encouraged in this adversarial

“The defence have spent weeks crafting their cross-examination. They know just what to say to discredit the prosecution's narrative.”

“In the war room, the verdict is reached before the plates are cleared. The competitors are kept waiting while the bench finishes their food. Soon enough, the judges return.”

competitive environment, witnesses are not permitted to ignore the question outright. The score sheet will reflect this. By contrast, the prosecution cross-examiner is a much smoother operator. Their restrained demeanour allows the seamless control necessary to corral a hostile witness. While one cross-examiner loses their nerve in the face of a witness whose cool is unshaken, the other dismantles a standoffish witness in surgical fashion.

The facts are laid bare. The litigation landscape has shifted irreversibly. Now the judges step out for a moment, affording competitors a brief respite in which to reconsider their arguments. Shortly the judges return. They bow and sit. They shuffle their papers. Counsel rise for closing arguments. The judges intervene more freely this time. Counsel perform admirably under the intense questioning. That dreaded question, “How does it affect your argument if we reject this proposition?”, is dispatched with ease. The bench takes its leave to deliberate. Meanwhile the competitors decline dinner, too busy fretting to appreciate it. The judges have no such qualms. In the war room, the verdict is reached before the plates are cleared. The competitors are kept waiting while the bench finishes their food. Soon enough, the judges return. They bow and sit. They shuffle their papers. The verdict is announced. The competitors cheer. Photos are taken and trophies bestowed. Another year of competition concludes.

Auckland Schools Legal Mooting conducts a mock trial competition for high-school students from Years 9 to 13. The finals, generously hosted in Meredith Connell’s mock courtroom, give top performers a taste of court experience. Diocesan School for Girls won both the junior and senior moots for 2024. □

This competition is run by Auckland Law School students.



Finalists’ teams at the mock trial competition.

Student clubs

Auckland University Law Review

The *Auckland University Law Review* is one of New Zealand's leading student law journals. The *Review* has continued to publish the Law School's top student research while upskilling an editorial team of over 30 editors each year. Besides its yearly journal, the *Review* continues to run several events within the Law School, with the support of its business team.

The *Review* has evolved significantly since its first volume 57 years ago, while maintaining many of its fundamental features over these years. The *Review* proudly continues to publish the work of many of the most distinguished members of the legal profession, academia and the judiciary. We are privileged to have a robust subscriber base that extends all the way from private legal readers in New Zealand to the Library of Congress in the United States.

Alumni dinner and symposium

On 15 August 2024 the *Review* hosted its annual alumni dinner and symposium. Former Auckland Law School Associate Professor and current Law Commission President Dr Amokura Kawharu presented her paper titled "The Emperor's Servant".

The paper discusses the Law Commission's role of giving independent advice regarding improvements to and the renewal of New Zealand's statutes. Dr Kawharu traversed the Commission's core statutory functions, what the Commission is or could be doing to promote legal renewal through law reform and the barriers to doing so.

The symposium was then followed by the *Review's* annual alumni dinner at the Northern Club. The dinner speaker was Justice Lane Harvey, an alumnus of the Law School. Justice Harvey's insightful address gave a brief legal history of tikanga Māori before discussing its contemporary application.

Māori legal issues papers

The *Review* has continued a proud tradition of publishing articles relevant to Māori legal issues since 1978. In 1996 the *Review*



Auckland University Law Review hosted its annual alumni dinner and symposium on 15 August 2024.

formally established the Ko Ngā Take Ture Māori section of the journal and had Māori editors from 1996 to 2004, and they were reintroduced in 2023.

We are excited to be publishing several articles on Māori legal issues in this year's edition. These include a critical discussion of the role that whānau, hapū and iwi should play in the development and application of tikanga Māori and an argument for the development of communal and conditional property relations within the kāwanatanga sphere.

Moana Pasifika issues paper

The *Review* has also continued its Moana Pasifika issues paper section to help give space to Pasifika legal scholarship – a regrettably neglected aspect of legal scholarship for most traditional law journals. The Moana Pasifika section has continued to help ensure the *Review* is promoting scholarship for legal issues that affect all undergraduate students and providing a platform for all students to discuss them.

Last year's Moana Pasifika article, written by Elizabeth Lotoa, analysed "crimmigration" laws to highlight how the operation of criminal law and immigration law in New Zealand is underpinned by racial themes.

This year's *Review* continues the section's critical tradition, using a race-conscious lens to analyse historic and contemporary climate change-related legal developments, being sensitive to the ramifications for Pacific peoples who are uniquely susceptible to climate change's effects.

Academic workshop

In 2024 we were excited to continue the initiative started the previous year of providing academic workshops throughout the year. These workshops aim to provide the wider student body with tips, tricks and techniques that we have learned while taking part in the *Review*. These workshops cover legal research, argument, editing and referencing skills. We are also proud to have presented the annual AULR Honours Symposium, which provides an opportunity for students to hear examples of presentations given by top honours students in previous years.

These workshops and events are intended to lift the *Review's* prominence and accessibility within the Law School. We are proud to use the reach of the *Review* to assist students at the start of their legal studies in navigating the complexities of legal writing and research.

Pacific Islands Law Students' Association

Pacific Islands Law Students' Association (PILSA) is dedicated to supporting Pacific students at Auckland Law School. Founded on the principles of education, faith and culture, PILSA aims to foster a nurturing and inclusive environment for all its students.

The Association offers academic resources, professional development opportunities and cultural activities to enhance the educational experience of and strengthen relationships between Pacific law students.

By integrating core aspects of spirituality, academic excellence and cultural preservation, the Association sets out to build a sense of community among its members and with the wider university.

PILSA holds an annual cultural day at Auckland Law School that celebrates the vibrant and diverse groups within our student community. It is an opportunity for students to showcase their traditions, languages and customs through food, performances and other activities.

By bringing together people from different

backgrounds, the cultural day encourages inclusivity, respect and a sense of belonging, reinforcing PILSA's commitment to diversity and community engagement within our Pacific diaspora.

It is a day to celebrate who we are and where we come from.

Veritas

Veritas is a group of Christians at Auckland Law School. We are open to all students and anyone with questions or doubts about Christianity. All are welcome at our events.

We are part of a wider group, the Tertiary Students Christian Fellowship (TSCF) and the worldwide International Fellowship of Evangelical Students (IFES).

We meet weekly on campus during semesters, usually exploring topics about God, Jesus, us and the Bible. We also have guest speakers to share their perspective on Christianity and the law. In 2024, speakers have included Dr Joshua Yuvaraj and Justice Andrew Becroft. September saw the staging of the New Zealand Christian Lawyers Conference.



Veritas members enjoy social events throughout the year including bowling, ice skating, dining out and sports events with the Christian medical students.



Pacific Islands Law Students' Association (PILSA) aims to foster a nurturing and inclusive environment for all its students.

The Mooting Society

The University of Auckland Mooting Society provides competitive mooting opportunities for law students at all stages of their degree. Throughout the year, we host six moots: the Meredith Connell Law and Technology Moot, the John Haigh QC Memorial Moot, Stout Shield, the Bell Gully Junior Moot, the Simpson Grierson Inter-University Moot and the Justice Sir Robert Chambers Memorial Moot.

These cover a broad range of issues such as copyright infringement, invasion of privacy, contractual issues and criminal property charges. In addition to competing at a high level, mooters have an opportunity to network with lawyers at hosting firms.

The Society's internal development and advocacy teams have also worked hard this year to provide worthwhile opportunities for all law students to improve their basic advocacy skills. In semester one the development team held a senior mooting workshop that focused on preparing written submissions, making oral arguments and answering questions from judges among other things.

The advocacy team collaborated with the Auckland University Fashion Society to hold a LinkedIn photo shoot providing students with a free professional headshot for their profiles ahead of recruitment season. Students also have access to the mooting wardrobe, which provides professional attire for use. We are excited to continue offering these opportunities to all law students.

Below: The University of Auckland Mooting Society – Hon Kit Toogood KC, Justice Gordon, Francis Wee, Elijah Kasmara and Ellie Harrison.



The Equal Justice Project (EJP) has more than 100 volunteers in six teams: access, advocacy, alliance, communications, community and pro bono.

Equal Justice Project (EJP)

The Equal Justice Project (EJP), which is in its 20th year, mobilises law student volunteers to apply their legal training and knowledge to promote access to justice. EJP, a non-partisan pro bono charity, has more than 100 volunteers in six teams: access, advocacy, alliance, communications, community and pro bono.

Access, which conducts outreach and education, has this year delivered in-school workshops across the city on topics ranging from the branches of government to the lawmaking process. Our advocacy volunteers continue work on the issues of climate action and reducing alcohol harm and have presented research on both to Auckland Local Boards and council-controlled organisations. Alliance, which focuses on equity within the Law School, is working on a survey to understand the experiences of being a law student at the University of Auckland to guide the team's advocacy, and will also be engaging with the Aotearoa Legal Workers' Union.

Communications, which sets out to increase understanding about legal developments and issues, in 2024 has published articles on current legal issues including police powers, facial recognition and artificial intelligence technologies, weakening environmental protections and inadequate immigration support for Palestinian whānau.

The community team has helped more than 60 students into volunteer placements to support the provision of free legal advice including at Community Law Centres, YouthLaw and Citizens Advice Bureaux.

The pro bono team, meanwhile, continues its social justice-oriented legal research, this year on topics including how urgency affects the integrity of the legislative process and issues with WINZ payments.

Korean Law Students' Association

Korean Law Students' Association (KLSA) provides academic and social support to Korean law students and those interested in Korean culture. KLSA sets out to provide a supportive community so Korean law students can thrive academically and socially. It aims to equip students so they are career-ready. The Association acts as a bridge connecting Hoobae (junior) with Sunbae (senior) students and students with Korean lawyers.

Highlights of the Association's year

KLSA peer mentorship programme: At the start of the year Part I students were paired with senior law students so first-years could get academic and social support from their seasoned peers. Practical know-how is important for students aiming to make it into Part II and this programme has been instrumental in improving Korean representation in legal education.



KLSA sets out to provide a supportive community so Korean law students can thrive academically and socially.

Professional buddy programme: In addition to a robust peer-mentorship programme KLSA has also continued the professional buddy programme. This programme connects KLSA members with KLSA alumni lawyers. By tailoring the matches with students' interests, students can aspire to legal careers no matter how niche. This programme also guides students in building a personal brand and helps them navigate the cross-cultural context of working as a Korean-Kiwi lawyer in New Zealand.

Shinhwan (welcome night): Club welcome night is our first official social event where students at all year levels are invited to enjoy food and drinks. The aim is to support and build community and opportunities for interaction between senior students and new members and give existing members a chance to catch up after a long break.

Picnic day: The KLSA buddy system organises a special event that brings together mentors and mentees for a day of activities and food. The event at Auckland Domain Wintergardens encourages participants to form buddy pairs and participate in a relaxed afternoon of various team-building games. It is an excellent opportunity for mentors and mentees to strengthen their relationships through enjoyable activities and meaningful conversations.

KLSA annual camp: KLSA welcomes law students and their plus-ones to the Association's annual flagship social event over two nights and three days. KLSA executives treat students to quality Korean culinary staples such as K-barbeque, jjigae and tasty yashik (late-night snacks). Social officers stage fun team-building games for the students including a spectacular three-day murder mystery. Students are able to make new friends and memories and get plenty of rest in preparation for semester two of their studies.

Law firm panel events and recruitment panel: In the KLSA's drive to help members be professionally successful senior

members host a panel event and CV drop-in session. The panellists are senior Association members who have clerked at top law firms in New Zealand and Australia. The Association also hosts a legal careers seminar with Buddle Findlay, facilitates a Korean women lawyers and law students event and runs a careers panel session with Dentons.

Auckland University Law Students' Society

The Auckland University Law Students' Society (AULSS) is a club that aims to enrich students' Law School experience. It does so by hosting social and sporting events and competitions, organising activities to support students academically and welfare-wise and publishing the *Verbatim* quarterly magazine.

AULSS's recruitment series, which consists of panels with legal professionals and networking events, kicks off the year. The series supports students through the

recruitment season with information to help them make informed career choices and perform their best through applications and interviews.

In 2024 AULSS hosted the first Law Camp since the Covid pandemic, providing the opportunity for Part II students to bond with their peers.

Also on the club's social calendar are events such as law steins, cocktail night and the Law Ball.

Meanwhile the club's competitions provide students with opportunities to put their legal learning to the test. Experienced professional judges give students valuable feedback in areas ranging from negotiation to witness examination.

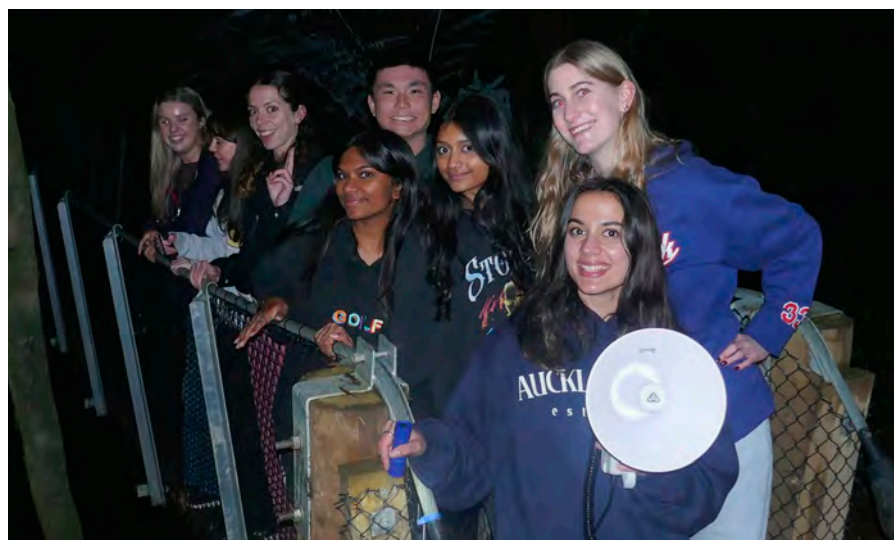
Trans-Tasman competition is also on offer. Four teams from the University of Auckland squared off at the Australian Law Students' Association Conference in a range of contests.

Vincent To represented Auckland in the witness examination competition and **Josh Boshra** and **Jake Inskip** progressed to the quarter-finals of the negotiations competition. **Neil Hutton** came second in the paper presentation grand final and **Samuel Turner-O'Keefe** and **Faiz Charania** were second in the client interviewing grand final.

AULSS is also represented in a range of sporting events including Round the Bays and waka ama.

And the club's support of student well-being continues. During wellness week goodies such as free coffee are available to help budding lawyers power through their exams.

AULSS promises more of the same in 2025.



In 2024 AULSS hosted the first Law Camp since the Covid pandemic.



Te Rākau Ture

Te Rākau Ture is Waipapa Taumata Rau's Māori Law Students Association.

A kaitahi kicks off the year to welcome everyone.

In 2024 this was followed by Toia Mai at Mangawhai, where Part II students were able to explore the beautiful surroundings while launching into the next stage of their Law School lives.

The inter-semester break was the opportunity for the annual haerenga, a journey through Waiariki and visits to Matakana Island, Tauranga, Rūātoki and Rotorua. Later in the year we host our cultural day, social night and end-of-year dinner.

Rainbow Law

Rainbow Law is a community- and advocacy-focused student group that fosters inclusivity of rainbow identities in Aotearoa by spreading awareness of issues queer people face within the legal system and advocating for improved social, legal and political structures for the wider queer community. Our work is mainly aimed at improving outcomes for LGBTIQ+ students but also seeks to enable all queer New Zealanders to live safely and authentically.

We focus on providing resources for our members to thrive at Law School and within the legal industry. Our revamped six-week professional mentorship programme pairs rainbow law students with professionals in the legal industry. Students meet with their mentors for professional advice and have the opportunity to grow their networks beyond the Law School. In 2024

this programme ran in tandem with an interviewing workshop where students were able to run mock interviews with Buddle Findlay in preparation for recruitment season. A mental health workshop also ran in 2024 to provide students with tools to deal with the stress of undertaking a law degree.

Law School can be an alienating place so we regularly run events such as movie and board-game nights and arts and crafts sessions aimed at connecting queer students.

A Rainbow Conference for all Aotearoa New Zealand queer law students featured on the 2024 calendar with the aim of strengthening connections nationally.

Our organisation is also committed to advocating for structural changes to ensure all queer people can live freely. Under this aegis we are proud to have provided a submission on the Residential Tenancies Amendment Bill in 2024 to ensure New Zealand's queer community is not harmed



Members of the Rainbow Law Executive in the Rainbow Select Committee room at Parliament in September, 2023.

by changes in the country's rental regime. This mahi continues a long line of advocacy work that is integral to our organisation.

We are excited about the upcoming year and thank Auckland Law School for giving us a platform to help our community.

Chinese Law Club

The Chinese Law Club wants to foster and expand a cohesive community of diverse law students by promoting Chinese culture through academic and social events. We aim to do this by expanding engagement with students of different levels and backgrounds and also by making promotional materials available through a range of avenues.

A core element of the Club is a mentoring programme that pairs Part I and II students with their more senior counterparts. Pairs are encouraged to join in a variety of social and study-based activities – weekly bingo challenges, for example, have been popular.

The programme gives students both teaching and learning opportunities and ensures they are exposed to a wide range of their peers. This is in conjunction with workshops that ensure members of our community never have to feel like they are alone in the pursuit of their legal studies.

Key academic events include a summer clerkship series, recruitment workshop and LAW 121G/131/141 exam workshops. The clerkship series features a panel of senior students who have recently completed a clerkship sharing their experiences and insights.

The recruitment workshop breaks down the process for students applying for clerkships and outlines resources and timelines for various firms' recruitment activities.

The annual LAW 121G/131/141 exam workshops for first-year students gives them the opportunity to hear exam tips from top-achieving more-senior students.

LAW 201/211 exam workshops for Part II students have also been offered.

The Club is working at being more open and hosting more events so students are able to engage with their community. A fun-filled opening night of games and activities set the tone for 2024 and allowed many students the opportunity to connect with others with whom they wouldn't normally interact or meet.

Providing opportunities for embracing Chinese culture is another of the Club's goals. Calligraphy & Sip is CLC's newest social event designed to share with



Chinese Law Club: A fun-filled opening night of games and activities set the tone for 2024.

members the art of calligraphy and the history of Chinese characters while sipping steaming traditional Chinese tea.

Karaoke is also on the programme, the aim of which is to create lasting memories and foster a sense of community among our members through enjoyable and culturally enriching activities.

South Asian Law Students' Association

SALSA, the South Asian Law Students' Association, is dedicated to celebrating the rich heritage of South Asia while fostering representation in Law School. We create a vibrant supportive community that champions our diverse culture and connects members through a mix of professional development opportunities and fun events.

2024 began with a bang at a speed networking event. It sees South Asians from top law firms interacting with eager law students in an evening of conversation and connections.

A movie night featuring the Hindi-language "Dil Dhadakne Do" comedy drama – or as Rotten Tomatoes puts it "members of a dysfunctional family going about their lives" – was a laughter and snack-filled evening

blending South Asians from both within and outside the Law School.

A quiz night was also on the agenda, and a creative paint and chai session for more entertainment.

More serious pursuits were also on the programme at a collaboration night and personal development workshop.

SALSA's goal is to continue welcoming South Asians into our community and on our learning journey.

Women in Law

The University of Auckland Women in Law club is thriving in our mission to empower aspiring legal professionals, foster a strong sense of community and advocate for gender equity within the legal field.

The year began successfully with an informative "lowdown on recruitment" with the help of Chapman Tripp, providing insights into the recruitment process from professionals in the industry and older students who had clerked. Our members left the event inspired and better prepared to navigate the competitive legal job market and secure their dream summer clerkship.

Our five-year-old Women in Law mentoring programme was kicked off with an energetic



Women in Law.

launch party. It was the first opportunity for mentees and mentors to pair up and the event was a huge success, fostering connections between members at different stages of their degrees.

In an effort to encourage social connections and relaxation, we hosted a movie night in collaboration with the Film Society, offering an opportunity for students to destress before mid-semester break.

We also hosted a pub quiz at Shadows, a fun and friendly occasion for unwinding and showcasing our general knowledge. Thanks to MC Mark Henaghan, it was a night of laughter that strengthened friendships and promoted a sense of camaraderie.

Not forgetting the importance of holistic well-being, we held a wellness and allyship event during which students could participate in mindfulness painting and colouring-in while enjoying sushi and chatting about how to be a good ally. Attendees were upskilled on cultural competence, sexual orientations, disabilities and gender identities in a relaxed and reflective atmosphere.

Focusing more on the physical side of well-being, we had the opportunity to hold a fitness class at Les Mills and provided attendees with delicious breakfast cups.

We had the pleasure of working with Women in Business on a fundraiser breakfast for the Breast Cancer Foundation, where we were able to raise awareness of the illness and its effects. We had the amazing Jenny Taylor come and speak to us about her story.

Beyond university, our outreach programme continues in South Auckland high schools as we serve as role models and advocates for gender equity, encouraging young wāhine from underprivileged areas to pursue careers in the legal profession.

We are excited to host more events and continue with our initiatives in the upcoming year. □



South Asian Law Students Association quiz night.

Erica Burke

JOSHUA YUVARAJ

FAMILY LAW expert and Auckland Law School women's mentor Erica Burke has been granted a \$10,000 Travel and Learning Award from the Borrin Foundation. As Erica explains, she will use it to research overseas organisations providing advocacy and legal support for women with a view to translating those experiences into a legal clinic and advocacy centre in New Zealand.

What inspired you to pursue advocacy for women in Auckland?

I have always been a feminist and very aware of issues of gender equality. Early in my career I became involved in the Auckland Women Lawyers' Association (AWLA) and eventually joined the committee and executive as secretary for a number of years. That role allowed me to work with a group of women lawyers with a shared commitment to improving outcomes for women in the legal profession as well as women and children in general, as was part of our constitution. It also showed me how I could use my law degree and professional experience for advocacy work in an area that is personally relatable and of value.

What advice do you have for law students and early-career practitioners looking at how best they can use their abilities for advocacy, justice and equity – both in conventional legal practice and in other avenues such as community law centres and pro bono outreach?

When researching the firms you want to apply to, look – and ask in your interview – what community and pro bono work they're involved in. Think about the areas that affect you personally or that you have an interest in and explore whether there are existing groups or organisations that provide support or carry out work in that area. These could be legal-based groups such as AWLA or the *New Zealand Women's Law Journal* that I've been involved with. Or there could be other organisations you might consider joining whose boards could benefit from your skills as a lawyer. I'm often reminded of the words of the Honourable Justice Sir Joe Williams at a recent lecture that a law degree is a privilege and also, if you choose it to be, a responsibility. The skills and networks you have and can develop after Law School are yours to use towards whatever causes you're drawn to. □



“Think about the areas that affect you personally or that you have an interest in and explore whether there are existing groups or organisations that provide support or carry out work in that area.”

Alexander Young

JOSHUA YUVARAJ

AUCKLAND LAW School graduate Alexander Young was granted a \$60,000 scholarship from the Borrin Foundation to pursue a Master of Laws (LLM) at Duke University in the United States focusing on indigenous cultural approaches to land use. Alexander talks about his background and how his US experience is going.

What inspired you to pursue a Master of Laws?

At Auckland Law School I was fortunate to be taught by a range of outstanding academic professionals all of whom endorsed the benefits of further legal education. The Bachelor of Laws (Hons) programme in particular fostered my broad legal intellectual curiosity and pursuit of an LLM is the next step. Professor Janet McLean once said to me, “always expect your life to be changed by education”. I hope to honour that sentiment as education has made a substantive, positive difference to my life.

In which direction do you plan to take your research at Duke Law School?

As a coastal nation with many low-lying populated areas Aotearoa New Zealand is contending in real time with its vulnerability to climate change. Flooding, slips, tidal surges and inundation are just some of the consequences for these areas. Since Aotearoa’s colonisation, its wetlands – reporepo – have been devastated, making these areas even more vulnerable to climate change’s effects. Wetlands from a te ao Māori or Māori worldview perspective are personified as ngā whatukuhu o Papatūānuku – the kidneys of the Earth, functioning as filters in the landscape. These taonga also act as important sites for sustainable use and are of spiritual significance. I hope to research and undertake a comparative assessment of indigenous land-use practices. My focus will be on wetlands and how mātauranga Māori – and practices indigenous to the United States’ Indigenous American people – can inform regulation, litigation and policy in a way that adopts te ao Māori and supports adaptation to climate change’s consequences.

What does it mean to be undertaking your LLM studies as a Fulbright Scholar?

I received a Fulbright New Zealand Graduate Award the objective of which is to “provide mutual understanding through educational and cultural



exchanges between the US and other countries”. I believe my comparative study of American Indigenous wetland-use practices with a view to informing New Zealand decision-makers’ regulation and dispute determination will live up to that objective. This will hopefully lead to better, more sustainable outcomes for land use for the people who inhabit these places. There is value in undertaking this research in the US, which shares New Zealand’s history of colonisation and destruction of wetlands and indigenous culture. However, like New Zealand, the US is on a path of restoration with its indigenous people and its land. The opportunity to learn from other indigenous cultures in the form of a structured LLM programme with potential for independent research will enrich my study and give it broader application.

As well as the Fulbright Scholarship I am grateful for the support of the Michael and Suzanne Borrin Foundation’s Te Pai Tawhiti Postgraduate Scholarship, Duke Law School, the Resource Management Law Association Postgraduate Scholarship and the Spencer Mason Trust’s Spencer Mason Travelling Scholarship in Law. I hope to do these organisations and the University of Auckland Faculty of Law proud. □

“Professor Janet McLean once said to me ‘always expect your life to be changed by education’. I hope to honour that sentiment as education has made a substantive, positive difference to my life.”

Successful overseas graduates in tax law

Sehj Vather

SEHJ VATHER is a tax partner in the New York office of Kirkland & Ellis LLP. Sehj has extensive experience in both public and private transactions and handles a wide range of matters focusing on the tax aspects of mergers, acquisitions, divestitures, joint ventures and spin-offs, both domestic and cross-border. Sehj also advises clients on the tax aspects of securities issuances, bankruptcy and restructuring, and investment funds. Sehj has been recognised in *The Legal 500 US* for his work in international tax and US taxes. □



Chye-Ching Huang

CHYE-CHING HUANG is the Executive Director of the Tax Law Center at NYU Law. Before starting the Tax Law Center, Huang was senior director of economic policy for the Center on Budget and Policy Priorities, where she worked on the analysis and design of a wide range of federal tax, fiscal and economic policy proposals in collaboration with tax academics, practitioners, analysts and advocates.

Huang has written on a wide range of federal tax and fiscal and economic policy issues, testified several times before the US Congress on tax issues and appears regularly in the media.

Previously Huang was a tax academic at the University of Auckland Business School, where she published research on tax law, policy and regulation and taught graduate and undergraduate tax law. She also practised in tax for New Zealand commercial law firm Chapman Tripp. She has consulted for the International Budget Partnership on fiscal policy-making processes and institutions.

Huang has an LLM from Columbia Law School, where she was a Sir Wallace Rowling/Fulbright and James Kent Scholar, and a Bachelor of Laws (Honours) and a Bachelor of Commerce in Economics from the University of Auckland.

Huang serves on the board of the National Taxation Association, the tax benefits advisory committee of Code for America, and the tax policy advisory committee of the Joint Center for Political and Economic Studies. □



Chye-Ching Huang, Executive Director of the Tax Law Center at NYU Law.

Hartley Spring

Laying down the law in Australia

MARK HENAGHAN

Where in Sydney do you work and what do you like about it?

I'm a Senior Associate in the corporate team of Herbert Smith Freehills' Sydney office mostly advising on the regulatory aspects of mergers and acquisitions. I also advise Australian financial institutions on regulatory issues. A deal I recently worked on was BT Funds Management's merger with Mercer to create a combined \$68 billion investment fund.

What I like is the mixture of fast-paced intellectually challenging work with sophisticated clients who are passionate about what they are doing. HSF positions itself at the top of the market for transactional and regulatory work so many of the matters are transformational for our clients who are fully invested in getting the best outcome.

Given the size of transactions most of the work is highly collaborative with a range of different teams and subject-matter specialists. The HSF corporate practice group incorporates many sub-teams who work together on a project often totalling more lawyers than in many New Zealand firms.

What made you decide to practise in Sydney?

I started out as a graduate in a large New Zealand law firm, moving to Sydney about a year after admission. What drew me to Sydney is the quality of the work, the ability of the large firms to be truly international and the city's lifestyle and culture.

Given the size of the Australian economy and the ASX there are significantly more opportunities for corporate lawyers in Sydney than in Auckland. Whereas Auckland may have only one or two large deals a year, HSF is regularly number one in the Asia-Pacific region for most deals done numerically and by value.

That means there is more opportunity for lawyers to take ownership of their work and have greater responsibility. HSF encourages lawyers to step up and be proactive and provides flexibility for you to achieve this. Although I'm usually based in the Sydney office, HSF supported me being located in the Perth Office for three months working remotely on deals in Sydney.

Sydney is the perfect balance of being close enough to Auckland to visit family while still having more opportunities and a more international culture.



Hartley Spring, Senior Associate in the corporate team of Herbert Smith Freehills' Sydney office.

There are a significant number of New Zealand lawyers practising in large Sydney firms, which welcome a steady flow of lawyers crossing the Tasman. Sydney has amazing food from around the world and concerts and artists regularly make stops in Sydney on international tours. HSF also provides lots of social opportunities at regular firm events and lots of less formal activities within my individual practice group.

What advice would you give to an Auckland law graduate who wants to work overseas?

I'd encourage any junior lawyer in Auckland contemplating an overseas move to try it out as soon as they can. Early experience in New Zealand law firms is looked on favourably and New Zealand lawyers have a reputation for working hard internationally. The process for being admitted as a New Zealand lawyer in Sydney is surprisingly straightforward. Your New Zealand admission is recognised by the New South Wales courts and you can be admitted in New South Wales in a few weeks with no additional study.

Working in a place like Sydney at an international firm such as HSF opens up many opportunities for further travel or to return to New Zealand as an experienced lawyer in your subject area. □

“Early experience in New Zealand law firms is looked on favourably and New Zealand lawyers have a reputation for working hard internationally.”

Harry Pottinger-Coombes

Journey into Australian Law

MARK HENAGHAN

How did you end up working in law in Australia?

It wasn't something I can say I'd been outright aiming for. Early on in my degree I thought I'd follow the tried-and-tested path of working for a few years at an Auckland firm then making the jump overseas. However, I looked into Australia – more out of curiosity than anything – and applied for and received a seasonal clerkship position at King & Wood Mallesons in Melbourne. I went over in June 2023 just grateful to be there as it was my first time in Australia. I had a really enjoyable month and was fortunate to receive a graduate offer, which I accepted. I moved over this February.

What do you like about working in Australia?

A lot is made of the Australian salary, which is understandable, but there's much more to it than that. In my case I'd been living in Auckland – and the same house – my entire life so the chance to move overseas was an opportunity for a major change of scenery. Australia has a huge economy with a lot happening that you can get involved in, whether in law or otherwise. In my experience the people have been amazing and incredibly welcoming. It is an amazing country with so much going on and so many places to travel to and explore. At the same time there's not much of a cultural difference or adjustment – apart from having to learn the rules of Australian football! It's also comforting knowing it's only a short flight to New Zealand so it's easy to go back home regularly. This isn't to say the move hasn't come without its challenges and that I haven't missed home at times. But it's been a great way to rip the proverbial Band-Aid off and try something new.



“Auckland Law School graduates are well prepared for roles both within and outside New Zealand.”

What's your advice for Auckland Law School graduates applying for Australian roles?

Be confident that you're capable of competing with the homegrown Australian students. It might be our “tall poppy” culture but I think there's a tendency to undersell ourselves when it comes to applying for jobs. Auckland Law School graduates are well prepared for roles both within and outside New Zealand. There isn't a huge amount of assumed knowledge expected of graduates in Australia and our respective legal systems are very similar in any event. At the same time, knowing your “why” is important – why it is you want to apply for Australia? Even if it's just for a change of scenery, this should provide some direction that should ultimately serve you well in applying for roles. And there's never any harm in applying and seeing where the process takes you. □

Jack Alexander

Law School graduate's journey at Cambridge

JACK ALEXANDER'S life has changed dramatically since he matriculated at Gonville & Caius College at Cambridge University. Jack became a father for the first time in February 2021 while completing his Master's and returned to Caius in October 2023 for a PhD as a father of two.

He completed his undergraduate degree in law at the University of Auckland and worked as a Judges' Clerk at the New Zealand Court of Appeal before practising as a litigation solicitor in New Zealand.

Caius' reputation extends to the land of the long white cloud, or Aotearoa, with the College colloquially known as Gonville & Kiwis. Jack embarked on his LLM months after the Covid-19 pandemic began.

After graduating he worked as a junior barrister doing commercial court work. But attracted by a return to Cambridge and academic life for a PhD supervised by Professor Lionel Smith, Jack found himself back at Caius on a WM Tapp Studentship.

"We were keen to come back to Cambridge. We thoroughly enjoyed life at Caius the first time even though it was disrupted by Covid," Jack says.

"There was a slight sense of unfinished business. The supervisor played a big part – the references were glowing about Lionel. Living in Cambridge with kids, where we have friends and can build new friendships, was a big appeal as well."

Jack's wife, Rachel, is a lawyer and the pair met as undergraduates in Auckland. She planned to return to work in 2024.

The couple's first child was born part-way through the LLM and is nearly three. He is often seen in full Spiderman costume on Saturdays at brunch, which is a family-friendly occasion. Their younger child was born in spring 2023.

They are making use of the College nursery, where academics, students and staff have priority places, and have accommodation in the heart of the city above Rose Crescent.

"It's a fantastic College to be in with the kids. We're close to the College, have excellent family accommodation and priority access at the nursery. It's a very nice community, with academics' kids and other students' kids going there," Jack says.

He is impressed by Cambridge's newcomers and visiting scholars group, which provides social opportunities for families.



Jack and his son, Robert, heading off to brunch at the Gonville and Caius dining hall.

"There's a really good student community, not only for me, but for my wife, who has met lots of new people with young families."

There is no straightforward time to begin to raise a family, but Jack is grateful for the flexibility of academic life, particularly after the rigours of barristerial work in Auckland.

Longer term, Jack envisages combining being a barrister with academic work. For now he is content in Cambridge and at Caius.

"We absolutely love it here and it's the perfect place to raise kids," Jack says. □

"It's a fantastic College to be in with the kids. We're close to the College, have excellent family accommodation and priority access at the nursery."

This article was originally published here: www.cai.cam.ac.uk/news/family-and-law-fine-combination-caius

Pacific Law Week

Auckland Law School's inaugural Pacific Law Week

GUY FITI SINCLAIR

THE LAW SCHOOL held its first Pacific Law Week from 15 to 19 July 2024.

The FOLAU team planned and ran a total of eight events during the week that sought to promote a series of interrelated goals. Seminars were aimed at increasing dialogue about and promoting awareness of legal issues facing Pacific peoples in Aotearoa New Zealand and the wider Pacific region.

Dr Suliana Mone shared her research on contemporary constitutional developments in Tonga, with a particular focus on the executive. Dr Guy Fiti Sinclair spoke on the concept of the “Blue Pacific Continent” and its role in international legal ordering in the region.

Former FOLAU team member Litia Tuiburelevu gave a public seminar on a research project she led funded by the Michael and Suzanne Borrin Foundation on “Pasifika Peoples and the Criminal Justice System in Aotearoa New Zealand”.

Other activities were aimed at fostering an inclusive community at Auckland Law School where Moana Oceania peoples – students, staff and others – feel valued, respected and empowered. A talanoa and kava session was held in collaboration with the Pacific Islands Law Students’ Association (PILSA) on the theme of “Ways of Knowing and Being Moana Oceania”. The Moana-Oceania Academic Initiative (MAI) academic skills mentor and MAI tutors of the Part I compulsory courses organised a study fono to welcome our first-year tauira back to Law School and help them reset their intentions and study practices for the second semester.

Other events were designed to recognise and celebrate the successes and valuable contributions of Moana Oceania peoples at Law School. The week’s official launch featured an inspiring address by Judge Faumui Lope Ginnen, an alumna of the Law School and the second Samoan woman to become a District Court Judge in Aotearoa. And a “Beyond Our Shores Talanoa” on the theme of “Pacific Peoples in the Law”, sponsored by Meredith Connell, explored the experiences, insights, challenges and successes of several Pasifika alumni in private and public legal practice.



The week was capped off at a closing function at the University’s Fale Pasifika attended by more than 150 students, staff, alumni, donors and other community leaders and stakeholders. A highlight of the function was the inaugural Olive Malienafau Nelson Public Lecture, named after the first Samoan, the first Pasifika person and one of the first women to graduate from Auckland Law School. The informative and moving lecture was delivered by her nephew, Tugaga Lesamatauānu’u Misa Telefonu Retzlaff, an alumnus of the Law School and former Attorney General and Deputy Prime Minister of Samoa.

The evening included the presentation of prizes and other forms of recognition to Pacific law students. This included the Olive Malienafau Nelson Pasifika Scholarship for Excellence funded by the Sir Michael Jones Foundation, which was awarded to Kara Irwin.

It is hoped to build on the successful inaugural Pacific Law Week in future years. □

“The week’s official launch featured an inspiring address by Judge Faumui Lope Ginnen, an alumna of the Law School and the second Samoan woman to become a District Court Judge in Aotearoa.”

Pacific Law School student Ruby Macomber read this powerful poem at the start of the Pacific Law Week and it was very well received.

Ehara taku toa, i te toa takitahi, engari he toa takitini

Violet Ah-Wai – nan

Gave her first lecture from the armchair, her hands

flexed in the opposite

of a fist, outstretched

for me to hold tight to

Taught me to honour the Moana in my moves

see the mana in our marks

to sing Indigenous joy

each word, a blessing to speak with conviction

after all

a story is not a story until shared

so when they said

University is not for people like me

Like my whānau

too emotional

to study

too slow

to study

too, too, too

e tu

he kai kei aku ringa

I reply with the conviction of my first lecturer – nan

We were not born for the back row

sneaking in 10 past

but born

for the after-class

asks,

tasks on time, breaking glass ceilings with our Moana hearts

maybe

the best lesson I've learnt

is, it is, and always will be

the village that shows up, front row

celebrating the shapeshifters

redressing the balance

breaking brackets

we are radical

because it takes a village to shake

indifference

subvert, as we count the minutes

APA citing, birth worlds in our writing

Our families know night shifts

so we may know

Kate Edger late nights

Munchy Mart pies, bright screens, sore eyes

we walk two worlds when at Waipapa

Taumata Rau

so walk with conviction

We were not born for the back row

sneaking in 10 past

but born

for the after-class

asks,

tasks on time, breaking glass ceilings with our Moana hearts

maybe

the best lesson I've learnt is

it's always been the village that shows up for us

front row

opens doors and

wonders what they were closed for

My first lecturer in her armchair

knew marks

were for ink on skin

not white paper or a Canvas notification

these are not marks she will recognise

But I hope she would be proud regardless

My hands are outstretched too now,

I pay close attention to her lessons, her hair, like Haunani

we whisper Vilsoni's words, speak up, go back

for seconds

break white wishbones with our pinky fingers

we

tenacious Rotuman tongues

Tefui warm against our clavicles

we tuck our stories in the neck of our sweatshirts

save strength for later

I wish I could say my nan will be sitting front row at my graduation

Violet Ah-Wai, my first lecturer

believed we could

because we crossed an ocean before any grad stage was in sight

to make mana moves here is to listen, lean in and learn

make marks that persist beyond any piece of paper

our marks here

persist beyond any piece of paper

the first lesson I learnt

is that no degree can hold me in the way my nan did

but I will hold tight to serve

speak our resilience, our brilliance

hands outstretched

and ready

I wish I could say my nan will be sitting front row at my graduation

as long as we are here, there will always be a seat saved for her

because we will never be for the back row the mana in our moves, too mighty to sit complacently

born

for the after-class

asks,

tasks on time, for my first lecturer, I will always

break glass ceilings with my Moana heart – not maybe

I wish I could say, my nan will be sitting

iri in her right hand

her left outstretched

and squeezing

– RUBY MACOMBER

Substantive Equality Month

HANNA WILBERG and SIMON SCHOFIELD

“When one in every hundred people is homeless, half of whom are under 25 years; when thousands are living in vehicles or housed in motels provided by the State; when houses are in such disrepair that they cause otherwise preventable illness and disease; and when middle income earners are finding it difficult to afford an accessible and decent home, the result is not just a housing crisis, it is a human rights crisis of significant proportions.”

A RIGHT TO adequate housing is provided by the International Covenant on Economic, Social and Cultural Rights, to which Aotearoa New Zealand is a party. Parties to the Covenant are required to undertake to take all reasonable steps to progressively realise this right. We are clearly not meeting this obligation. More fundamentally, a commitment to housing as a human right is largely missing from our public policy discourse on housing.

Such was the focus in August of this year’s Substantive Equality Month at Auckland Law School. Hanna Wilberg, the Associate Dean (Equity), and a committee of Treasa Dunworth, Simon Schofield, Alex Allen-Franks and Anna Broadmore convened a series of four public events exploring various aspects of this crisis and some of the possible ways out of it. The month-long focus on housing also included contributions from student equity officers and student group Equal Justice Project.

Panel discussion on the Crisis in Social Housing – and homelessness

On 8 August, five speakers – Shiloh Groot, Alan Johnson, Jackie Paul, Michael Sharp and Māhera Maihi – drew on their experience in a session addressing the issues of ballooning waiting lists, families in emergency housing, fatal fires at boarding houses, and homelessness especially among Māori and young people, asking what has gone wrong with social housing and how the situation can be turned around

Associate Professor Shiloh Groot (Ngāti Uenukūpako, Ngāti Pīkiao) is a psychologist who has investigated homelessness and urban poverty from an Indigenous, community, critical and societal approach. She and Alan Johnson, a policy analyst and planner and long-time housing activist who has led protests against homelessness, worked with community housing organisations and NGOs and played a part in self-build housing projects, emphasised the need for a change of mindset: social housing needs to be destigmatised and returned to its position as a source of national pride.

Jackie Paul (Ngā Puhī, Ngāti Tūwharetoa, Ngāti Kahungunu ki Heretaunga), who is doing a



Photo: iStock

doctorate in urban studies and planning at the Massachusetts Institute of Technology, focused on the role of te Tiriti o Waitangi. Michael Sharp, a barrister who helped establish a housing law clinic in Tauranga and a member of the State Housing Action Coalition, pointed out that successive governments have chosen to provide minimal funding for Kāinga Ora’s mission to build more social housing. Social housing makes up less than 4 per cent of New Zealand’s housing stock, resulting in long waiting lists. The OECD and EU averages are about twice that, and in the UK it is much higher still.

The fifth panel member, Māhera Maihi, is tackling homelessness with her charity Mā te Huru huru, which runs the country’s first youth homeless transitional facility in South Auckland, and helps Māori rangatahi escape from cycles of family violence, gangs and poverty.

Student-led events and activities

Student Equity Officers Lily Chen and Lily Woods organised three events focusing on practical contributions to substantive equality. They worked with Sunday Blessings, a charity

“A 90-days notice period is normally given by landlords, BUT 27 percent of renters took four months or more to find their current home.”

supplying food for the homeless, to give students an opportunity to volunteer over a weekend. Students prepared meals with surplus food from Auckland businesses, which were distributed to the city's unhoused community. They also ran a sausage sizzle outside the central library with the proceeds going to charities including Women's Refuge, Habitat for Humanity and Rainbow Youth. And an effective advocacy workshop was held facilitated by Students for Fair Rent (SFFR), which included a presentation on student-led activism and a petition-drafting activity.

The Equal Justice Project helped organise the public events. Its communications team also put together a series of informative and confronting e-screens drawing attention to facts about the housing crisis, one of which pointed out: "A 90-days notice period is normally given by landlords, BUT 27 percent of renters took four months or more to find their current home."

SEM – "Equity in Housing Taxation?"

Substantive Equality Month in August kicked off with a lecture from University of Auckland Professor Michael Littlewood entitled "Equity in Housing Taxation?". As an authority on law, policy and history relating to New Zealand taxes, Michael outlined various housing taxation measures that are in use and have been proposed by both the right and left in politics.

In an outline of the present treatment of landlords for tax purposes, he noted that an increase in tax on landlords is generally good for first-home buyers

but bad for renters. Conversely, a reduction in tax for landlords would be better for renters but in turn the price of houses tends to go up. Although tax incentives would tend to increase the supply of houses and apartments that are urgently needed, this would hardly be politically palatable. Another option would be to provide tax relief for homeowners by allowing owner-occupiers to deduct interest but this would create perverse incentives.

The most commonly proposed option for an impost on housing would be a capital gains tax. However, Michael explained that this was fraught with complex challenges. For instance, the scope of common exemptions from a capital gains tax such as the family home and holiday home and roll-over relief would require difficult line drawing. Historically, there have been land and death taxes and stamp duty in New Zealand – they are still used overseas – but these have all been abandoned in favour of simplicity. Other options such as Airbnb, wealth and vacancy taxes, although feasible, would only add to the complexity of what is already a multifaceted system.

As the search for an equitable and effective housing tax regime in New Zealand continues, Michael noted the ongoing tension between simplicity and complexity. The search for the mythical "silver bullet" to resolve equity concerns in housing taxation is likely to prove stubbornly elusive. □

"Historically, there have been land and death taxes and stamp duty in New Zealand – they are still used overseas – but these have all been abandoned in favour of simplicity."

Supreme Court Conference

MARK HENAGHAN

Celebrating 20 years of its existence was the theme of this year's Supreme Court Conference that thanks to the planning and organisation of Professors Michael Littlewood and Janet Mclean was held over two days in mid-February. The event marked the legal and jurisprudential developments in the country's highest court.

THE AUCKLAND LAW Faculty and graduates played a major part in the Conference, which was opened by alumna Justice Rebecca Edwards, President of the Legal Research Foundation. The Foundation hosted the event with Director Simon Ladd, an Auckland law graduate, welcoming attendees.

On day one, Imogen Hensman, a recent graduate who went on to become Chief Justice Dame Helen Winkelmann's clerk, gave an enlightening clerk's view of the Court, highlighting a number of issues that the clerks and young professionals face in their working worlds. Imogen put forward important thoughts on how the clerking system may be reviewed and adjusted, in the light of what we now know about the vulnerability of Judges'

Clerks. Imogen concluded by saying that she could not have asked for a more valuable, positive and enriching experience as a Judges' Clerk in the Supreme Court. She concluded by saying, "The opportunity to be trained, mentored, and in relationship with the judiciary, is prized for good reason, and I'm thrilled for the many more law graduates who will be fortunate to take up the role in years to come."

Dr Alex Allen-Franks, a recent appointment to the Law Faculty, presented a session on leave decisions of the Court during the five years from 2018 to 2022. In this period the Court dealt with 551 leave applications, granting 87 and declining 454. Dr Allen-Franks emphasised the importance of leave as it is not possible to appeal to the

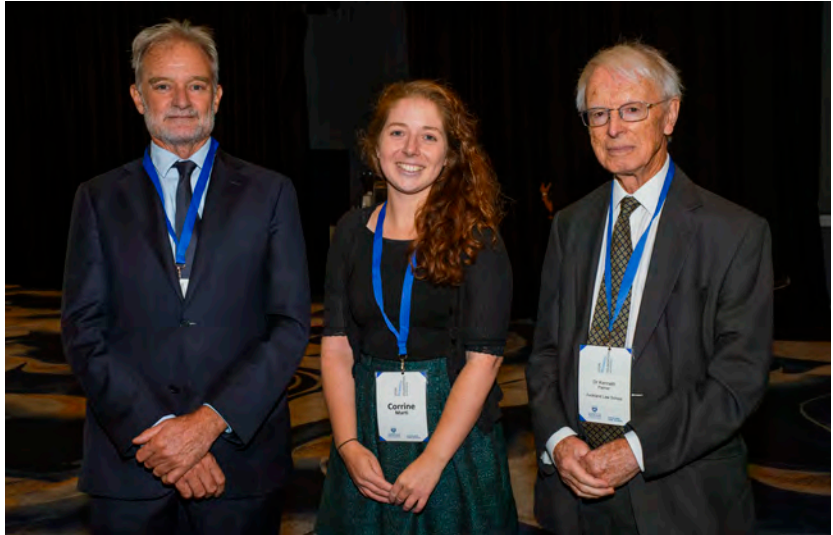
Supreme Court without it. Focusing on why leave is refused, she found many applications were denied because of a lack of jurisdiction, and nearly all those were brought by self-represented applicants. Only two self-represented applications succeeded. Dr Allen-Franks said this pointed to a need to make information available to self-represented applicants about the limits of the Court's jurisdiction. The other most common reason identified for leave being declined was when matters would be coming to the Supreme Court without first having been argued in the lower courts.

Professor Warren Swain, Acting Dean of the Law School, kicked off the Conference's second day by giving the attendees a very warm welcome from the Law School.

The first session on the second day was a panel discussion on public law with Law Faculty academics Professors Janet Mclean KC and Paul Rishworth KC giving a presentation titled "Towards a Supreme Bill of Rights in the Supreme Court", in which they posed the question, "Is the New Zealand Bill of Rights Act: ordinary business as usual or constitutional review?" They focused on the tensions between parliamentary supremacy and the rule of law. Their presentation concluded with an observation from Professor Paul Rishworth KC on judicial activism and restraint New Zealand-style: "Judges are sworn to do justice and – as Emeritus Professor Bruce Harris pointed out – in some cases this would involve legitimate creativity and the cause of actively seeking a just result. But the justice that judges do is the justice of judges rather than legislators and the line between these two ideas is not simple to describe, not least because the Bill of Rights possibly empowers judgments about the consistency 'even of legislation' with the rights it affirms."

Associate Professor Marcelo Rodriguez Ferrere, another new appointment to the Auckland Law Faculty, gave a presentation entitled "The Supreme Court, public law and adjudicative minimalism", arguing that the Court does not take judicial powers far enough in reviews of government agencies. Associate Professor Rodriguez Ferrere argued there is a consistent theme of adjudicative minimalism – defined as deciding cases narrowly and shallowly – in the Supreme Court. Narrowness involves disposing of individual cases rather than setting down broader rules. In immigration matters, for example, it is said the Court's tendency is to confine reasoning to the facts and particularly to legal provisions before it. The presenter argued that the Court's intellectual firepower should be used to bring clarity and strength to public law while also acknowledging it has a deserved reputation and has earned respect as a truly indigenous apex court.

The next panel, under the heading "private law", began with Jack Alexander, an Auckland law graduate now studying overseas, talking about contract law. This presentation focused on eight contract law cases from the second decade of the Supreme Court. The cases which split the Court involved issues of interpretation and essentiality.



Michael Littlewood, Corrine Marti and Ken Palmer at the Supreme Court Conference.

Despite some differences in application, the Court was found to be reaching agreement on key principles. It was also acknowledged that the Court is increasing the accessibility of its decisions in contract law. Two cases, *Bathurst* and *Honeybees*, featured succinct summaries of the key principles for practitioners and members of the public.

Emeritus Professor Peter Watts KC followed with discussion of company law cases in the Supreme Court, traversing the more significant decisions of the second decade of its operation. The most prominent number of cases were on the subject of voidable-preference law, decisions dealing with the basic justification to set aside voidable preference, as well as those dealing with defences. Emeritus Professor Watts also dealt with the two highest-profile company law decisions, both concerned with directors' liability for decisions taken or not taken once their company has become insolvent.

Tiaan Nelson, an Auckland graduate now an Adjunct Lecturer at the University of Auckland who also works as a barrister at Bankside Chambers, spoke about the Supreme Court's insurance law cases.

In a session on taxation, Professor Michael Littlewood spoke about tax cases from 2014 to 2024. Over the 10 years from 2014 to 2024, there were only four of them and, according to Professor Littlewood, the Court has made an exemplary contribution to the development of the areas of the law with which they were concerned: avoidance (*Frucor v CIR*), "black hole" expenditure (*Trustpower v CIR*), evasion (*Skinner v R*) and the timing of the derivation of income (*Duthie v Roose*). He complains, though, that the Commissioner has been unduly reticent in assessing taxpayers to tax. This is unfortunate, he says, because (quite apart from the revenue foregone) the consequence has been that the courts, especially the Supreme Court, have been denied opportunities that would otherwise have been available to develop the law. Sadly, two of the four cases involved tax advisers not in their capacity as advisers, but as *parties* – as defendants in a criminal prosecution in *Skinner* and as defendants in a negligence action in *Duthie v Roose*. They all lost.

But for tax advisers to find themselves in trouble is not new: over the Supreme Court's first 10 years, from 2004 to 2014, five of its 17 tax cases involved advisers as parties.

Law School academic Katherine Sanders then presented on land law, beginning by saying, "Property is not a thing but rather a relationship one has with a thing." She posed the question: "Is this land my property?" and suggested the answer is not to be found in the land itself but in the relationship to it and control exerted over it from a starting point that property and land are fundamentally social. Looked at from that point of view, she argued there is nothing natural or inevitable about understanding property rights: property is made and can be remade. The climate crisis, she suggested, challenges the rights-focused view of land law.

A presentation by Law Faculty academic Dr Jane Norton argued that the second decade of the Supreme Court has seen significant developments in the law of trusts. Dr Norton referred to a landmark 2017 decision in *Proprietors of Wakatū v Attorney-General* wherein the Supreme Court found for the first time that the Crown owed fiduciary duties to Māori customary owners in relation to the sale of land to the New Zealand Company in the early days of colonisation. Dr Norton's presentation also highlighted the Supreme Court intervening in trusts where there is a high degree of control by the settlor. In the 2016 decision in *Clayton v Clayton* the court ruled that control over the trust was so high that the settlor's powers were classified as relationship property. The second focus of the presentation was on charitable status and how to determine what values count as charitable purposes and what don't.

In the final session, on criminal law, evidence and family, Law Faculty academic Professor Julia Tolmie began the session by giving an analysis of how the Supreme Court approaches criminal law cases. She began by observing that the Supreme Court has undertaken a punishing workload in the criminal justice space over the past 10 years and asked whether or not it is living up to its original mandate of developing jurisprudence that is sensitive to New Zealand's independence as a nation with its own history and traditions. Professor Tolmie concluded that, while there is evidence that the Supreme Court has embarked on this task in relation to issues of criminal procedure and sentencing, the jury is still out on its impact on substantive criminal law, which she conceded is a much harder task.

Law School academic Associate Professor Scott Optican talked about the large body of evidence cases that have come before the Supreme Court in the past 10 years. The decisions all have one thing in common: they assess the admissibility or inadmissibility of various pieces of real or testimonial evidence, often under the Evidence Act 2006, by parties in criminal and civil proceedings. Associate Professor Optican pointed out that the Judges of the Supreme Court still struggle between their need to decide individual cases of admissibility and the imperative to develop evidence law in a

principled and coherent fashion. It was concluded that in the past decade the Supreme Court has been producing more rationalised, justified decisions under the Evidence Act. Decisions of the past decade are more doctrinally sound and most importantly attempt to advance our understanding of the Act's particular revisions and how they should be applied.

Professor Mark Henaghan argued that the Supreme Court has made large inroads over the past 10 years in ensuring the Property (Relationships) Act takes its place as social legislation, meaning that it takes into account financial and non-financial relationship contributions and that it values them equally. There is still room for improvement. Cases involving children should not be delayed as children's sense of time is different from adults – a fast track appeal to the supreme court on the significant issues involving children is needed. Litigants in person with arguable cases should have access to public funding for legal counsel. The timeframes from the hearing of the appeal to the delivery of the decision by the Court are still too long, which creates a lot of emotional tension for the litigants waiting for their decision.

The Conference was closed with a plenary session in which Chief Justice Dame Helen Winkelmann gave her vision for the future of the Supreme Court.

Chief Justice Helen Winkelmann set out ways the Court works. Firstly, the Court constantly operates in a collegial manner; secondly, there is no guiding or overarching philosophy as to the level at which judgments should be pitched in terms of the generality of the principles established or explored. There are some cases where it would be wrong to capture a broad statement of principles. This may be because the law is in the early stages of development in the area and should be allowed to continue to develop by application in individual cases. The Court identifies those appeals which have systemic effect – such as cases on matters of trial procedure, or on the civil side, by way of contract interpretation – with particular emphasis on achieving clarity. The Court is conscious of the need – even where there are multiple sets of reasons – to be clear as to the principles that have emerged. The Court places a high value on jurisprudence; the Court looks beyond the common law world to the jurisprudence of civil law countries and of international courts. The Chief Justice said that it is obvious that the Supreme Court of New Zealand is a constitutional court, notwithstanding the absence of power to invalidate legislation, and notwithstanding its general jurisdiction – indeed, in part because of the latter. The Chief Justice said the very nature of the work of the courts is constitutional. Courts have their own constitutional role and duty to uphold the rule of law – it is difficult to think of a duty more constitutional in nature than that. The Chief Justice concluded by saying that the Supreme Court has additional responsibility for overseeing the administration of justice, to ensure that it operates in accordance with our constitutional settlement, in accordance with the rule of law, and in a way that is fair and just. □

It was concluded that in the past decade the Supreme Court has been producing more rationalised, justified decisions under the Evidence Act.

Events

Auckland Law School has proudly hosted over 55 events this year, from public lectures and research symposia to award ceremonies and alumni gatherings. We've been thrilled to welcome a diverse group of staff, students and public to the Law School. Here are some highlights from our events.

- 01 *Auckland Law School students pictured at the May 2024 Graduation Celebration, an event hosted by the Faculty to congratulate our graduating students.*
- 02 *Auckland Law School students at the 2024 Law Awards, an annual event to celebrate the top students of the year.*
- 03 *Members of the MALOSI programme performing at the closing function of our first ever Pacific Law Week.*
- 04 *Auckland Law School Acting Dean Professor Warren Swain giving a speech to students and whānau at the 2024 Law Awards.*
- 05 *Professors Caroline Foster (Auckland) and Christina Voigt (Oslo) launching their new book International Courts versus Non-Compliance Mechanisms: Comparative Advantages in Strengthening Treaty Implementation (Cambridge University Press, March 2024).*
- 06 *Dr Suliana Mone addressing Leonie Forsgren (daughter of Olive Malienafau Nelson) and Misa Telefoni Retzlaff (former Deputy Prime Minister of Samoa), at the closing function for Pacific Law Week.*
- 07 *Auckland Law School student and co-winner Francis Wee, at the John Haigh Memorial Moot final at the Auckland High Court.*
- 08 *Professor Jinyan Li from Osgoode Hall (York University, Toronto) and Hon David Parker with Professors Craig Elliffe and Michael Littlewood, at the "Gordian Knots in Taxation - at home and abroad" event.*
- 09 *Jennifer Thompson, the Founder and President of Healing Justice, presenting her public lecture "The Myth of Closure".*





Professor Adrienne Stone

2024 Legal Research Foundation Visiting Scholar

MARK HENAGHAN

PROFESSOR STONE gave three brilliant addresses on her visit to the Law Faculty that were received with great appreciation.

Professor Stone is the great-granddaughter of Professor Julius Stone who was an early Dean of the Law Faculty and after whom the Stone Lecture Theatre at Auckland Law School was named.

Professor Adrienne Stone

Adrienne Stone is Melbourne Laureate Professor and Director of the Centre for Comparative Constitutional Studies at Melbourne Law School. She researches in the areas of constitutional law and theory in Australia and globally, freedom of expression and academic freedom. She has published widely on these topics. She teaches constitutional law, comparative constitutional law and freedom of speech across the JD and MLM programmes. As Kathleen Fitzpatrick Australian Laureate Fellow (2016–2021), she established and directed the Laureate Programme in Comparative Constitutional Law that developed a significant research capacity in comparative constitutional law at Melbourne Law School.

Among her recent publications she is the author (with Carolyn Evans) of *Open Minds: Academic Freedom and Freedom of Speech* (2021). With Cheryl Saunders AO she is editor of the *Oxford Handbook on the Australian Constitution* (2018) and with Frederick Schauer she is editor of the *Oxford Handbook on Freedom of Speech* (2021). Her appointments as Visiting Professor include Georgetown Law Centre, Sorbonne Law School (Univ Paris I), Tulane Law School (Summer School), University of Auckland and Reichman University (in 2024). She has given many distinguished public lectures including the High Court Lecture, the Sir Frank Kitto Lecture, the Fay Gale Lectures, the Korea University Distinguished Lecture, Sir Maurice Byers Lecture and the Geoffrey Sawer Lecture. In 2024 she was to deliver the UNESCO Chair in Human Rights, Democracy and Peace Annual Lecture at Al-Najah University.

She is a founding general editor of *Comparative Constitutional Studies* and an editor-in-chief of the forthcoming *Elgar Encyclopedia of Constitutional*



Law, the immediate past President of the International Association of Constitutional Law, a former Vice President of the Australian Association of Constitutional Law, an Elected Fellow of the Academy of Social Sciences in Australia and the Australian Academy of Law.

Professor Adrienne Stone with George Barton.

Professor Stone's public lecture "In Praise of Traditional Legal Scholarship"

"Recent decades have seen rapid development in legal scholarship, which now frequently draws upon methods from other disciplines. Traditional legal scholarship, by contrast, is much out of fashion. The traditional legal scholar, who analyses and synthesises primary material like case law, is considered unimaginative, pedestrian and, above all, not scholarly. I question this assessment, showing that this view of traditional legal scholarship underestimates the skill, learning and imagination to do it well. Moreover it has distinct qualities that give it special power to assist and influence practitioners, judges and law reformers. The point is significant for legal scholarship in general but I argue that it is of special interest to academics and practitioners in New Zealand and Australia." □

Research highlights 2024

JODI GARDNER, Associate Dean (Research)

THE RESEARCH success of academics at Te Wāhanga Ture has continued in 2024 despite it at times being a challenging year. The Research Mentoring programme continues and has been expanded, bolstered by writing away days organised by Assistant Dean (Research) Katherine Sanders. Conference funding has been restructured so people can access it faster, increasing the number of academics presenting their research around the world. The Law Faculty also hosted a number of transdisciplinary visiting academics throughout the year through the efforts of **Caroline Foster**, **Craig Elliffe** and **Claire Charters**.

There were books galore. **Warren Swain** published *Rethinking Unjust Enrichment: History, Sociology, Doctrine and Theory* (Oxford University Press), **Simon Schofield** has a new edition of *New Zealand Employment Law Guide* (Wolters Kluwer) and **Klaus Bosselmann** published two books with Routledge, *Earth Trusteeship and the Sovereign State: Transforming International Environmental Law and Ecological Integrity, Peace and Public Health*. Faculty newcomer **Marcelo Rodriguez Ferrere** published *The Legal Recognition of Animal Sentience: Principles, Approaches and Applications* (Hart), **Peter Underwood** wrote *Corporate Group Legitimacy* (Routledge), **Rob Batty** co-authored *Trade Marks in Practice*, 5th edition (LexisNexis). **Craig Elliffe** published *International Tax at a Crossroads* (**Edward Elgar**), which included a chapter from **Michael Littlewood**. **Mark Henaghan** co-authored the new edition of *Family Law in New Zealand* (LexisNexis) and **Alex Allen-Franks** and **Scott Optican** co-authored the new edition of *Mahoney on Evidence* (Thomson Reuters).

Faculty members also had an impressive number of publications in top-ranking New Zealand and international journals, including:

- “Account of Profits: An Exemplar of Fiduciary Doctrine?” (2023) 30 *New Zealand Universities Law Review* 549 (**Peter Devonshire**)
- “Account of Profits and the Causation Paradigm” (2024) *Lloyd’s Maritime & Commercial Law Quarterly* 188 (**Peter Devonshire**)
- “Advancing Socially Just Intimate Partner Violence Expert Testimony for Victim-Survivors Charged with Homicide: Critiquing the Old Bones in New Knowledge” (et al, forthcoming) *International Journal for Crime, Social Justice and Social Democracy* (**Julia Tolmie**)
- “A Kaitiaki Relationships Framework for Trade Marks” (2024) *New Zealand Law Review* (**Jayden Houghton**)
- “An Empirical Study of Case Law Relating to 17 U.S.C. § 203” (2024) 64(3) *IDEA: The Law Review of the Franklin Pierce Center for Intellectual Property* 678 (**Josh Yuvaraj**)
- “A Tort of Misappropriation of Culture” (2024) 29 *Torts Law Journal* (**Jayden Houghton**)
- “Between Functionalism and Hegemony: Regional International Organizations in the History of International Law” (2024) 21 *International Organizations Law Review* 65 (**Guy Sinclair**)
- “Between Salvation and Cynicism: TWAAIL Perspectives on International Organizations” (2024) 5/23 *Jean Monnet Working Papers* 1 (**Guy Sinclair**)
- “Breaking the Impasse: the Case for Establishing a Non First Nuclear Threat Norm” (2024) *Journal on the Use of Force and International Law* (**Anna Hood** with **Monique Cormier**)
- “Charity and Politics – Where Did We Go Wrong?” (2024) *Legal Studies* (forthcoming) (**Jane Norton** and **Matthew Harding**)
- “Due Regard for Future Generations? The No-Harm Rule and Sovereignty in the Advisory Opinions on Climate Change” *Transnational Environmental Law* (forthcoming) (**Caroline Foster**)
- “Defending Primary Victims who Face Criminal Charges for the Use of Defensive Force Against their Abusive Partners: Attempting to Change Law’s Practices” (2024) 47(2) *University of New South Wales Law Journal* 626 (**Julia Tolmie** with **Rachel Smith** and **Denise Wilson**)
- “Eroding our conscience: Why we must shore up religious freedom in Aotearoa New Zealand” (Maxim Institute) (**Marcus Roberts**)
- “Incorporating Crisis: Time to Shift the UK Paradigm away from Shareholder Primacy” *European Business Law Review* (2024 forthcoming) (**Peter Underwood**)
- “Law, War and Letter Writing” *European Journal of International Law* (2024) (**Anna Hood** and **Madelaine Chiam**)
- “Legal Viewpoint: Some Questions for WorkSafe” (2024) 1 *SafeGuard* 8 (**Simon Schofield**)
- “The US Government’s 1967 Plan for the Survival of the Tax System in the Event of A Nuclear Attack” (2024) 43 *Virginia Tax Review* 415 (**Michael Littlewood** with **Micah Burch**)
- “Not Worth the Paper It’s Written on: Contractual Rectification – an Historical Account” (2023) 17 *Journal of Equity* 161 (**Warren Swain**)
- “Saving the Earth for Future Generations: Some Reflections” (2024) 54 *Environmental Policy and Law* 101 (**Klaus Bosselmann**)
- “Understanding Intimate Partner Violence: Why Coercive Control Requires a Social and Systemic Entrapment Framework” (2023) 30(1) *Violence Against Women* 54 (**Julia Tolmie**, **Rachel Smith** and **Denise Smith**)
- “Victim-Survivors of Intimate Partner Violence Who are Forced to Participate in Crimes: Are They Treated Fairly in the Criminal Law?” (2023) 8 *New Zealand Women’s Law Journal* 117 (**Julia Tolmie**, **Denise Wilson**, **Rachel Smith** and **Jane Norton**)
- “Victim-Survivors of Intimate Partner Violence Forced to Participate in Crimes: Some Thoughts on the Potential Application of Discrimination Law” (2023) 8 *New Zealand Women’s Law Journal* 148 (**Julia Tolmie** and **Jane Norton**)
- “Wai 262 Response: A Whole-of-Government Approach?” (2024) 4 *Legalities* (**Jayden Houghton**)

- “Wai 262 Response: Prioritising the Treaty Relationship to Design a Reconciliatory Procedural Framework” (2024) 31 *New Zealand Universities Law Review* (Jayden Houghton)

There were numerous and varied chapters in edited collections. **Mark Henaghan** (with **Christian Poland**) wrote “Children and the reach of family property: the rhetoric and the reality” in the *Research Handbook on Family Property and the Law*. **Julia Tolmie** (with **Paulette Benton-Greig** and **Nicola Gavey**) wrote “Grooming, ‘Rough Sex’ and Coercive Control in the Criminal Law: ‘Culturally Mandated’ Sex and Violence Against Women” in the *Research Handbook on Domestic Violence and Abuse*. **Nicole Roughan** had multiple chapters: “Recognition and the Concept of a Legal System” in *Jurisprudence in the Mirror: the Common Law World Meets the Civil Law World* (Oxford University Press), “Officials, Subjects and the Challenge of (International) Legality” in *Oxford Studies in Philosophy of Law* (vol 5) (Oxford University Press) and “Plurality of Laws and Conflict of Laws: Reconciling through Recognition?” in *Philosophical Foundations of Private International Law* (Oxford University Press). **Guy Sinclair** wrote “‘Organic Evolution’ in the United Nations: Retrospect and Prospect” in *Global Governance and International Cooperation: Managing Global Catastrophic Risks in the 21st Century* (Routledge) and “A ‘Better Way’ of World Making? International Law and Development at the United Nations” in *The Oxford Handbook of International Law and Development* (Oxford University Press). **Michael Littlewood** had a chapter “The OECD as a Lawmaker, the Rule of Law and the Instructive Case of New Zealand” in *Tax, Public Finance and the Rule of Law* and **Anna Broadmore** had a chapter “Deceit and the Creation of Life” in *Life and Death in Private Law*, both published by Hart. **Warren Swain** contributed “Vicarious Liability: Antiaris Toxicaria in Australia” to *Australian Tort Law in the 21st Century* (Federation Press). **Tim Kuhner** has written on “Campaign Contributions” in *The Oxford Handbook of American Election Law* (Oxford University Press). **Claire Charters**, **Fleur Te Aho** and **Tracey Whare** wrote two chapters together: “The United Nations Declaration on the Rights of Indigenous Peoples and te Tiriti Relationships” in *Te Tiriti o Waitangi Relationships: People, Politics and Law* (Bridget Williams Books) and “Contemporary Critical Legal Accounts of the Relationship between International Law and Domestic Law and Policy” in *Handbook of Indigenous Public Policy* (Edward Elgar).

A number of faculty members attended the Australia and New Zealand Society of



Professor Jodi Gardner

International Law conference in Melbourne in July, including **An Hertogen**, **Anna Hood**, **Caroline Foster** and **Dylan Asafo**. **Janet McLean** and **Michael Littlewood** organised the 20th anniversary of the Supreme Court Conference, which featured several Auckland academics. Conference papers will be published in a collection by LexisNexis edited by Janet and Michael.

Law School academics travelled the world including **Craig Elliffe** visiting Oxford and Milan and **David Grinlinton** heading to Cambridge. **Mark Henaghan** went to Colorado, **Janet McLean** and **Hanna Wilberg** to Ottawa and **Peter Devonshire** to Bristol and London. **Alex Allen-Franks** presented in Rome and Madrid (as well as graduating with her PhD from Cambridge), **Anna Hood** visited the United Kingdom and Japan, **Jaime King** presented in the US and **Dylan Asafo** visited the UK’s LSE to present at the Epistolary International Law Workshop. **Jane Norton** gave a keynote address on equality at the Universidade Católica Portuguesa in Lisbon and was a visiting scholar at Munich’s Max Planck institute and Universidad Autonoma in Madrid. **Arie Rosen** presented at the Contract Theory Works in Progress Workshop held at UC Berkeley’s Center for Private Law Theory. New Professional Teaching Fellow **Matthew Bartlett** attended the Columbia Science and Technology Law Review Symposium in New York and **John Ip** presented on the independent review of

counterterrorism legislation at the ICON-S Conference in Sydney.

Guy Sinclair, **Carrie Leonetti** and **Kate Doolin** had a competition to see who could rack up the most frequent flyer miles, Guy going to New York University School of Law, Temple University Beasley School of Law, the Lauterpacht Centre for International Law at Cambridge University and Edinburgh School. Carrie went to the US, Italy and Ottawa, not to mention Wellington. And Kate visited Tallinn, London, Belfast, Glasgow and Boulder, US.

There was also a lot of important work undertaken in Aotearoa. **Suliana Mone** and **Nicole Roughan** both presented at the Pluralising Legalities Conference in Otago. **Maureen Malcolm** attended Te Hunga Rōia Māori conference, which was invaluable for her work developing tikanga for the Faculty. **Julia Harper-Hinton**, **Maureen Malcolm** and **Amelia Kendall** ran a panel discussing the *Ellis* case and treatment of tikanga in the common law.

We had numerous media appearances including by **Claire Charters** on Aotearoa’s position as a world leader in Indigenous rights, imagining a new constitution and the loss of the Māori Health Authority, **Mark Henaghan** talking on the sentencing of Lauren Dickason and the Scott Watson appeal, **Josh Yuvaraj** on the Alalaakkola case (in which a woman was trying to prevent her husband claiming half the

copyright in her paintings as relationship property) and on Disney's attempt to escape liability for wrongful death in the US, **Treasa Dunworth** providing her wisdom on Gaza and the Ukraine War, **Marcus Roberts** appearing on the use of AI and government policy, **Carrie Leonetti** speaking about family violence, **Nikki Chamberlain** giving advice on various privacy and defamation issues, **Alex Allen-Franks** advising on trade marks and **Simon Schofield** on numerous employment law matters and whistleblowing. **Marcelo Rodriguez Ferrere** sponsored a petition calling for the ban of imports of animal products that do not meet New Zealand welfare standards and appeared frequently in the media about the petition. **Anna Hood** was interviewed by a Japanese newspaper in Tokyo (*Chugoku Shimbun*) on her work on victim assistance and environmental remediation provisions in the Treaty on the Prohibition of Nuclear Weapons. **Eru Kapa-Kingi** wrote about making mokopuna decisions. **Scott Optican** was particularly prominent in the media providing commentary on various matters related to evidence, criminal trial practice and criminal justice, the US criminal prosecutions against former President Donald Trump and the upcoming 2024 US presidential election. **Suliana Mone** appeared on radio and TV to discuss Pacific law including the constitutional challenges in Tonga.

Our academics are also making an impact both academically and beyond. **Warren Swain** was cited in the High Court of Australia. **Carrie Leonetti** has undertaken important policy work in parental alienation and domestic violence. **Claire Charters**

was reappointed by the President of the UN General Assembly to advise on a resolution to enhance Indigenous peoples' participation in international institutions. **Jane Norton** (and **Dean Knight**) wrote a collaborative project for the International Centre for Not-For-Profit Law on New Zealand's Covid response. **Kate Doolin** provided professional development training for restorative justice facilitators working in the North Island, recorded a podcast series on research on restorative justice in prisons for the UK Restorative Justice Council and organised a knowledge exchange/ stakeholder event held in London with the UK Restorative Justice Council. **Nicole Roughan** and **Alex Allen-Franks** both spoke at 2024's Raising the Bar event. **Jane Norton** and **Michael Littlewood** served as editors of the *New Zealand Law Review*, Aotearoa's premier legal journal. **Hanna Wilberg** wrote a piece in *The Conversation* on how forcing people to repay welfare "loans" traps them in a poverty cycle and asking where the policy debate about that is.

We also had a number of academics sitting on crucial government and research committees. Some particular achievements to note include **Klaus Bosselmann** advising the UN Secretary-General in preparation of the UN Summit of the Future, **Scott Optican** as a member of the NZ Law Commission expert advisory group on evidence law, **Nikki Chamberlain** providing advice to the Office of the Privacy Commissioner on the Children and Young People's Privacy project and **Anna Hood** acting as a legal adviser for the International Peoples' Tribunal on the Bombing of Hiroshima and Nagasaki in

1945. Emeritus Professor **David V Williams** was a member of the Waitangi Tribunal that published *The Interim Report of the Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles Bill and Treaty Clause Review Policies* (August 2024). **Andrew Erueti**, meantime, was a Commissioner for the Abuse in Care Royal Commission of Inquiry. This report will help seek recognition and justice for the estimated 256,000 children, young people and adults who were abused and neglected while in care.

None of the achievements this year would have been possible without the support of **Charlotte Bennett** and **Yang Du** – thanks to both. Unfortunately it is likely that funding will be harder to secure in the near future and this could affect our ability to undertake cutting-edge research. If you are interested in supporting the Faculty's work, please get in contact with me, or the Faculty's Development Manager **Donald Lawrie**, who engages with donors and other external sources to solicit research funding. □

SSRN Research Paper Series

2024 SAW THE launch of the Faculty of Law's SSRN Research Paper Series. SSRN is one of the world's leading repositories of academic research, particularly for legal scholarship. It is known for the publication of "preprints", working papers and other pre-publication documents. The Research Paper Series brings the excellent research published by our academics into one easily accessible location. At the time of writing, our research has been downloaded more than 104,000 times and been viewed more than 532,000 times. This highlights the impressive reach and quality of our research, showing us to be one of the leading legal research institutions in the Asia-Pacific region.

To underline the world-leading research we produce, we have also released several "best of" collections of papers on SSRN. These include the Best of Theory and History, Best of Public and Environmental Law and Best of Private Law. These curated collections draw from our academics' best papers across these vital areas of legal research and more. We plan to release more e-journals in 2025. We encourage everyone to subscribe to our Research Paper Series for updates and share them with colleagues, friends and anyone else who may be interested.

The New Zealand Centre for Law and Business

CRAIG ELLIFFE, *Director*

2024 SAW SEVERAL new initiatives for the New Zealand Centre for Law and Business. The centre celebrated the launch of three new books written or edited by our members: *Rethinking Unjust Enrichment*, edited by Warren Swain and Sagi Peari, *International Tax at the Crossroads*, edited by Craig Elliffe, and *Trade Marks in Practice*, by Rob Batty and Kevin Glover.

Rethinking Unjust Enrichment, launched in March at the Law School, collects a range of views that question the dominant position of the unjust-enrichment movement, accommodating a broad range of voices from New Zealand, the UK, the US, Australia, Canada, China, Singapore, Germany, Ireland, Hong Kong and South America. Some sceptics among them think the present unjust-enrichment doctrine must be seriously qualified and others think it should be eliminated.

The contributions cast doubt on the various parameters of unjust enrichment from an analytical standpoint, representing four interrelated perspectives: history, sociology, doctrine and theory. The four-limb structure of the book provides readers with a clear understanding of the present problems of unjust enrichment at the deepest levels of its history, sociological forces, doctrinal fallacies and normative deficiencies. This treatment of the subject serves as the basis for a comprehensive reform across jurisdictions.

Also launched in March, *International Tax at the Crossroads* provides an in-depth assessment of the critical issues affecting the taxation of cross-border transactions. The book arose from an international conference held in Auckland. It discusses some of the significant questions in international tax such as what is the right institution to lead the development of new policies, where the problems lie in multilateral solutions and how alternatives to multilateral solutions would work. Chapters were contributed by Reuven Avi-Yonah of the University of Michigan, Wolfgang Schön of the Max Planck Institute in Munich, Philip Baker KC, barrister and Professor at Oxford, John Vella of the University of Oxford, Wei Cui of the University of British Columbia, Ruth Mason of the University of Virginia and Miranda



Professor Jinyan Li from Osgoode Hall (York University, Toronto) and Hon David Parker with Professors Craig Elliffe and Michael Littlewood, at the “Gordian Knots in Taxation – at home and abroad” event.

Stewart of the University of Melbourne. There were also excellent papers by local academics, including Chris Noonan, Michael Littlewood, Matt Andrew, Craig Elliffe and Julie Cassidy of the University of Auckland, and Alison Pavlovich of Victoria University of Wellington and Victoria Plekhanova of Massey University (now the University of Auckland).

The third book, written for the busy practitioner and cited in numerous decisions of the courts and the Intellectual Property Office of New Zealand, is *Trade Marks in Practice*. This book, launched at Shortland Chambers in August, is an accessible guide to the Trade Marks Act 2002. With easy-to-follow section-by-section commentary and updated case law, the entire text has been substantially revised since the fourth edition, with Rob Batty and Kevin Glover taking over from Paul Sumpter following his retirement. *Trade Marks in Practice*, fifth edition, includes extended commentary on critical sections of the Trade Marks Act 2002. Kevin and Rob were grateful that the author of earlier editions and former Law School colleague Paul Sumpter could attend. The event was well attended, and members of the judiciary, academics and practitioners were present.

In April we had an opportunity to host Professor Jinyan Li from Osgoode Hall, York University in Toronto and the Honourable David Parker. They provided separate presentations on different topics, Jinyan discussing the now enacted Canadian digital services tax and David discussing the effect of inflation on interest deductibility. It was a lively and interesting discussion with great audience participation, especially as David was the Minister of Revenue when the question of a New Zealand digital services tax was actively discussed and the DST Bill first introduced into the New Zealand Parliament.

The Centre hosted Professor Lisa Marriott from Victoria University of Wellington in October. Professor Marriott gave a well-attended public seminar on the issue of tax crime in New Zealand and elsewhere. She concluded that New Zealand’s approach to fighting tax crime falls short compared with other OECD countries. This presentation explored New Zealand’s broad approach to tackling tax crime and compared the approaches to prosecuting tax fraud in Aotearoa, Australia and the United Kingdom. □

The New Zealand Centre for Human Rights Law, Policy and Practice

ALEX ALLEN-FRANKS *and* CARRIE LEONETTI, *Directors*

THE NEW ZEALAND Centre for Human Rights Law, Policy and Practice has had a busy few months. Highlights include:

Co-hosting a lecture with Te Puna Rangahau o te Wai Ariki – The Aotearoa New Zealand Centre for Indigenous Peoples and the Law

In October 2023 the Centre co-hosted a lecture by Professor David B MacDonald titled “Settler State Genocide Recognition and Indigenous Self-Determination: Some Considerations from Canada”. Dr MacDonald is a Professor of Political Science at the University of Guelph in Canada and was in Aotearoa as a Visiting Scholar at Auckland Law School and as a Fellow at the Aotearoa Centre for Indigenous Peoples and the Law.

Staff seminar by Visiting Scholar Dr Eleni Frantziou

In early 2024 the Centre hosted Dr Eleni Frantziou as a Visiting Scholar. Dr Frantziou is an Associate Professor in Public Law and Human Rights at Durham University. Her research focuses on the application of human rights in legal disputes between private parties (“horizontal effect”). Dr Frantziou’s staff seminar involved presentation of her findings on the extent of horizontal effect in written constitutions in force around the world. Dr Frantziou challenges the assumption that the horizontal application of constitutional rights is an exceptional feature of only a handful of constitutions.

Lecture by Jennifer Thompson on “The Myth of Closure”

In April 2024 the centre hosted Jennifer Thompson for a public lecture on ‘The Myth of Closure’. Jennifer is the founder and President of Healing Justice, which aims to address the personal toll of wrongful convictions on all involved. She founded Healing Justice after her experience with a failed criminal justice process that sent an innocent person to prison and left the true perpetrator free to commit more crimes. She is an internationally known advocate for criminal justice reform focusing on the human impact of wrongful convictions, the fallibility of eyewitness testimony, the need to combat sexual violence and the healing



Attendees at the ATRIP Congress in Rome (July 2024), including Alex Allen-Franks.

power of forgiveness. She was a member of the North Carolina Actual Innocence Commission and worked with the North Carolina legislature to pass the Racial Justice Act. She is the co-author of the New York Times bestseller *Picking Cotton*.

Co-Director Associate Professor Carrie Leonetti presents at conferences in Canada and Italy

Centre Co-Director Associate Professor Carrie Leonetti is on research leave until mid-2025 and is doing interesting work all around the world. In June 2024 she presented “The Problems with Parental Alienation” at the plenary session of the International Forum on Parental Alienation and Domestic Violence at the University of Ottawa in Canada. Carrie’s talk followed the opening statement by Reem Alsalem, the UN Special Rapporteur on Violence Against Women and Girls. Carrie is part of an international forum of researchers funded by a grant from the Canadian government who study the intersection of gender-based violence, child custody proceedings and gender bias internationally. Her presentation focused on the way the junk science of “parental alienation” fosters gendered myths about family violence in family courts and prevents the justice system from protecting victims.

In the same month Carrie presented “The Need for a Gendered Understanding of Intimate Partner Violence and Post-Separation Lethality in European Family Law” during the Workshop on Gender Analysis in EU Political Economy at the Robert Schuman Centre at the European University Institute in Florence, Italy. Carrie’s paper was part of a workshop panel that focused on mainstreaming intersectionality in EU gender-equality discourse.

Faculty of Law involvement in the 10th annual ICON-S conference on “The Future of Public Law”

The 10th annual ICON-S (International Society of Public Law) conference was held at IE University in Madrid from 8 to 10 July. Centre Co-Director Dr Alex Allen-Franks presented on “Using the Inherent Power of the Court as a Tool to Remedy Human Rights Violations” on a panel organised around the theme of “Small ‘c’ Constitutional Interpretation and Change”. Centre affiliated members Dr Jane Norton and Associate Professor Timothy Kuhner also presented work. Dr Norton presented on “Limiting Rights During a Pandemic – Methodological Lessons from Aotearoa New Zealand” on a panel organised around the theme of “Deference, Accountability and Administrative Justice: A View from

the Common Law World”. Tim chaired a panel on “Oligarchy: Should Public Law Respond?”, which he also presented on. Tim also presented on “Oligarchy vs Democratic Integrity: the Great Divide in Comparative Constitutional Interpretation” as part of the “Democratic Integrity: Comparative Constitutional Perspectives” panel and on “The Corruption of Public Law and the Need for Constitutional Renewal” as part of the “Human Rights, Technology and Corruption” panel. The conference, attended by more than 2,000 people, included a keynote from Siofra O’Leary (ex-President of the European Court of Human Rights) titled “Human Rights in Times of Trouble: Some Reflections on Sustainability and Resilience”.

Co-Director Dr Alex Allen-Franks presents at a human rights-intellectual property congress in Italy

In July centre co-director Alexandra Allen-Franks presented at the 42nd annual ATRIP Congress on the registration of offensive trade marks with a presentation titled “Trade Mark Registration Through the Lens of the Integrity Principle”. Although intellectual property issues may not often be top of mind when one thinks of human rights law, the four-day conference organised around the theme of “Intellectual Property, Ethical Innovation and Sustainability” illuminated many human rights issues arising in intellectual property law. These include the role of trade mark law in promoting or restricting freedom of expression; the interaction between patent law and the right to life or health; and interaction between copyright law and cultural appropriation. Alex is developing a course on human rights and intellectual property law.

Centre involvement with Substantive Equality Month

Substantive Equality Month ran for four weeks in July and August. Alex was a member of the Substantive Equality Month sub-committee that organised events centred on the theme of “the Housing Crisis”. She facilitated an event on the interaction of the Treaty of Waitangi te Tiriti o Waitangi and housing in Aotearoa New Zealand that involved presentation of research by Jacqueline Paul and commentary from Max Harris. Alex also ran an event at the end of the month that involved Faculty of Law engagement with representatives from the Ministry of Justice ahead of New Zealand’s 2025 state report on compliance with the International Covenant on Economic, Social and Cultural Rights. □



Jennifer Thompson presents on “The Myth of Closure” in April 2024.



Dr Jane Norton presenting at the ICON-S Conference in Madrid in July 2024.



Alex Allen-Franks’ panel at ICON-S, Madrid, July 2024: Brian Christopher Jones, Alex Allen-Franks, Lida Ayoubi, Natalie Fox and Suellen Moura.

The New Zealand Centre for Legal and Political Theory

ARIE ROSEN *and* NICOLE ROUGHAN, *Directors*

THE CENTRE FOR Legal and Political Theory has had a busy 2024.

Our seminar series featured four visitors beginning in February with Associate Professor Christopher Essert (Toronto) presenting his work on public trespass. In May, Dr Meir Hai Yarom (University of Sydney) gave an address entitled “Validity Unchained? Kelsen’s Pure Theory between Hierarchy and Finality”. The following month Associate Professor Devika Hovell (LSE) presented “Three Perspectives on Collective Security”. And in October, Dr Jan Mihal from the University of Otago joined us to discuss his paper “General Virtue Jurisprudence – A Character Framework for Understanding, Analysing and Engineering Law”.

The Centre’s annual Theory Matters lecture was delivered in September by Professor Farrah Ahmed from the University of Melbourne who addressed a keen audience on the topic of “Secularism as Fraternity”, asking how constitutional secularism can help communities to live well together despite religious differences.

The Centre’s collaborative research seminar series, *Pluralising Legalities*, which has run online over the past two years, culminated in the same month with an in-person workshop hosted by the Otago Centre for Law and Society. The event included presentations from Dr Suliana Mone, Associate Professor Nicole Roughan and our colleague from criminology Tamasailau Suaalii.

In October members of the Centre leadership participated in an inaugural legal philosophy exchange with the Centre for Legal Theory at the National University of Singapore. The event involved workshopping three draft chapters from in-progress book manuscripts with Dr Arie Rosen presenting “Liberal Political Authority and Private Right”, Associate Professor Jesse Wall conducting “Coercion, Consent and Criminalisation” and Nicole Roughan taking the lead on “Officials, Subjects and a Recognition Model of Legality”. The exchange endeavours to connect scholars working in legal philosophy at leading research centres around the world. We plan to reciprocate with colleagues from Singapore and extend the informal exchange arrangements with other research centres.



Arie Rosen, Professor Farrah Ahmed and Nicole Roughan. Left: Professor Farrah Ahmed presenting Theory Matters lecture at Auckland Law School.



The Centre’s student-run jurisprudence reading group continues to provide a forum for keen undergraduates to meet and discuss work in legal theory. This year the group has been convened by Jack McKenzie.

Also notable during the year has been the launch of a new website with details of Centre activities and projects. Site visitors can join our mailing list for notices of upcoming public events. □

Te Puna Rangahau o Te Wai Ariki / The Aotearoa New Zealand Centre for Indigenous Peoples and the Law

CLAIRE CHARTERS *and* ANARU ERUETI, *Directors*

TE WAI ARIKI continued to provide expert advice and advocate for Māori and Indigenous peoples' rights domestically and internationally during 2024.

In March, Professor Claire Charters completed her work as Rongomau Taketake, Indigenous rights governance partner, at Te Kāhui Tika Tangata The New Zealand Human Rights Commission.

Associate Professor Anaru Erueti completed his several years' mahi on the Abuse in Care Royal Commission, which issued its final report on 26 July. Anaru takes over as Co-Director of the Centre from Dr Fleur Te Aho, who has enrolled at Takiura. In July and October he co-convened with Dame Justice Lowell Goddard the Royal Society Te Tapeke Fair Futures Panel: Exploring equality, equity and fairness in Aotearoa.

The Centre continues to provide advocacy support at the United Nations with, for example, Claire Charters speaking at the Plenary on enhanced participation at the UN Permanent Forum on Indigenous Issues. Tracey Whare also participated in UN meetings addressing the enhancement of the participation of Indigenous peoples in the UN Human Rights Council.

Claire was an adviser to the UN President of the General Assembly on enhancing participation at the body, a resolution to that effect being passed in early September.

The Centre provided expert advice to agencies and organisations both inside and outside government on Māori and Indigenous rights. And Claire, Anaru and Jayden Houghton contributed to media reporting on such matters as amendments to the Takutai Moana Act 2011. The Centre also helped prepare the petition to object against the *New Zealand Herald's* Hobson's Pledge advertisement, which was signed by more than 170 legal academics and professionals.

Tracey presented at the International Forum on Legal Aid in Taiwan, which has led to strengthened networks with the Indigenous peoples of that island.

Opportunities for taura Māori

The Centre website is now hosting student legal research essays that relate to Māori legal issues: <https://www.auckland.ac.nz/en/law/our-research/research-centres/te-puna-rangahau-o-te-wai-ariki/student-essays.html>

The Centre is also preparing to teach the Columbia Law School Indigenous rights programme in 2025 and expects to support taura to attend.

The Indigenous Rights Legal Clinic, which since 2019 has provided Auckland Law School taura with practical opportunities to work on issues of importance for Māori and to learn more about tikanga Māori, has been led in 2024 by barrister Kingi Snelgar.

Anaru is teaching a new course on comparative Indigenous rights. And in January, Claire was invited to teach an intensive Indigenous rights course at the University of Toronto Law Faculty. Tracey was appointed as the first Māori law scholar course director for the core first-year course LAW 121G.

What's been on

The Centre co-hosted the Constitutional Conference with the Iwi Chairs Forum and Te Kāhui Tika Tangata in April.

Also in April, José Francisco Calí Tzay, the United Nations Special Rapporteur on the Rights of Indigenous Peoples, gave the 2024 Nin Tomas Memorial Lecture, in which he talked about lessons learned from constitutional reform movements and about the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

Collaborations

Members of Te Wai Ariki have continued to work with Māori legal academics on the "Indigenising the LLB" project and to plan implementation of the Council of Legal Education's requirement that tikanga be taught as part of the LLB from 2025.

Members of Te Wai Ariki are collaborating with colleagues at the University of British Columbia and the University of Guelph on a project that will run until 2028 on "Maximising Indigenous Self-Determination: Theory and Practice of Indigenous Sovereignties in Settler States and the International System".

The Centre is also collaborating with and hosting academics and students from Melbourne Law School regarding "Indigenous Law in Aotearoa and Australia". And we are working towards a partnership with UCLA Law School and the University of Hawai'i at Manoa.

Targeted research on Māori and Indigenous peoples' rights

Jayden has written several articles in New Zealand law reviews on tikanga and intellectual property and has co-authored a book, *Aotearoa New Zealand Law: Foundations and Method* (3rd ed, Thomson Reuters, Wellington, 2024) launched in November.

Claire, Fleur and Tracey co-wrote "The United Nations Declaration on the Rights of Indigenous Peoples and te Tiriti Relationships" in *Te Tiriti o Waitangi Relationships*, the book edited by Metiria Stanton Turei, Nicola Wheen and Janine Hayward and published in 2024 by Bridget Williams Books.

Visiting Fellows

The Centre hosted Sophia Frey, a PhD student at the University of Mannheim (Germany), in February and March and welcomes further applications from people with a particular interest in Indigenous rights in New Zealand and internationally. □

The New Zealand Centre for Environmental Law

CAROLINE FOSTER *and* DAVID GRINLINTON, *Directors*

Rights of Nature symposium

Klaus Bosselmann hosted a hybrid New Zealand Centre for Environmental Law (NZCEL) symposium on the “Te Awa Tupua Act and the Rights of Nature Discourse: In Search for Common Ground” in February 2024 with a panel comprised of members of Te Kōpuka (Gerrard Albert, Keith Beautrais, Colleen Sheldon) and speakers including Green Party Co-leader Hon Marama Davidson, University of Auckland Associate Professor Krushil Watene, Dr Andreas Gutmann of the University of Kassel, the University of Marburg’s Jenny Garcia Ruales, Dr Matthias Kramm of Wageningen University, André Kahl of the University of Halle, Professor Martin Kment of the University of Augsburg, University of Oldenburg’s Professor Tilo Wesche and Dr Stefan Knauss of the University of Halle.



Future Generations Series 2024

The first event in the NZCEL Future Generations Series 2024, a panel on the Supreme Court’s strike-out decision in *Smith v Fonterra*, was held on 2 May with 75 people in attendance with participants including David Bullock, Daniel Kalderimis, Simon Ladd, Matanuku Mahuika and Judge David Kirkpatrick. On 27 May the Centre staged the second event in the series, “A Conversation with Professors Joanna Mossop and Caroline Foster”, on the International Tribunal for the Law of the Sea (ITLOS) Advisory Opinion on Climate Change of 21 May 2024, moderated by Justin Sobion. The transcript is available [here](#).

Submissions to the Environment Select Committee on the Fast-track Approvals Bill 2024

David Grinlinton, Vernon Rive, Caroline Foster and Ken Palmer made submissions on this Bill, as well as ELSA.

Submissions to the International Court of Justice (ICJ), International Tribunal for the Law of the Sea (ITLOS) and Inter-American Court of Human Rights (IACtHR) on Advisory Opinions on Climate Change

Prue Taylor liaised on the Advisory Opinion

with the Human Rights Commission and encouraged Ministry of Foreign Affairs and Trade engagement with Māori, LCANZI, Oxfam, UNESCO and WCEL. Caroline Foster, who has been a member of the International Union for the Conservation of Nature (IUCN) legal team for its submissions to the ICJ, assisted the IUCN by peer-reviewing its submission to ITLOS and submitted an amicus curiae brief to the IACtHR.

Book launches

NZCEL is pleased to celebrate the launches of Justin Sobion and Hans van Willenswaard’s (eds) *Reflections on Earth Trusteeship – Mother Earth and a New 21st-Century Governance Paradigm* (INI Books, 2024) and Christina Voigt and Caroline Foster’s (eds) *International Courts versus Non-Compliance Mechanisms: Comparative Advantages in Strengthening Treaty Implementation* (Cambridge University Press, 2024).

New Zealand Journal of Environmental Law: the 27th issue was published under the general editorship of Professor David Grinlinton. New subscriptions to the *Journal* can be arranged by emailing d.grinlinton@auckland.ac.nz

Environmental Law Students’ Association (ELSA)

NZCEL was pleased to co-sponsor or financially support the University of

Auckland Environmental Law Students’ Association with its roundtable discussion with MFAT officials on the subject of the New Zealand submission to the ICJ on the forthcoming Advisory Opinion on Climate Change on 26 September 2023; a roundtable with Christina Voigt (University of Oslo) on 29 February 2024; and a lecture and discussion with New Zealander of the Year Jim Salinger on 2 May 2024.

Faculty visitors

Professor Tonia Novitz of the University of Bristol, Associate Professor Piotr Szewo and Lena Helińska of Kraków’s Uniwersytet Jagielloński and Bastiaan Ewoud Klerk of the Arctic University of Norway’s Norwegian Centre for the Law of the Sea (NCLOS) have visited the University of Auckland this year.

Retirement of Prue Taylor

NZCEL Deputy Director Prue Taylor of the Department of Planning has retired from the University. Prue was a foundational supporter and member when the Centre was formally established through the University of Auckland in November 1998. She has authored numerous environmental law publications and academic articles and contributed tirelessly to NZCEL’s purposes, environmental sustainability, education, student well-being and law reform. Her long-term contribution to NZCEL’s objectives is acknowledged as outstanding and we wish her all the best with her future activities. □

Philanthropy highlights

THE FACULTY OF LAW is very grateful for the ongoing support of many generous donors who make an enormous contribution to the academic life and vibrancy of the Faculty in a range of its endeavours and initiatives.

Particular highlights of 2024 have been two landmark events the successful delivery and outcomes of which significantly benefitted from additional donor support.

Over two days in April the Faculty's Te Puna Rangahau o Te Wai Ariki/The Aotearoa New Zealand Centre for Indigenous Peoples and the Law co-hosted the Designing our Constitution Conference in partnership with the National Iwi Chairs and Human Rights Commission and supported by the JR McKenzie Trust and the Michael and Suzanne Borrin Foundation. Held in memory of Dr Moana Jackson, the Conference aimed to build on conversations sparked by his landmark report *Matike Mai Aotearoa* and identify practical steps towards designing an inclusive constitution for Aotearoa based on tikanga and kawa, he Whakaputanga, te Tiriti O Waitangi and human rights. Generous additional contributions from Faculty donors enabled organisers to increase both in-person attendance and the Conference's online reach off-site and to a nationwide audience that would otherwise not have been possible.

Similarly, donor support significantly boosted the reach and success of the first ever Pacific Law Week held from 15 to 19 July at the start of Semester 2. Organised and presented by the Faculty's FOLAU team of Pacific academic and professional staff, the week included a series of public lectures, panel discussions and student events that culminated in a magnificent closing ceremony in the University's Fale Pasifika. Attended by Pacific luminaries including Sir Michael and Lady Maliena Jones, Sir Bryan and Lady Lesley Williams, Tana and Rochelle Umaga, Judge Tania Sharkey, the Michael and Suzanne Borrin Foundation Chief Philanthropic Officer Pulotu Tupe Solomon-Tanoa'i and many others, it featured both the formal award of the 2024 Olive Malienafau Nelson Scholarship funded by the Sir Michael and Lady Maliena Jones Foundation and the inaugural Olive Malienafau Nelson Lecture. Delivered by special guest Tugaga Lesamataunuu Misa Telefoni Retzlaff, former Deputy Prime Minister and Attorney General of Samoa, the lecture gave a moving account of his direct forebears' participation in the Mau movement for

Samoa independence that was warmly received by a capacity audience.

Special mention is due to long-time Faculty donor and supporter Donna Mummery for her important contribution to the Faculty's New Zealand Centre for Environmental Law. In addition to her contribution to the ongoing success and development of the Centre, her support enabled the visit of Dr Jim Salinger, the 2024 Kiwibank New Zealander of the Year, to the Faculty to deliver a special lecture to students convened by the Environment Law Students' Association, followed by a Q&A well attended by both Faculty students and staff.

Law firms have continued to be generous in their support of the Faculty's student-led Mooting Society among which this year's highlights have included Meredith Connell's Law and Technology Moot and the first ever Inter-University Moot generously supported by Simpson Grierson. □



Mrs Leone Forsgren (daughter of Olive Malienafau Nelson and mother of Lady Maliena Jones) and Tugaga Lesamataunuu Misa Telefoni Retzlaff (Former Deputy PM/AG of Samoa) with Kara Irwin (recipient of the 2023 Olive Malienafau Nelson Scholarship).

Donor wall

Auckland Law School thanks all alumni and friends for their support, including the following alumni and friends who have given support over the past year:

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We would also like to acknowledge and thank the law firms and individuals who have assisted the students at Auckland Law School through mentoring, judging competitions, speaking at events and offering support for student-led initiatives throughout 2024.

In memoriam

Professor Emeritus Jim Evans

A number of colleagues will speak after me. We will hear how inspiring Jim was to many people. I have also received messages from Jim's former students and colleagues overseas. All have attested to Jim's intellect and all have also mentioned his humanity and warmth of personality. Many have also remarked on his strong sense of humour. These messages have rung so true. Lovely tributes from overseas have included ones from Georgos Mousourakis in Japan, Timothy Endicott and Richard Ekins in Oxford and Andrew Simester in Singapore. I have three tributes to read out [Ron Paterson, Paul Key and Andrew Simester].

Jim and I had a great friendship. In the days when he was still on the full-time staff, quite a long time ago now – 2004, we would have lunch together about once a week. Never a shortage of things to talk about – legal, political, scientific or just daily news. In the memo I sent to the Law Faculty the day Jim died I mentioned how whenever I had a knotty problem I couldn't work out I'd go to Jim who, whatever the area of law, would normally solve it almost immediately. I also said Jim would then move to seeing other issues or aspects I hadn't thought of. What I didn't say was that the speed with which he could see points didn't mean you could escape his office in under an hour or two. Hence the use of lunches, which was about the minimum meeting time with Jim. A former student and University colleague, who has authorised me to relate these anecdotes, Tim Dare, said he usually went to supervision meetings armed with an "engagement" 90 minutes hence "lest we try to solve every jurisprudential problem in every session". Tim also referred to John Bishop's moral philosophy seminars comprising students and staff. John instituted a rule that only "judicious interruptions" would be allowed from staff. Of course that merely prompted Jim to preface each of his many interruptions with a defence of their judiciousness.

At occasions such as this an element of levity



is in order as Jim would have recognised. And why not at Jim's expense? So I have a couple of stories that could have happened to anyone. But nonetheless Jim was a bit prone to accidents. First, Jim had a habit of swinging back and forth in chairs when passionately arguing for something – like compulsory jurisprudence in the law degree, a very fraught subject that came up more than once in his time on the Faculty. At one of these inordinately lengthy departmental meetings at the height of his oratory, which was pretty compelling, he flipped the whole chair and himself backwards. At least once the room knew he was okay there was much laughter. Even Jim saw the funny side of it before heading back on the attack. Then Jim, not many years before his retirement, was the junior in a Privy Council appeal in 1999, *Arklow Investments Ltd v Maclean*. This role grew out of Jim's branching out into the teaching of equity as well as jurisprudence. The hearing was in the old Privy Council hearing room in Downing Street in London. Quite a small room. At one point in the hearing Jim turned around to get materials from the London solicitors

sitting at the table behind and knocked over a glass of water into the lap of the poor solicitor behind him. It could have been worse. It could have been the lap of his senior, Nicholas Underhill QC, still sitting now as Lord Justice Underhill of the EWCA. I too managed to knock over the plastic cup of water in the High Court in Wellington just last month, but happily it went nowhere, and Palmer J said it's an occupational hazard. I thought of Jim at the time.

Jim taught generations of students in legal system, jurisprudence and later equity as well. Among his admiring students who have written to me since Jim died are Sian Elias and Helen Winkelmann. Jim was also a dedicated staff mentor to the Pacific Island students at the Law School.

I never saw Jim teach large classes but I did see him give seminars and speak at conferences. He was a model of clarity, I always found. But I knew that at least at the legal system level many students struggled to cope. With some exceptions, most young law students, as it was for me, take quite a while to get into the way of legal and philosophical thought.

While most law is not rocket science, one has to accept that some jurisprudence is extremely challenging and Jim was up for it all. We couldn't all reach the heights he could but he could explain complex things well. He has inspired many top students into careers in philosophy, including Andrew Simester, Tim Dare, Nicole Roughan and Richard Ekins. Jim's scholarship in jurisprudence and in statutory interpretation in particular had international impact, such that he had the famous Joseph Raz as one of his referees for his Chair. I think another may have been Robert Summers, a famous US jurist. I should mention too his friendship with Jeffrey Goldsworthy in Australia. Jim was instrumental in starting and keeping on the road the New Zealand part of the Australasian Society of Legal Philosophy. He worked tirelessly for it. I know too that during his Herbert Smith Fellowship at

Cambridge in the early 2000s Jim made a big impression on the Statute Law Society in the UK, a long-standing organisation there, as I was told by Mary Arden, later Lady Arden, who at the time was the Chair of the Society and I think arranged for Jim to give a second talk because the first had been so compelling. As Nicole Roughan has pointed out, Jim's great strength in statutory interpretation included his knowledge of language philosophy, the science of communication and linguistics, and evolutionary psychology through writers such as Stephen Pinker.

I should also note that Jim was a great contrarian. Steph says so am I, but that's beside the point. So Jim had a tendency to make the case for the other side when responding to discussion or listening to seminars. This of course is often how progress in thinking is made on any topic, not just legal topics. And Jim was not short of opinions on most subjects, legal or otherwise. He was also capable of persuading himself out of his own prior views. I was a bit consternated when for a conference I had prepared a lengthy paper on why New Zealand law had gone off the rails on economic loss in tort, drawing heavily on his inaugural lecture for his Chair a decade before, only to find Jim was arguing against me when I was telling him about what I was going to say. I think I managed to persuade him back to at least some of his original arguments but I'm not sure.

Jim's greatest luck in life was to meet and marry Jill. We all adore her. For many decades Jim and Jill have been close friends of Stephanie and me, and we have had much laughter over many dinners, often enjoying Jill's fabulous culinary skills. For many years Jim and Jill had a lovely bach that they had had designed for them in a hidden corner of Waiheke Island. They had a fabulous vegetable garden there, from where Jim would take us down through the bush to swim in the deep pools that rose and fell off the rocks. Blissful times.

It has been one of the privileges of my life to have known Jim and to have had him as a dear friend. □

– PETER WATTS

Piece taken from Peter Watts' eulogy delivered at the funeral service.



Judge Philip Recordon

Highly respected judge and Auckland Law School alumnus Philip Recordon died peacefully on 21 March 2024 aged 75. Judge Recordon is remembered by his family as a "beloved husband", "devoted father" and "cherished koro".

In 2022 Chief District Court Judge Heemi Taumaunu described Judge Recordon as the epitome of the Court's 'Te Ao Mārama – Enhancing Justice for All' kaupapa, which strives to ensure that everyone passing through the justice system is treated in a fair and respectful manner. In 2023, when he was asked by the Law Association whether he'd enjoyed his 20 years on the Bench, Judge Recordon responded: "Yeah? I do now. I didn't initially. But only now because I think I can help people. I didn't initially because I thought I was just part of the system. But it didn't take me long to realise you can do things that are different."

Judge Recordon was a devoted lover of rugby and played the game well into his twilight years for his beloved Ponsonby club. He is most well known for a decision he made, four years after the divisive 1981 Springbok tour, to take on the New Zealand Rugby Football Union (NZRFU) for accepting an invitation to send an All Blacks team to tour apartheid South Africa that year.

Despite unanimous opposition from Parliament and widespread public protest,

the NZRFU maintained that the tour would proceed. A group of lawyers worked to find a legal means to stop it. Among their number were several Auckland law graduates: Sir Ted Thomas KC, Rodney Hansen KC and Dame Sian Elias KC.

The challenge to the NZRFU's decision was made on the grounds that it would tarnish the national game and contravene the object stated in the NZRFU's own rules of promoting, fostering and developing the game of rugby. In order to make the challenge, a plaintiff was required, and someone aware of the consequences of stepping forward. As Rodney Hansen KC later recalled: "The challenge was then to find a lawyer, who was a member of a rugby club, who was sympathetic and who was prepared to stick their neck out." Philip Recordon, who played social rugby for Eastern Suburbs in Auckland, having not long returned from playing club rugby in France, along with Patrick ("Paddy") Finnigan who coached at the University club, put their hands up.

As generations of first-year law students at Auckland have learned, the actions of these courageous lawyers would lead to the tour's cancellation. Initially, Chief Justice Sir Ronald Davison ruled that the plaintiffs lacked sufficient standing. However, the Court of Appeal reversed that ruling. Among the considerations were the plaintiffs being members of clubs affiliated to the Auckland Rugby Union, which distinguished them from ordinary members of the public, the importance of the NZRFU's decision for New Zealand as a whole, and that there was no reason to think the plaintiffs held a fringe view. As Justice Robin Cooke remarked, the plaintiffs could not be simply dismissed as "mere busybodies, cranks or other mischief-makers".

With the appeal allowed, the substantive action could proceed in the High Court. Three days in, and with the team due to leave in less than a week, the plaintiffs applied for an interim injunction to prevent the All Blacks from departing until the case was heard. This was granted by Justice Maurice Casey on 13 July 1985. The NZRFU opted not to appeal Justice Casey's decision and the tour was called off.

The action took a personal toll on Recordon, who lost friends, received death threats and even had faeces sent to the family home.

Speaking to the Law Association ahead of his retirement in 2023, Judge Recordon said of the case: “I always felt a bit of a fraud [for] using the law to do what the country should have been persuaded to do.”

Whilst Recordon and Finnigan were largely credited with having stopped the tour, others such as Halt All Racist Tours (HART) founders Trevor Richards and John Minto and allied protest groups did not receive similar recognition for their long-standing opposition to apartheid which often resulted in violent retaliation. As Judge Recordon put it in his inimitable way: “And then we come in as smart-ass lawyers and take a case that wins. I know that’s not how it was, but that’s how it felt for me.”

We need a lot more Judge Philip Recordons in this world, doing everything they can to achieve justice for those who are being treated unfairly, and who have the bravery to stand up for their beliefs. In his own words, he was “always very much [about] the underdog, whatever I did. It was for the people who needed help.” He will be greatly missed by his family, his peers and his friends, as well as the wider New Zealand community. □



Professor Dick Webb

Professor Dick Webb, who died on 11 May 2024 aged 99, was appointed to a Chair in the Auckland Law Faculty in 1968 direct from the University of Nottingham in the UK. Professor Webb had written the major update of the English text on family law titled *Bromley’s Family Law*.

Professor Webb taught family law, advanced family law and what was then called matrimonial property. He also taught conflict of laws.

He was a prolific writer. Along with Professor Bill Atkin and Judge John Adams he began *Family Law Service*, which provides comprehensive up-to-date analysis of family law.

He also wrote articles on all areas of family law. When the 1976 Matrimonial Property Act came into force Professor Webb wrote a detailed analysis of how it was going to work, which was valuable for both practitioners and judges.

Along with his wife Anne, Professor Webb wrote 20 editions of *Principles of the Law of Partnership*.

He was a very genial and generous man with a wonderful sense of humour and a knack for finding cases with quirky facts that he explained with relish and a beaming smile.

On hearing of Professor Webb’s death, John Caldwell, a *Family Law Service* co-author and University of Canterbury Associate Law Professor, said: “Dick was a warm-hearted man, full of humanity. We’ll all share very fond memories of him and his contributions to family law.”

Bill Atkin said: “Dick towered in the family law world.”

Professor Webb retired from the University of Auckland in 1986 and he and Anne moved to New Plymouth. □

– MARK HENAGHAN



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