

OTAGO LAW

FACULTY OF LAW NEWSLETTER SUMMER 2011
UNIVERSITY OF OTAGO



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Greetings from the Dean

Welcome to the Summer Edition of OtagoLaw.

To all our colleagues in Christchurch this has been a very tough year for you. We know that you have the strength of character to rebuild the centre of your beautiful city. Our thoughts are with you.

You will be pleased to know that the Faculty of Law is in good heart. The undergraduates are full of life and vigour and we have a great cohort of LLM and PhD students from New Zealand and around the world who are working on a wide variety of topics important for the development of the law.

We love hearing from and catching up with our Alumni. This edition has a number of very interesting stories about what some of our Alumni are doing.

The Rugby World Cup was a great success and congratulations to an Otago Law Alumnus, Martin Snedden, who led it all superbly. Martin tells his story later.

You are our strongest and most loyal and valued supporters. Thank you for the continued connection we have with you.

All the very best to you and to your families for Christmas and the New Year.

Staff News

Faculty Staff have had another interesting and productive year. We would like to showcase some of our staff and their achievements.

Professor John Dawson and **Professor Bruce Harris** (University of Auckland) who are both Otago graduates are having an LLD by examination conferred.

This is a great accomplishment. The Doctor of Laws (LLD) degree is a higher doctorate and one of the University's most prestigious qualifications. It is awarded only to individuals who have published original contributions of special excellence in the history, philosophy, exposition or criticism of law.

This is the first time in the history of the University that two have been conferred at the same time and only three have been conferred previously. As a University of New Zealand degree (prior to 1962) the LLD history in New Zealand goes back to the late 19 Century and as an independent University (from 1962).



JOHN DAWSON (LLD)

John Dawson is to be awarded an LLD degree at the university's graduation on December 17.

The LLD degree is awarded for 'published original contributions of special excellence in the history, philosophy, exposition or criticism of law'.

In John's case, it marks roughly 25 years' publications in the field of mental health law. These are summarised in the graduation booklet as follows:



The publications concern the law governing compulsory psychiatric treatment, particularly treatment in the community following the widespread deinstitutionalisation of mental health care.

How this form of compulsory treatment works; whether it works; what 'working' would mean; the proper design and use of such schemes; whether they impose unjustified limits on human rights – these are the main concerns.

Some papers examine how compulsory treatment operates in practice, through interviews with participants (including compulsory patients), surveys, file reviews, observations of proceedings, and other means of collecting empirical data.

Other papers examine the law in the books, including comparative study of law in other countries, or they propose the redesign of our laws. Or they examine the justifications for compulsory treatment or the concepts of personal liberty implicit in mental health law.

In total, the publications provide a critical review of the last quarter century's controversies in mental health law.

Since the early 1980s, after graduation from Otago and Harvard, John has studied the operation of New Zealand's mental health laws and been actively involved in law reform. During periods of leave, he has studied the laws of Canada, Australia, England and the USA.

John has supported the active use of civil mental health legislation to avoid greater criminalisation of the mentally ill, including active use of Community Treatment Orders, under the authority of the Mental Health Act.

He has taken the view that compulsory psychiatric treatment can – paradoxically – advance and limit a person's freedom at the same time, albeit in different ways, and that it can advance freedom overall – when the treatment provided would permit a person with a serious mental illness, and significantly diminished capacity for self-care, to exercise greater control over their life and enjoy a wider range of personal relationships.

Many of John's recent papers have been published in England, where he has made a significant contribution to debate around the adoption of that country's Community Treatment Order regime, under revised mental health legislation for the UK, in 2007.

John was born in Dunedin, into a medical family, and attended Maori Hill School. He started NZ's first course in Law and Psychiatry, at Otago, in 1990, and has been active in professional education. He was promoted to professor in 2004 and has received awards for both teaching and supervision from the Otago students association. Currently, he is editing a book, by more than 20 authors, on the practical operation of NZ's Mental Health Act, to be published in 2013, on the 21st anniversary of that Act.

Also of great interest and cause for celebration is that Abby Suzsko who John has supervised will be having her PhD conferred at the same time. More about Abby later in this edition.

PROFESSOR BRUCE HARRIS

Bruce also has a degree from Harvard University and was admitted as a Barrister and Solicitor of the High Court of New Zealand in 1976. He was appointed as a Professor of Law at The University of Auckland in 1994 after two years practising as a litigation lawyer and 17 years researching and teaching law at the University of Otago. In 1989 he was Dean of Law and Head of Department at Otago and from 1995 to 2000



he was Dean of Law and Head of Department at Auckland. From March to September 2008 he was a Visiting Fellow at Wolfson College, Cambridge. He is currently the elected representative of the professors on The Council of The University of Auckland. His research interests are in constitutional and administrative law. He submitted a collection of published articles, book chapters and a small monograph for examination for the LLD. All the pieces are concerned with the exercise of constitutional power, ranging across: the legal sources of the power vested in each of the three branches of government; the legal mechanisms facilitating the accountability of the executive and the judiciary, and the possible design of the legal underpinning of New Zealand's future constitutional arrangements.

The other Otago Graduates who have received the LLD are:

Professor Malcolm Grant (1986 in absentia) who has been UCL President and Provost. Malcolm has just been appointed to oversee Britain's National Health Service with a \$200 billion budget.

Professor Craig Brown (1994 in absentia) is currently Associate Dean (Academic) at the University of Western Ontario Western Law.

Professor Nigel Jamieson (2003 in person) graduated LLD from University of Otago in 2003 "for original contributions of special excellence in the history, philosophy, exposition, or criticism of law". Nigel is one of the most senior members of staff at the Faculty and has been here since 1975.

In a unique event for the Law Faculty, Abby Suzsko will graduate on December 17 with a PhD in Law, while her main supervisor, Professor John Dawson, will graduate at the same ceremony with an LLD degree. Both grew up in Dunedin and took their first degrees at Otago.

John says: "To receive this degree from the university where I studied in the 1970s, under Jim Flynn and under many of the Law staff who are now my colleagues, and to have it awarded on the same day as my doctoral student whose degrees are all from Otago – it's a great thrill. I feel like a very happy grandparent. Well done, Abby, on a super thesis on a charged subject. May you have a great career".

Abby's doctorate carefully analyses the arguments about rights, equality and proper sources of law used by different parties to the recent foreshore and seabed debate. It reviews positions as diverse as those taken by Don Brash, Michael Cullen, Ngai Tahu, and those present at a major hui in Paeroa opposing the original legislation.

PROFESSOR ANDREW GEDDIS

IPL 12 September 2011

Professor Andrew Geddis gave his Inaugural Professorial Lecture on the topic “Of flags and protest: dissent, offence and the limits of free speech”. His lecture looked at the special place that dissent holds in a liberal democratic society like New Zealand, whilst also noting that the right to dissent always has been subject to limits. He then considered the particular issue of “offence” and whether this ought to be a reason for restricting dissenting expression. This question has special relevance to protests that involve burning the New Zealand flag; given both the reverence with which many people hold this symbol and the very strong message that burning it sends. Professor Geddis then traced the history of this issue through the New Zealand courts, culminating in the recent Supreme Court decision in *Morse v Police*. His conclusion was that the position in New Zealand presently is that the offence caused by burning the New Zealand flag is not enough to justify criminalising that conduct – provided that the courts consider the degree of offence caused to be tolerable by citizens in a properly democratic society.



JESSICA PALMER

The Sir Ian Barker Published Award for 2010

Congratulations to Jessica Palmer for receiving recognition for her article, “Theories of the trust and what they might mean for beneficiary rights to information”, published at [2010] New Zealand Law Review 541-565.



Jessica has won the Sir Ian Barker Published Article Award for 2010 for this article in which she has critically assessed the two primary theories of what a trust is and how it operates. Jessica argued that it is important to clarify the conceptual basis of trusts because it can affect the substance of trusts law. She illustrated the point by examining the various answers that have been given to the question of whether beneficiaries have a right to access trust information and offered her own view on what that appropriate law ought to be. The Award was announced at the Legal Research Foundation’s AGM, held on Tuesday 24 May at Old Government House in Auckland.

SHELLEY GRIFFITHS

Tax administration systems are large and complex, dealing with huge numbers of people and transactions. As a matter of practical reality, tax administrators have to have discretion to make pragmatic decisions to resolve practical problems. However, discretion can be dangerous. What may be seen by one taxpayer as giving him or her a sensible outcome to a practical problem, may be seen by other taxpayers as favouritism or inconsistency. Discretion is always a difficult beast, but it is a particularly difficult beast in the hands of tax administrators given the constitutional significance of tax.

In September 2010, Shelley Griffiths presented a paper at a conference on Tax, Discretion in the rule of Law held in Prato Italy and organized by the Oxford University Centre for Business Taxation, Monash University and the University of New South Wales. Her paper was a discussion of the role of discretion in tax

administration in New Zealand. This finalized paper, “Revenue Authority Discretions and the Rule of Law in New Zealand” appears as a chapter in Chris Evans, Judith Freedman and Richard Krevier (eds) *The Delicate Balance Tax Discretion and the Rule of Law* published in September 2011 by IBFD, Amsterdam.

Shelley has since looked at the use of discretion more specifically to settle disputes and in October 2011 presented a paper at Oxford University on a comparison between the use of this discretion in New Zealand and the UK. It turns out that the discretions in the two jurisdictions are quite different, notwithstanding the identical words in the two relevant statutes and the fact that the NZ provision was directly modelled on the UK one. Nevertheless, it would seem that there are useful lessons each jurisdiction might learn from the other.

FULBRIGHT SCHOLARSHIPS

University of Otago researchers, including a husband and wife, **Professor Andrew Geddis** and **Ms Jacinta Ruru**, of the Faculty of Law have received Fulbright senior scholar awards to study in the United States next year.



Andrew, who gained a Master of Laws degree from Harvard University as a 1997 Fulbright New Zealand graduate student, will return to the United States to conduct a socio-legal study of freedom of expression in New Zealand.

He will also examine formal legal restrictions that have constrained people wishing to engage in dissenting speech as well as the cultural and historical background to such laws.

His research will be undertaken at both Arizona State University in the city of Tempe and at the University of California, Los Angeles.

Jacinta has been awarded the 2012 Fulbright-Nga Pae o te Maramatanga Senior Scholar Award to research indigenous challenges to Western property law, at Lewis and Clark College in Portland, Oregon, and Arizona State University in Tempe.

Jacinta will focus on how property law could be “recalibrated to better accommodate indigenous claims to Crown or publicly owned lands and natural resources”, award officials said.

This award offers up to \$US25,000, plus travel expenses and insurance, to undertake research in the United States in a field of indigenous development.



Farewell to Carmen Chatfield who has been the front person of the Faculty for 3 years. Carmen has been an excellent colleague and has always been kind and helpful. We wish her well in her new position in the Research Office.

Postgraduate Achievements

NEW ZEALAND LAW FOUNDATION'S MOST PRESTIGIOUS AWARDS ANNOUNCED

The first-ever award of the Foundation's Doctoral Scholarship (in Law) was made. There were two winners of the inaugural awards.

Bridgette Toy-Cronin, from the University of Otago and **Aline Jackel** studying at the University of Auckland.

Bridgette Toy-Cronin's will study unrepresented litigants in New Zealand Civil Courts. She will examine characteristics of unrepresented civil litigants – how many there are, who they are and why they are not represented – as well as changes that could help them to be better served.

A Harvard law graduate, Bridgette has worked in legal practice in New Zealand and Australia, as well as providing legal advice to a women's rights team in Cambodia and to the Government prosecutor for the International Criminal Tribunal in Rwanda.

MATHEW DOWNS CROWN COUNSEL

“As Crown counsel in the criminal team at the Crown Law Office, the operation of courts of criminal appeal, and in particular, the conduct of criminal cases by those courts, is central to my role. Such interests drew me back to the University of Otago, which I had attended as an undergraduate student, for a PhD in relation to “the Proviso”, a statutory device that permits courts of criminal appeal to dismiss an otherwise meritorious appeal when the defendant has not suffered a substantial miscarriage of justice (the proviso takes its name from its opening phrase, “Provided that”). The prospect of studying – and remotely so – while practicing law full time was daunting, but the Otago Law Faculty made all the difference. When I first contacted the Faculty, the Dean, Professor Mark Henaghan, was immediately enthusiastic and supportive. Such enthusiasm never waned, with the Dean acting as my secondary supervisor notwithstanding the many demands upon his time. My primary supervisor, Professor Kevin Dawkins, was similarly extraordinary: always available to provide both encouragement and advice, but never an adherent of micro-management, Professor Dawkins managed to facilitate my research at a distance while accommodating my professional demands, all the while advising – and presciently so – upon the construction of a thesis that sought to amalgamate theory with practice. As it happens, I needn't have been troubled, for that aim is yet another strength of the Otago Law Faculty.”



AHMED ALI SAWAD graduated with a PhD in Law on 21 May. Ahmed is from the Maldives where he was appointed as Attorney General in December 2010. Prior to this he served as Minister for Tourism Arts and Culture.

Ahmed's thesis is “Reservations to Human Rights Treaties and the Diversity Paradigm: Examining Islamic Reservations”.

His supervisor law Professor Paul Roth said it is a brilliant thesis on a very topical subject, dealing as it does with the relationship between Islamic beliefs and human rights. The thesis suggests a way forward in understanding Islamic approaches to human rights obligations and how human rights in Islamic countries can be deepened and developed. This is a highly relevant subject in an age where we have a clash between Eastern and Western values.

MARIA POZZA

Maria's research focuses on the treaties pertaining to Outer Space, specifically dealing with “The International Law Governing the Use of Outer Space”.

Having worked as a volunteer in Kenya in 2001, interning with two law firms in Texas – USA working on death row cases in 2003 and completing her LL.B (Hons) Law degree in 2004, Maria was called to the Bar of England and Wales in 2005, joining Lincolns Inn. After completing the New Zealand Law and Practice Examinations in New Zealand in 2009, Maria pursued her academic interests at the University of Otago. Completing her Masters in International Studies and focusing on the realms of space law and policy, Maria pursued her space research and now completing her PhD with the Faculty of Law.

Maria has been awarded the competitive Ministry of Foreign Affairs and Trade Historical Research Grant towards her PhD research. She is presenting papers to both national and international organisations and institutions concerning the legalities and policies of Outer Space. Maria is a member of the Otago Foreign Policy School Committee and is affiliated with a variety of research groups including; Political Communication, Policy and Participation research cluster, Internet Research Group Otago (IRGO) and the Cultures, Histories and Identities in Film, Media and Literature research networks.

MARY FOLEY

Mary spent her last undergraduate year at Otago University in 1996 and very much enjoyed the sense of community and general liveliness that comes from being based in a university town. A decade in private practice followed, during which time she says she was lucky enough to continue an involvement with the Law Faculty through various research projects and tutoring roles. In 2007 Mary took the plunge and embarked upon a PhD, looking at the right of independent adult children to receive testamentary provision from their parents. The main focus of her thesis was a statutory interpretation analysis of New Zealand's Family Protection Act 1955 which, put simply, allows children to apply for provision from a parent's estate. Mary says that many have criticised what they see as a too generous approach to adult children under the Act but none have sought to analyse the judicial approach according to a theory of interpretation. In addition, there is a real gap in the literature when it comes to the philosophical reasons in support of such recognition. Her thesis sought to fill these two gaps.



Her interest in the topic was sparked by work in estate litigation and she very much enjoyed the opportunity to explore it further. Mary says that Otago Law Faculty was the obvious choice, its reputation for collegiality and academic excellence being well founded. She came into the project with fixed ideas about what she was aiming to find - her legal thinking very much shaped by private practice – but was soon forced to start thinking much more broadly and critically. Mary says her supervisors were excellent, constantly challenging her to question conclusions and to bring a far greater critical eye to the issues. She says that looking back at first drafts, she has been amazed to see how much they helped broaden her outlook and sharpen critical thinking, one of the main rewards of postgraduate study. Completing her thesis from a distance, and having a baby in the middle of it, could have created an obstacle to completion but she says her supervisors could not have been more supportive or

accommodating. “Their commitment to my thesis was unwavering. With them and the assistance and encouragement of Professor Mark Henaghan, the Law Faculty administrative staff and the library staff, I still managed to complete on time. The Remote Student Library service also provide invaluable. I very much enjoyed the PhD process; it is not an easy one but it is rewarding”.

JESSE WALL

In 2003, Jesse left Palmerston North for Dunedin for the type of adventure portrayed in *Scarflies*, but he says “perhaps involving less cannabis.” He ended up studying a variety of subjects, by making the most of what was offered by the world class institutions of the Faculty of Law and Department of Philosophy, as well as enjoying diverse extra-curricular life, by making the most of the University’s student culture, and thriving sports clubs and various societies. The Faculty of Law was particularly supportive of debating and mootng, which gave Jesse the chance to travel and compete in various international events.



Jesse graduated from the University of Otago in 2008 with a Bachelor of Arts (in Philosophy) and Bachelor of Laws with honours and travelled to Oxford University, to undertake the privilege of further study as a Rhodes Scholar. Whilst at Pembroke College, Oxford, he obtained distinctions in the Bachelor of Civil Law and the Masters in Philosophy.

He is currently working on this Doctrinal thesis on the legal status of separated biological material. His research follows from a series of cases that have treated human biological material as items of property. His thesis attempts to determine if, and when, this legal treatment of ‘body parts’ is appropriate given the philosophical relationship between a person and their body and given the conceptual and structural features of personal property rights.

In addition to his studies, Jesse has been appointed a Stipendiary Lecturer in Law at Pembroke and Merton Colleges, and a Faculty of Law Teaching Assistant. He teaches contract, land, trusts and medical law. Jesse is returning to the University of Otago early in 2012 to join the Public Law teaching staff, continue with his research and have an Emerson’s.

ABBY SUZSKO

Ko Aoraki te maunga,
Ko Waitaki te awa,
Ko Ngāti Pākehā tōku iwi.

Kia ora, my name is Abby Suszko. I am of Scottish, Ukrainian, Irish, English, French and Tongan descent, and I identify as Pākehā. I have recently completed my PhD thesis, entitled: “The Foreshore and Seabed Debate: Contrasting Visions of Equality and Rights”, and I am incredibly humbled and honoured to be graduating this December with my primary supervisor, Professor John Dawson.



My PhD is essentially jurisprudential in nature and is an interdisciplinary study between the Law Faculty and Te Tumu. I used the Foreshore and Seabed Debate as a case study to unearth the equality and rights arguments that New Zealanders employ today. In exposing those different perspectives, I identified a zone of potential compromise between the differing views, from which a solution to the Debate might be found.

Since undertaking my PhD there has been considerable political movement in the Debate. When I began in 2007, the Labour-led Coalition was still the Government, its position remained largely the same as it was in 2004, and the Debate, while not as fierce as it had been in 2003 and 2004, continued with polar views dominating. In 2008, a change of Government occurred, and in 2009, the National Party, in coalition with the Māori Party, initiated a review of the Foreshore and Seabed Act 2004. Now, in 2011, there has been a change of law with the passing of the Marine and Coastal Area (Takutai Moana) Act 2011. The Debate, it seems, has moved towards a middle ground, where compromise between some participants’ positions has been achieved.

I took the first steps towards formulating my doctoral research while researching my honours dissertation, “Māori Perspectives on the Foreshore and Seabed Debate: A Dunedin Case Study”. I noticed that many Māori called for ‘one law for all’ to be applied to the foreshore and seabed. This was the same claim I heard from many Pākehā. From my undergraduate study of jurisprudence, it was clear to me that the claim to ‘one law for all’ was a claim to equality. What was not clear, however, was the aspect of law that should be applied equally, and furthermore, who ‘all’ pertained to. This drove me to examine the Debate at a conceptual level and to seek to uncover the different views New Zealanders hold on equality.

As I was to focus on equality, it was only natural for me to ask John Dawson, the Faculty’s expert on jurisprudence and the Treaty of Waitangi, to come on board as my primary supervisor. I was already blessed to have Doctor Jim Williams from Te Tumu, who guided me so successfully through my dissertation, and Jacinta Ruru as my other supervisors. John agreed, and under his supervision, I began my research. John, while supervising three other PhD students, completing his own research, teaching and applying for his own LLD, showed continued support and dedication to my research and to me personally. He continually challenged me to expand my conceptual understandings and to write at a higher level. Outside my PhD, John provided me with funding, conference, publication and travel opportunities that made my postgraduate experience productive and stimulating and for which I am incredibly grateful. The trip to Vanuatu to present and moot at the Law and Culture Conference 2010 was a particular highlight. I was extremely happy to see John’s skills as a supervisor recognised when he was honoured as a finalist for Supervisor of the Year in 2010.

As I began to investigate the use of the term ‘one law for all’, I found that it was used to argue for both the recognition and denial of rights. It became apparent, therefore, that different participants relied on different concepts of equality to justify their claims of right or to denounce the claims of others. This led me to enquire into the different sources of these claims of right. I knew I wanted to investigate the different equality theories New Zealanders expressed during the Debate, whether these theories upheld the notion of separate Māori rights, and what sources of right people relied upon. My dilemma was, however, that I might merely highlight conflicting views, a point already well demonstrated throughout media coverage of the Debate. This would hardly be a positive contribution. To make a better contribution I wanted to use my findings to construct a framework for moving forward, and one that might help quell other similar debates over Māori rights to the nation’s resources.

I wish to thank my supervisors, John, Jim and Jacinta, Dean Mark Henaghan and the Faculty of Law, Te Tumu, the Pacific Island Centre and the University for all the support over my postgraduate years. I am now looking forward to moving onto the next phase in my research journey. I hope to work with Indigenous Peoples in their pursuits for rights retention and recognition, and to contribute positively to the ongoing debates over Indigenous rights by aiding in the creation of more informed public dialogues.

FULBRIGHT NEW ZEALAND GRADUATE AWARDS

Congratulations to **Peter Martin** and **Alex Latu** who have both received Fulbright New Zealand Graduate Student Awards in recognition of their outstanding work.

SIMON CONNELL LLM

Simon has been awarded an LLM with distinction. His topic is "Generous and Unniggardly". His thesis analyses the interpretation of Accident Compensation Law in New Zealand. Simon has also been awarded a scholarship to continue his studies as a PhD candidate. He will be researching the future of the interpretation of contracts.

Undergraduate Achievements

2011 Has been a terrific year for Otago Law students who have done very well in competitions both in New Zealand and overseas.

OTAGO UNIVERSITY MOOTERS RECEIVE ACCOLADES IN THE ELSA WTO MOOT COURT COMPETITION

Brierly Broad, Emma Foley, and Jeremy Stewart made the quarterfinals of the ELSA WTO Moot Court competition. Tracey Epps, a trade lawyer at the Ministry of Foreign Affairs and Trade and part-time senior lecturer at Otago coached the team. Organised by the European Law Students Association (ELSA), the moot is a simulated hearing in the WTO dispute settlement system.

In the end the University of Melbourne won the competition. The teams were incredibly close after the quarterfinals and the Otago team only just missed out by a point or so. This was disappointing for the team because they had qualified for the quarterfinals in third position. In the quarterfinals they were mooting against a Canadian team and their coach (who spent years doing WTO litigation for Canada) said he hopes the Otago team will go on to become litigators because he was so impressed with their skills.

At the final presentation the organizers announced various awards. They announced the top 5 oralists in the preliminary rounds, and Emma came in 5th place. There were over 50 oralists during the preliminary rounds so to come in 5th place was very impressive and something she should be really proud of.

Another accolade the team received was when one of the organisers of the competition said that she would be happy to support the Otago mooters if they would like to apply for an internship at the WTO. These positions are generally quite difficult to obtain, but doing this competition, and receiving a reference from the organizer, would go a long way towards securing one. If this were something the students would like to do it would be a great opportunity for them.

A number of compliments were received about the team – both on their performance in the moots and more generally as to their great attitude towards the competition. It has been said Otago is becoming a team that is feared in this competition!

This competition seems to be going from strength to strength. The international trade law community, including by the WTO itself, as a very high-level competition, recognizes it. This year the semis and finals were held at the World Trade Organisation headquarters in Geneva. The panel that judged the final included the Deputy Director of the WTO, the head of the Appellate Body Secretariat, a current presiding member of the Appellate Body, and various other very experienced trade law practitioners and academics. Also, the Director General of the WTO (Pascal Lamy) came in to speak to the students. The fact that doing well in this competition can potentially lead to an internship in the WTO makes it a fantastic experience and opportunity for the students.

OTAGO LAW STUDENTS COMPETE SUCCESSFULLY AT THE ALSA 2011 COMPETITIONS

Over the last 19 years students from the Otago Law Faculty have competed at the Australian Law Students Association annual competitions. This year Otago made the finals of 3 out of the 4 competitions they entered and won two. **Louis Chambers** and **Alice Osman** won the Mooting competition (which Otago last won in 1992). **Alex Boock** and **Robert Clarke** won the Client Interviewing competition. In the third final, the Witness Examination Competition, **Kate Lawson-Bradshaw** came second. Given that there are 32 law schools in Australia and 6 in New Zealand, this is a significant achievement for the Faculty. The achievements of our students in winning amongst this highly competitive group of law schools shows the outstanding skills and attributes that Otago Law students have.



NZLSA COMPETITION SUCCESS

September 2011

Otago law students' competition teams have done us proud in the New Zealand Law Students Association competitions. All three teams that reached the finals won the final.

Rob Clarke and **Alex Boock** won Client interviewing, though they did not think their final went very well, so winning was a wonderful surprise for them. **Josh Pemberton** and **Tom English** won the negotiation competition and **Tiho Mijatov** and **Hannah Drury** won the junior mooting competition.

As a result of Otago's overall performance, Otago also won the President's cup.

This is the 3rd year in a row that Otago Law students have won the cup.



NEW ZEALAND LAW FOUNDATION NATIONAL FAMILY LAW MOOT 2011

Congratulations to **Michael Blaschke** and **Sarah Baillie** from the Faculty of Law at the University of Otago for winning the annual New Zealand Law Foundation National Family Law Moot on Saturday 8 October.

Michael and Sarah competed against University of Auckland's Christopher Myers and Emily Law, Canterbury University's Jessica Davies and Andrew Neate and Waikato University's Chontelle Climo and Mikail Steens.

Congratulations also to **Jessica Davies** and **Mikail Steens** who were acknowledged by the Judges as best speakers.

Senior family law practitioners, Anita Chan and Rachel Cardoza, judged the Moot.

The mooters were asked to advocate for parties embroiled in a Hague Convention case.

The case concerns a Muslim child born in France and her right to wear the hijab. The child's father and mother are both practising Muslims. Since the child was two years old she had been wearing a small hijab. When she began school she was the only child at the school wearing a hijab. Other pupils at the school began to tease her and after complaints from the parents of these pupils about the wearing of the hijab at school, the school made a rule that it was not to be worn during school hours. This, in fact, is now the law in France whereby hijabs cannot be worn at school. The father was very upset about this ruling and took the child to live in New Zealand so that the child could wear her hijab at school.

The mother initiated proceedings under the Care of Children Act 2004 for the child's return to France. The Family Court made an order refusing her return to France, a decision that was upheld on appeal. The mother brought an appeal to the New Zealand Supreme Court. All teams performed very well.

Congratulations to Michelle Nicol who won the Energy Education Trust Scholarship for 2011.

Congratulations to Rachel Laing whose LLB(Hons) dissertation, supervised by Professor John Smillie, won the Legal Research Foundation's Unpublished Undergraduate Student Paper Award for 2010. This is open to unpublished undergraduate student papers written for course credit at a New Zealand university. Rachel's dissertation topic is, "*Down to Business: Patent Protection for Business Methods in New Zealand*".

Congratulations to Leah Hamilton who received a Freemason's scholarship to support her undergraduate studies. Leah was one of 5 University of Otago recipients who were among the 35 A-grade university students from around New Zealand to be awarded a scholarship for academic achievement and for their community involvement. Leah is in her final year of LLB and BA(Hons).

SDS NATIONAL BUSINESS CASE COMPETITION 2011

Congratulations to the Otago team who competed in the final event of the SDS National Business Case Competition 2011 series at the University of Waikato on Saturday and came away as the victors for the 2011 series.

They were crowned 2011 New Zealand Business Case Competition Champions.

The Otago team for the series was:

Ollie Hornbrook (Finance & Law), **Emma Hoksbergen** (Marketing), **Will Skeggs** (Finance & Law), **Nathan Blane** (PHPE & Law), **Mrin Patil** (USA Exchange student) and **Laura Goudie** (ACCT, MGMT).

NZLAWYER STUDENT WRITING PRIZE

Congratulations to **Grace Boos** who came third in the NZLawyer Student Writing Prize 2011.

Grace's topic was, *Domestic Violence: can International Law provide a remedy when the state fails to protect victims?*

Grace is currently undertaking a BA(Hons) and LLB(Hons).



MORO MARATHON

September 11 2011

Sam McCutcheon (22), a commerce and law student, was urged to run the marathon by friend Rosie Hodson, after she had told him of her experience in the Motutapu event earlier this year. A talented all-round sportsman, McCutcheon is also a keen social football player, but his running talent might have been inherited from his father, Brian McCutcheon, who has completed three marathons and run a personal-best time in the Kepler Challenge of 7hr 5min.

Carmen Chatfield Faculty of Law Receptionist came fourth in the Full Masters Women with a time of 3:33:05 5.

EXPANDED ACADEMIC EXCHANGE WITH USP IN VANUATU

By John Dawson, September 2011

The academic exchange initiated in 2008 between the Law Faculties of Otago and the University of the South Pacific has expanded again this year, with a substantial group of Auckland students joining the 3 day conference and moot program, held at the USP campus in Port Vila, Vanuatu, in early September.

The conference theme was Law and Culture in the Pacific. Professor Don Paterson, who will be well-remembered as a bell-bottomed lecturer at Otago in the 1960s and early 70s and was later foundation Dean of Law at USP, delivered an excellent opening address on the dilemmas of customary law in modern Pacific legal systems, setting the framework for discussion.

Then, at the conference (and during the inaugural Pacific Legal Issues Week at Otago in mid-September) the Otago group spoke on:

- culture & family law in Fiji, especially the duty to pay maintenance to one's elderly parents;
- the origins of statutes, enacted by NZ as the colonial power, for customary land in Niue;
- the experience of Pacific students in legal education in NZ; and
- the potential for judicial review of the specialist Land & Titles Court of Samoa.



Much discussion centred on the tension between customary and state legal systems; poor enforcement of the law; problems of corruption and access to justice; violence in the family; and the challenges of adapting Pacific laws to the demands of international business and environmental threats. It is hugely educational for NZ students to be exposed to this agenda, and to reflect on the maintenance of the law in developing nations.

This has become the major law conference on the USP calendar. It is pulling speakers from Fiji, Australia, Papua New Guinea and the Solomon Islands, and giving many senior Pacific law students their first opportunity to present research in a public forum.

There were three moots in the week; two presided over by Judge Lee Spear, an Otago graduate, who is currently sitting in Vanuatu. The Otago team faced the tough task of defending corporal punishment within the family as a legitimate exercise of customary authority. They lost narrowly to a strong USP team.

We again visited the remote village school, at Epau, on the island of Efate, and gave them a motor-mower needed to clear their sports field and around their church. All three law student associations – Pacific, Māori and general – at Otago raised the funds for this: an excellent joint venture. The blessing of the mower at Epau was a very special event (see photo).

This was a busy, rewarding week. The standard of mooting and conference talks had noticeably lifted. Anita Jowitt ran things magnificently. The conference is now an established event. The Auckland Faculty will host it next year, probably in July. It should provide a unique opportunity to explore the legal agenda of Pacific communities in NZ. All are assured of a warm welcome.

INAUGURAL PACIFIC LEGAL ISSUES WEEK

By Devon Latoa, President, Pacific Islands Law Students' Association

The Inaugural Pacific Legal Issues Week took place from the 12th-15th of September and was hosted by the Pacific Islands Law Students' Association (PILSA), the Faculty of Law and the Pacific Islands Centre. The week carried the intention of highlighting a number of legal issues that bear significant importance to Pacific people both domestically and abroad. Further the week was intended to strengthen the University's links to local, national and international Pacific communities. The week provided an opportunity for in depth analysis and collaboration through keynote and student presentations, a student association debate and a cross-discipline forum. These events were well attended and the general discussion and questions that followed each occasion indicated that the content conveyed had been intriguing and thought provoking.

The inaugural week was kicked off with an official opening ceremony on the Monday evening. The ceremony involved many traditional Pacific elements including an opening prayer, the

blowing of a conch shell and the handing out of lei/garlands to prominent individuals in attendance.

The official opening addresses were made by the Dean of the Faculty of Law, Mark Henaghan and the Manager of the Pacific Islands Centre, Nina Kirifi-Alai. Both speakers showed great enthusiasm and promise for the events scheduled over the course of the week. The occasion was appropriately marked by a cultural performance by Pacific Students who drew influence from a number of Pacific nations and encouraged attendee participation.

Charles Chauvel, a current Labour MP and the Labour spokesperson for justice followed the brief but colourful opening ceremony with an informative keynote presentation. His topic 'Keeping the legal system relevant' highlighted a number of significant problems with the current legal system and the approaches taken to enacting and enforcing the laws that govern our society. The material touched on a number of interesting ideas that Charles suggested would be steps towards improving the efficiency and relevance of the current legal system. The degree of depth and importance of the material became all the clearer when Charles indicated that the material he had presented was to be put forward to the Labour Caucus the following week. Charles presentation can be found on the University of Otago, iTunes U page.

On Tuesday the 13th of September, research presentations by students who had recently travelled to the University of South Pacific for a Law and Culture conference took place. These presentations touched on issues of importance to the nations of Niue and Fiji while the final presentation highlighted elements that were drawn from the Law and Culture conference. The following day, Wednesday the 14th of September, saw the continuation of the student theme with a debate between members of the PILSA and The Pacific Islands Health Professionals Students' Association (PIHPSA). The moot for the debate; 'Should the New Zealand Government be responsible for improving Pacific Health?' The debate was well contested and a close decision by the judges declared PIHPSA the winners on the day, much to the disappointment of PILSA who will be seeking victory in 2012.

On the Wednesday evening, Dr Fanaafi Aiono-Le Tagaloa presented a talk "Practice in Paradise". Her presentation discussed the Law and Justice sector in Samoa and its distinct and unique character. Dr Fanaafi's attendance was significant for two primary reasons. 1) Dr Fanaafi is the first Samoan born PhD graduate of the University of Otago Law Faculty and 2) Dr Fanaafi was one of the pioneers of PILSA in 1998. Her first-hand account offered an intriguing insight and contrasting perspective on legal operations. With its wall-less prisons and deeply entrenched family, customary and religious values, law and justice in Samoa truly is a contrast to the New Zealand approach.



Dr Fanaafi followed up again the following night along with four other participants in the closing event, a land issues forum. The moot of the forum was 'Customary Land tenure within a framework of state law'. This Cross-discipline event involved Dr Fanaafi Aiono-Le Tagaloa from Samoa, Professor John Dawson of the Faculty of Law, Dr Iati Iati of the Politics Department, Jenny Bryant-Tokalau of Te Tumu and Wale Tobata from the Solomon Islands who is currently running the Pacific Health Trust in Dunedin. These five participants, with the assistance of Mark Henaghan as the chairperson, presented a well-structured forum that showcased a range of land issues that face people throughout the Pacific. The issues traversed a number of Pacific nations including Samoa, Vanuatu, Fiji and the Solomon Islands. The conflict and compromise between state and customary law is a common theme for pacific nations and is a constant source of political, judicial and everyday tension.

The success of the week bodes well for the future. It is intended that the Pacific Legal Issues week will be an annual fixture that continues to highlight legal issues of significant importance to Pacific communities. Collaboration with fellow academic departments, regional and national institutions is the way forward. The provision of a forum for discussion and collaboration will encourage and promote future research and educational efforts. This inaugural week has formed a strong foundation that can be built upon and improved for 2012.

YVONNE WHARERIMU – A NOTE OF INSPIRATION: FROM MEDICINE TO LAW AND EVERYTHING IN BETWEEN.

I was born in Darfield. My parents lived in nearby Craighburn where my father worked on the railways. My parents divorced when I was young and I grew up in Christchurch.

Growing up I wanted to be a brain surgeon. No one in my family had been to university and my father thought the only place to study medicine was in Edinburgh, Scotland.



Due to family circumstances I was unable finish high school. The school paid for some of my exam fees in return for sweeping the school grounds-I still remember the calluses from the broom!

I next entered nursing training in Gisborne. I left to get married and settled in Wairoa where my father-in-law was a Presbyterian minister. Later we moved with our three children to a farm near Lake Waikaremoana. Still keen on studying medicine I enrolled in the Correspondence School to further my education. I did part time 5th and 6th form subjects for three years then completed five 7th form subjects in the 4th year.

The science subjects involved doing experiments. My daughter still remembers walking down a country road banging a pot so I could measure the speed of sound. Our cat thwarted an experiment to grow moulds on bread when it jumped up onto the bench and ate the bread.

During the last year I had my fourth child. I had an hour drive to get to the exam centre and had to breastfeed the baby before each exam.

I passed Bursary so we headed to Dunedin so I could attempt to gain admission to Medical School.

We sold a lot of our belongings before moving. However I insisted on taking the new garden tools I had recently bought. These were squeezed into the roof rack. We must have looked like the original Hillbillies as we trundled into Dunedin.

I completed my first year at University and to my surprise gained admission to second year medicine. At the same time my younger

brother sustained a serious head injury going down a hydro slide and he remains in a wheelchair.

After four years at Medical School two more children were added to the family. I took over the care of my 2-year-old nephew and then had my fifth child.

I graduated with a MBChB in 1990. I later completed my Diploma in Obstetrics and then did General Practice training. I still work as a GP.

My husband and I separated when my youngest was three. As any solo parent would tell you-looking after a family and home while working was not easy.

Six years ago my interest in law was stimulated when I was involved in helping a family member with a legal problem. I worried I would not gain admission to second year law due to the competition from all the other younger and brighter students. But after many hours of study I managed to do so. A cooperative employer meant I could fit work around my lectures. I graduated with my LLB this year.

I thoroughly enjoyed my law studies (well, most of the time!). I could not have succeeded alone and I am indebted to the wonderful help and support from family, friends, work colleagues, the Law Faculty and fellow students.

I hope to use my degree in areas, which involve both medicine and law. I have particular interests in children and youth issues and issues around fertility and reproductive medicine.

I really enjoyed the Forensic Law paper I did and have thought of doing Forensic Anthropology. However I am probably getting too old to do this now – or am I?

MAIA WIKAIRA AND ELEANOR VERMUNT

Māori Pre-Graduation held on the 13 May 2011

Maia Wikaira graduated with an LLB (Hons) and BA major Economics and Minor Māori Studies. Maia consistently achieved well in her studies. In 2010 she won the National Māori Law

Society Mooting Competition in Te Reo where she received the award for best individual mooter, and in 2009 was in the winning team alongside Alex Latu and John Philipson for the Mooting Competition at the University of South Pacific. Maia was the student representative for the Māori Law Society and the president of Te Roopu Whai Putake in 2009.

She is currently working for Russell McVeagh the Māori Legal Team, the Resource Management Team and in the Litigation Team.

Eleanor Vermunt also achieved excellent results having an LLB(Hons) and BA conferred in May this year.

Eleanor included politics, international relations and human rights in her studies. Eleanor is currently working in Auckland at Buddle Findlay in employment law.

Congratulations to both.



OTAGO LAW HONOURS DISSERTATION CITED IN UK CASE

A recent Otago dissertation has been cited in the UK High Court in a contempt case – *HMAG v Associated Newspapers* [2011] EWHC 481.

Amy Elvidge's honours dissertation supervised by Selene Mize is entitled:

“Trying times: the right to a fair trial in the changing media environment”, a dissertation submitted in partial fulfillment of the degree of Bachelor of Laws (Honours) at the University of Otago. It has been described as a very accomplished piece of work by Professor A T H Smith LL.D Pro Vice-Chancellor and Dean of Law, Victoria University of Wellington.

FW Guest Memorial Lecture

Jack Hodder SC, Partner and Chairman of the Board, Chapman Tripp.

Jack spoke on ‘Capitalism, Revolutions and the Rule of Law’.

The lecture proceeded on the premise that the legal system is a mere subset of the political system, and that the political system is the product of historical forces in which the law and lawyers were usually peripheral.



Jack ended with “headline” conclusions:

- We should beware of myths about large law firms.
- We should remember history.
- We should not ignore our revolutionary heritage.
- We must expect creative destruction in our economic and social environment.
- We should be humble about lawyers’ contributions to social and political issues.
- We should recognise the achievements of the “messy politics” of liberal democracy.
- We should be very wary of “timeless truths” and constitutional reformers

Jack’s lecture was very well received.

Visitors

AFTERNOON TEA WITH THE ATTORNEY GENERAL

Faculty of Law staff, postgraduate and honours students were entertained and informed by the Hon Chris Finlayson at afternoon tea in the Faculty on Saturday 8 October.

Accompanied by National MP Michael Woodhouse, it quickly became evident that the Attorney General would facilitate a most enjoyable and informative event.

The Attorney General shared his insightful and at times, acerbic views around legislative reform during his term. He said that he has most enjoyed the Treaty settlement legislation and has been honoured to be a part of the process, which has helped accelerate settlements that may otherwise have taken decades longer.

He also expressed great interest in the students’ areas of research and has invited several students to send their completed theses to him.

The Attorney General also emphasised his support for the Civil Delays project, which is in the planning phase, co-authored by Professor Mark Henaghan, Dr Saskia Righarts and Ms Rachel Souness.

Earlier this year at the Inaugural Justice Forum in Parliament, Professor Mark Henaghan, Dean of the Faculty of Law presented findings from a study, conducted with co-authors Rachel Laing and Dr Saskia Righarts, entitled a Preliminary Study on Civil Case Progression, funded by the New Zealand Law foundation. The Attorney General, Chris Finlayson responded to the research calling for further research and greater simplification of court procedures, particularly in relation to discovery and pleadings.

As well as being a list Member of Parliament, Chris is also the Minister for Treaty of Waitangi Negotiations, the Minister for Arts, Culture and Heritage.

PROFESSOR TOM MULLEN UNIVERSITY OF GLASGOW, 2011 DE CARLE GUEST LECTURER

The Faculty of Law is delighted to have hosted **Professor Tom Mullen** from the University of Glasgow, who has delivered one of the 2011 De Carle Distinguished Lecture Series.

Professor Mullen studied law at the University of Glasgow (LLB, 1980) then at Harvard Law School (LLM, 1981). He has been successively lecturer in public law (1983-1992), senior lecturer in law (1992-2003) and professor of law (2003) at the University of Glasgow. He was for several years convener of the board of the Legal Services Agency, a community-controlled law center, and has acted as expert adviser to the House of Commons Select Committee on Scottish Affairs (1996-1997). His research interests include constitutional law, administrative law and housing law. He is a distinguished Scottish constitutional lawyer and his public lectures will be on recent developments on British constitution with particular focus on devolution of power to Scotland and the early years of the new Scottish government.

His well-attended Lecture Series was around UK constitutional Issues.

The lectures can be viewed at:

www.otago.ac.nz/news/itunesu/podcasts/otago025528.html



POLLY HIGGINS

Hosted by Nicola Wheen

Polly Higgins is an author and a lawyer who works pro bono for one client: the Earth. During her years as a barrister in London courts, Polly represented both individuals and corporations on discrimination cases and corporate law. But her experience led her to question whether the law exists to protect Earth’s interests. Polly argues that while corporations have no legal responsibility for the Earth, they have accrued silent rights – to pollute, to emit, to destroy – which have allowed enormous environmental damage and destruction to take place, but that since we now have the knowledge and ability to remedy these injustices, new law can



be put in place to halt ecocide and protect the Earth. Polly argues that the law of ecocide will provide the missing legal framework to ensure shared-nation responsibility for financing of humanitarian and environmental aid and assistance to ecocide-territories, and impose on Member states the collective legal duty 'to promote social progress and better standards of life in larger freedom' in terms of the Preamble to the UN Charter 1945. Polly Higgins' book, *Eradicating Ecocide: Laws and Governance to Prevent the Destruction of our Planet* (John Reed Books) is the non-fiction winner of The People's Book Prize for 2011. www.radionz.co.nz/national/programmes/ninetoon/20110905

THE NEW ZEALAND LAW FOUNDATION CENTRE FOR LAW & POLICY IN EMERGING TECHNOLOGIES

The New Zealand Law Foundation Centre for Law & Policy in Emerging Technologies took advantage of two distinguished scholars' visit to the University to host a debate on human enhancement. **Nick Agar** (Associate Professor at Victoria University's School of History Philosophy and International Relations) and **Russell Blackford** (an attorney, science fiction author, critic and currently Conjoint Lecturer in the School of Humanities and Social Science at the University of Newcastle) debated the topic: "A New Future for Humanity - Can Human Enhancement go Too Far?" Although both are self-proclaimed liberals, Nick argued that whilst some enhancement is good, some more radical interventions would potentially go too far, suggesting that an appeal to humanity might explain this moral intuition. Russell countered that any prohibition should be based on rational argument, rather than on the basis of projected fears of altering the way that we currently conduct our lives. While Nick argued that there are some things that we value as human beings that we should protect (providing the example of natural/non-doped athleticism) Russell argued that these are not things that we necessarily value as human beings, merely things that we value at this point in time.

NORSYAMIMI BUKHARI (MIMI) AND NURUL JANNAH SULAIMAN (JANNAH) VISITED THE FACULTY IN SEPTEMBER

Mimi and Jannah are from the University of Technology Mara, Malaysia and were visiting for research purposes. Their research topic is "A comparison of the implementation of sustainable coastal management and developments projects between Malaysia and New Zealand laws".

Alumni News

As you know we enjoy keeping in touch with our Alumni and have many interesting stories we would like to share.

MARTIN SNEDDEN

Graduated from Otago with an LLB in 1982.

Martin Snedden who has been the CEO for the 2011 Rugby World Cup offered his views in a recent interview on his time at Otago, his careers as a cricket player for New Zealand and his most recent success story the 2011 Rugby World Cup.

When asked about the best part of studying Law at Otago, Martin says he met so many interesting people many of who are now lifelong friends. The very best of those being his wife Annie who he met while they were both studying law here.



As a cricket player for New Zealand Martin toured Australia just before exams were due. He was very happy that he received unqualified support from his lecturers, which enabled him to continue with his studies and sit his exams at a time when he needed tolerance and understanding. The staff could not have been more helpful and he returned from the tour one of the richer students being \$10,000 better off!

Martin says that this was typical of the flexibility and accommodating nature of the Faculty staff many of whom he fondly remembers including Mark, Kevin Dawkins, Nigel Jamieson and John Smillie. He says that the collegiality he experienced is exemplified by the longevity of tenure of these staff members. Martin also enjoyed living so close to the University and says the warmest place in Dunedin was definitely the library, which he says contributed to his success at study.

Martin's first job when he graduated was in the family law firm founded by his grandfather in the 1920's where he worked with his brother David after his father retired. Martin enjoyed the same flexibility here, which enabled him to continue to play international cricket until he retired from cricket in 1990. By the time of his retirement he had worked 41/2 years at cricket and 41/2 years at law. His father and grandfather were also first class cricketers.

Martin was CEO of New Zealand Cricket from 2001 – 2007 and made a smooth transition to become the CEO of Rugby World Cup 2011.

The Rugby World Cup was a huge success for not just the All Blacks says Martin but primarily for all of New Zealand. New Zealand did an amazing job hosting the event. Feedback from surveys indicates unanimous consent that it was a fantastic event. "Ownership of success can be taken by people all over then country".

The greatest highlight was that New Zealanders, not just the fans, put their best foot forward and ensured delivery of a positive environment from the outset of the project to the amazing opening ceremony. The All Blacks win was the icing on the cake.

Dunedin was a huge highlight. He has always had a soft spot for Dunedin and really hoped the stadium would be ready on time for the Rugby World Cup 2011. He said that every game here was a piece of theatre and captured the collective imagination.

The devastating earthquake in Christchurch was the most significant and saddest challenge. Canterbury is rugby heartland and it was even worse when the decision had to be made not to hold any games there. Not only did this throw up an operational challenge but also the psychological challenge was enormous. This sincerely touched Martin. Helping people accept that it was the right decision was very hard for him and he has huge respect for the people and their lack of animosity about what was an unfavourable decision that had to be made.

Overall Martin thoroughly enjoyed his position as CEO of Rugby World Cup 2011, a special purpose company, and now, when the job comes to an end in December he faces a new and exciting challenge of where to next. We know there will be a great demand for his talents.

Martin and his wife Annie have 4 children, 2 of whom have studied at Otago. His daughter is a senior law student and Martin says they would like the younger 2 to study here as well. This, he says, is a testament to how much he and Annie enjoyed their time at Otago University.

Congratulations to **ALICE IRVING** currently studying at Merton College, Oxford.

Alice has been awarded the following prizes:

- Vinerian Scholarship Proxime Accessit
- Law Faculty Prize in Criminal Justice and Human Rights
- Law Faculty Prize in Medical Law and ethics

This is an excellent achievement for Alice as she came second out of 90 students in the Oxford postgraduate Law exams (Bachelor of Civil Law).

MR RY OUK BOU NOU OUK & PARTNERS

(law firm)

Ry Ouk received a Bachelor of Laws with the main focus on commercial laws (international law, trust law, competition law, intellectual property, international trade law, secured transactions) and Bachelor of Commerce, (major in Economics), University of Otago in 1996. He went on to complete a Master of Laws, Monash University, Melbourne, Australia in 2002.

Ry Ouk has held many significant positions since returning to his homeland, Cambodia including:

- President of Cambodia Law Community – 2002
- Member of Association of European Lawyers
- Member of the Arbitration Council (Labour) – 2004
- Legal Advisor to the President of the Senate – 2006
- Member of Cambodian Chamber of Commerce – 2006
- President of Cambodian ITF Taikwondo Federation – 2007
- Member of the Council of Jurist (Legislative Review Committee) – 2009
- Member of the Private Sector Working Group on Law Tax and Good Governance – 2003

He is also a Member of the Bard Council, The Bar Association of the Kingdom of Cambodia. As Managing Partner of BOU NOU OUK & Partners he has signed a Commercial Association Agreement with American Law firm to increase its capacity in international business law practice. He manages the law firm of 3 partners and 10 associates including the staff, and is head of commercial section of legal practice. He practices in the areas of labour law and labour law compliance, general commercial laws, litigation (criminal and civil cases), real estate transactions, international investments, legal opinion, contract drafting, project finance, and legal translations. Ry has also been appointed arbitrator for the Labour Law Arbitration Council.

MICHAEL FORSTER decided to do a BCL at Oxford, and has won a William Georgetti Scholarship, which will cover a significant proportion of the costs.

ANNA COTTLE (nee Marshall), LLB class of 2006, has passed the Bar exam in California. She moved to Santa Barbara from the United Kingdom where she spent two and a half years qualifying and working as a solicitor in Oxford then Nottingham. She is also a qualified solicitor and Barrister in New Zealand.

The California Bar exam is amongst the toughest in the US with a low pass rate (42% this round and only ~15% for foreign attorneys). Anna passed first time after 3 months of solid study.

Anna is currently working for a law firm in Santa Barbara, California, where she is specializing in corporate and business law.

FANAIFI AIONO-LE TAGALOA (PhD) graduated in December 2009 with her Otago PhD in Law. She first came to Dunedin in 1991, when she was awarded a Vice Chancellor's scholarship to attend the Secondary School of her choice in New Zealand. Otago Girls' High School and Dunedin were chosen, as her older brother and sister were both at Otago Medical School. She was subsequently offered a Scholarship in 1996 to study a double degree in Law and History at Otago.

During her undergraduate studies, Fanaafi was invited to do honours in History, Classics and Economics. By the third year of Law, Fanaafi was in the honours programme for Law. Fanaafi graduated with double honours in Law and History in 2001.

She became a candidate in the PhD programme for Law in 2003. Her family supported Fanaafi for the first two years of the PhD Programme after which, she returned to Samoa from the end of 2003-mid 2006 and worked for the Ministry of Justice and Courts

Administration and the Office of the Attorney General while she carried out her fieldwork. Fanaafi then received an Otago Māori and Pacific Islands PhD Scholarship, enabling her to return to Otago for the completion of her PhD.

Since graduating, Fanaafi returned to Samoa in May 2010, and has found employment with the Samoan Government as the Sector Coordinator for the Samoa Law and Justice Sector. The Sector Wide Approach is a fiscal management model the Samoan Government is utilising to ensure efficiency in the use and allocation of resources and to avoid duplication in improvement project activities that concern different services officered by the Government to the Samoan people.

The Samoa Law and Justice Sector comprises of: the Office of the Attorney General, the Ministry of Justice and Courts Administration, the Ministry of Police and Prisons, the Ministry of Women, Community and Social Development, the Office of the Ombudsman, the Samoa Law Reform Commission, the Public Service Commission, the Ministry of Finance, Samoa Council of Churches, Samoa Umbrella for Non-Government Organisations (SUNGO), Samoa Law Society and a Representative of *Alii ma Faipule* – chiefs, orators and customary decision-makers.

Fanaafi has worked with the Sector for a little over six months and some of the projects the Sector has been able to launch since she came on board include: the Digitisation of the Land and Titles Court Records, a Housing Project for the Olomanu Juvenile Rehabilitation Centre, the extension of the Women's Correctional Facility, the Mentoring of Government Lawyers Programme, the Samoa Returnees Charitable Trust Integration Assistance Programme for Criminal Deportees, Development of a National Policy for Crime Prevention, various Law Reform projects: *Law Practitioners Act, Crimes Ordinance, Prisons and Corrections (Reorganisation and Reformation) Bill 2011*, and the *Village Fono Act 1990* in light of the recent Commission of Inquiry on the freedom of religion and *Alii ma Faipule* decision-making. The scope and content of her work presents a different type of challenge to that of academic studies.

Being a Sector Coordinator and working in project management and coordination was not what Fanaafi had in mind when she embarked on her legal training. She is quick however to add that her Otago training has more than sufficiently prepared her to meet the demands of the role.

The key is how well and how broad the foundation that formal schooling establishes in the individual. How one builds on that foundation is informed by the different ways that opportunity knocks! The study of law as well as its practice fosters a particular type of individual and personality – one Fanaafi calls “adaptable, flexible and creative... one that finds a way to spin gold from straw!”

Fanaafi attributes any achievements and successes she may have attained to the faithfulness and grace of God, the love of her parents and siblings, the strength of the Samoan culture and the eye opening, mind-blowing, power of education.

OTAGO GRADUATE REACHES DIZZY HEIGHTS

Christine Burke, a graduate of the Faculty of Law 1990, was the fourth New Zealand woman to scale Mt Everest on Friday 23 May 2011.

She spent just over an hour on the summit and on her descent helped an Indian woman climber in the death zone – the area above 8000m – to make sure she reached camp 4 safely.

Christine went to Timaru Girls' High in the 1980s before studying law at the University of Otago. She practised law in Timaru for Maurice Ward before moving to Sydney.

She is currently a partner at Gilbert and Toblin Lawyers in Sydney.

NICOLA LESLIE

Has been accepted into Oxford, Cambridge, NYU and Colombia, and has received a funding grant for Oxford. Nicola was absolutely thrilled, and said she couldn't have done it without Professor Henaghan!

NICK HOLMES PARTNER DAVIE COLLINS CAVE

Nick Holmes graduated from the University of Otago Law School in 1992. One of the last subjects he studied to complete his law degree was Professor Smillie's Intellectual Property subject. Nick enjoyed the subject so much that he went straight from the University to study and complete a Masters in Law specialising in Intellectual Property, at Monash University in Melbourne.

After graduating from Monash University in June 1994, Nick commenced work with Kensington Swan in Wellington, before returning to Australia to specialise in IP in 1996. Subsequently Nick joined Davies Collison Cave Patent and Trademark Attorneys in 1998, specialising in trademark law. The firm is Australasia's largest intellectual property firm and was recently awarded the Australian Prosecution IP Firm of the Year for 2011, an international award that it has also won in 2006, 2007, 2008 and 2010. Nick has recently been made partner of that firm. Amongst his responsibilities, Nick is a specialist in New Zealand trademark law, as the firm now practices in New Zealand. His professional experience extends from advising small local businesses on trademark law and protection in Australia and overseas through to large multinational companies based throughout the world, including in Australia, USA, Europe, Japan and New Zealand. Nick also regularly presents seminars throughout Australia and overseas on a wide range of trade mark matters to local industry groups, foreign government and industry representatives, and other trade mark practitioners.

Nick remembers his time at the University of Otago very fondly, and recently returned to Dunedin for a visit. He was very pleased to see that the law school was doing so well and remains grateful for the thorough training and support that he received during his time at the law school from Mark Henaghan, the late Professor Sutton and others, which provided a strong platform for his career in intellectual property.

SEAN COLLIN

Sean Collin graduated from Otago in 1988 with a BCom LLB(Hons). Since graduation he has worked professionally and lectured academically in a number of countries. His career took him from New Zealand to Australia, Taiwan, Washington DC, California, and Europe where he worked in the international and intellectual property law field with some of the largest firms in the world. He also lectured at Wharton Business School, the University of California, and other universities in the US, Australia, Asia, and Europe. One of the public highlights of his legal career was being selected as one of "The Top 20 Attorneys Under Forty" in California in 2002 by his peers as featured in "California Law Business." He was on the corporate law "fast track," and made Senior Partner at the oldest firm in California before his 40th birthday.



A couple of years later he met and subsequently married a lovely American Indian woman and his professional and personal life took a significant turn. Yvette, (her Indian name is "Medicine Road"), his wife is very concerned about serving people selflessly and living in the traditional ways of their ancestors. Sean is part Cherokee and Yuchi American Indian, but had never explored that aspect of his heritage.

Encouraged by his wife, he left large law firm practice. In 2007 he was asked to run a business he had assisted in founding for a client. This company provides intellectual property support services and consulting to in-house counsel and law firms. Sean then moved to Alabama, an area of the United States where his Cherokee ancestors once resided on the first established Federal Indian Reservation (The 1806 Congressional Reservation.) He and his wife purchased a small, 70-acre farm/sanctuary that is located between two rivers where they raise and preserve Native American horses (an almost extinct line of wild animal pictured), a small herd of bison (including a white one born to them pictured,) and four children. The land has been occupied for thousands of years and contains many artefacts and indicia of prior habitation by American Indians over the ages. It is from this town base that Sean operates a consulting firm that services large and small companies, non-profits, and law firms around the United States.

Sean has joined the Faculty at the University of North Alabama (UNA), where he teaches legal subjects in the MBA program, mostly at their campuses in Beijing, China, and Taipei, Taiwan. He has always enjoyed lecturing in the law and has done so on a part-time basis throughout his legal career.

The Collin's dedicate a great deal of their time and resources doing community work around the United States and internationally. Over the years they have learned a great deal about traditional Native American healing practices. In the tradition of her ancestors, Yvette helps people to heal and has experienced tremendous success with women and girls, particularly those trying to heal from sexual crimes (including healing of cancer and other diseases, which often result from such abuse years later.) In keeping with tradition, she cannot charge money for these services or accept gifts of any kind as "only God heals and His love for each of us is already there." Sean and Yvette travel broadly for her work in this area and maintain a small home in New Mexico, as well as in the Southern United States.

Yvette is getting ready to begin her PhD on the relationship between the Native American horse and the people, particularly their role in traditional healing practices. To this end they have travelled to the most isolated places in the United States gathering the best surviving examples of the traditional Native American horse. They are now caretakers of roughly 60 of these animals.) These animals are visually unique and many have "zebra" stripes on their legs, neck, and back. Many were gifts from Native people and all are treated with great respect and kept in as close to their natural conditions



Sean and Yvette Collin with one of their herds of American Indian horses.

as possible. It is one of Sean and Yvette's goals to re-establish the breed both in the wild in the United States, as well as on reserves internationally.

The non-profit Yvette founded can be viewed at "sacredhealingcircle.org,"

The international version of Sean's consulting firm can be viewed at "suthun.com," and a beta of their sanctuary website can be viewed at "sacredwayspirithorses.com."

This excerpt is edited from a recent "thank you for all you and the Faculty of Otago have done for me" letter from Sean Collin to the Dean. Our Alumni go many places!

Congratulations to **REBECCA ELVIN** who has recently received a Sir Peter Blake Emerging Leader award for 2011.

Since graduating from the University of Otago with degrees in Law and Politics, Rebecca has worked as a judicial intern at the United States Supreme Court, as a judge's clerk in the High court of New Zealand and as a legal intern at the International Criminal Court in The Hague.

Rebecca has recently returned from Beirut where she has been researching for her Master's degree in Conflict Resolution in Divided Societies at Kings College in London.

Rebecca will soon be undertaking a Doctorate of Philosophy at the centre for Socio-Legal Studies at Oxford University. Her study will examine the role of judicial systems in promoting transitional justice, the rule of law, stability, peace and reconciliation.

Rebecca is also to be congratulated for her encompassing sense of humanity and has undertaken volunteer work in New Zealand and in Thailand and the Philippines. She worked in Washington DC at the headquarters for the International Justice Mission and was founder of Not Just Us Trust

In 2010 Rebecca was awarded the New Zealand Law Society's Cleary Memorial Prize for people considered to hold most promise of service to the legal profession.

SAEEDA VERALL

Saeeda finished a BA/LLB Hons in 2004.

Since then she has worked as an intern at the Khmer Rouge ICC Tribunals and now works in The Hague assisting with the prosecution of war crimes. Saeeda also is on the board of directors of the Himalayan Communities Project in Nepal, a new NGO initiative that seeks to empower socially and economically through small-scale education initiatives.

For more information about this project see www.himalayancommunityproject.org

GOOD ADVICE – 'SHAMELESSLY EXPLOIT YOURSELF'

Otago's excellent reputation globally gave **Gordon Youngson** (BCom Accounting 1999, BA Economics 1999, LLB 2002) the leg-up he needed when he arrived in London eight years ago.

"Picking up work in the world's biggest financial centre was fairly challenging, but amazingly, everywhere I went, most people in the UK had heard of the University of Otago, and unsurprisingly Otago is held in very high regard," Gordon said.

After several distinct changes in the type of legal work he undertook (criminal, civil, prosecutions, insurance – 'a natural quartet'), and joining the English Roll of Solicitors,

Gordon found himself working with the legal team at a company that is at the centre of the UK payment system – UK Payments. UK Payments oversees all payment methods from the old fashioned cheque to the immediate electronic payment through the CHAPS system. Separate service companies administer each scheme with ultimate funding collectively by the UK banking industry. Tens of millions of pounds per day are monitored with £70 trillion worth of payments supervised in 2007 alone. Gordon noted that working for such clients requires careful analytical skills and solid business acumen – and 'good old fashioned kiwi hard work'.

"One of our clients, Payments Council, an industry oversight body set up in 2007 at the behest of the Office of Fair Trading (similar to the NZ Commerce Commission) is leading the way in developing electronic alternatives to the cheque prior to the forthcoming closure of the UK cheque clearing in 2018," he said.

"A key part of our work is advising on competition issues, and if you are watching world events, you will have seen the arguments that the banking industry contributed to the world financial crisis.

"Another one of our clients, the Cheque and Credit Clearing Company, wanted me involved in discussing the payment industry position on a future banking crisis through the Banking Act 2009 (UK) and the Special Resolution Regime – designed to give 'super powers' to the Bank of England/FSA/ HM Treasury in the event of a bank failure."

Gordon believed the economic analysis he learnt at Otago, under the tutorship of the likes of Paul Wooding, Alan King, Stuart McDougall, and Stephen Knowles, provided him with a 'fantastic background but more importantly in my work advising these clients'.

"I always look back on my days at Otago with fondness, and I find it encouraging reading the School of Business updates to see that Otago graduates and students are still working hard and leading the world."

He said he uses the skills he developed at the School of Business and the Law Faculty in the Economics and Accountancy departments every day in his work.

Gordon is also keen on sharing some advice for those who are persevering in the current economic climate – "display that good old fashioned kiwi work ethic, and don't give up when things get tough.

"When I arrived in a completely different jurisdiction without a job, I polished off the CV, and starting knocking on doors. I always backed myself, in spite of many initial knockbacks, and you will find that people admire your keenness. I cannot stress the importance of networking – just talking to others about anything, not even business related.

"I shamelessly exploited this while trying to get actively involved in 'in-house' legal circles and now I find myself on the London Region Committee of the Commerce and

Industry Group – the leading voice of all in-house lawyers in the UK where we look after some 3000 London based in-house lawyers.

"I do regret not being more actively involved in networking while at Otago, and I would encourage Otago students and grads to overcome any nervousness and step up to the challenge."

JOHN LAWRENSEN

I graduated in 2001 and completed my legal professionals in Dunedin before taking up a position in Christchurch in 2002 with Ernst and Young. I returned to Dunedin in late 2003 and took up a position with Taylor McLachlan, now WHK Taylors, in the tax team. After a six-month sojourn in Europe I returned to Dunedin in late 2004 knowing that the office environment was not for me. I began buying a few student properties with a couple of other Otago alumni and took up a position as a bar manager in a local student bar where

I remained until the start of 2006. It was then that I moved to Hamilton and after working in a couple of bars there, I designed and built my first restaurant, Furnace, which opened in June 2007. I did not have a lot of funding available to complete this project and ended up only taking a 35% shareholding in it to make room for the required investors. Fortunately it still turned out to be the launch pad that I needed as the money started to pour into a restaurant that was fully booked nearly every night of the week. My next project was completely different but one that was close to my heart and the bulk of my hospitality experience. Student offering Bar101 opened in April 2008 and was an overnight success; with queues stretching to the end of the street and 45 minute wait times just to get inside the door. By the end of the year we had won the Waikato Times readers' choice best bar in the Waikato and were the biggest seller of DB Brewery RTDs in New Zealand. Bar101 now possesses one of the largest hospitality based facebook pages in New Zealand with over 15,000 fans having liked the page since its inception. The last two years have been decidedly hectic. Since the start of 2009 those first two bars have been joined by cocktail bar Easy Tiger, The Helm, Shenanigans Irish Pub, The Outback Inn, The Bank Bar and Brasserie, Victoria Street Bistro, Keystone Monteith's Bar and The Abbey Belgian Beer Café. Before the end of 2011 another two bars will be added to that list bringing the total number to twelve in just over four years. These businesses have been united under the umbrella of the Lawrenson Group Limited, which provides various administration and marketing services to each of the bars and restaurants. In 2012 the Lawrenson Group will deliver its largest and most impressive bar to date before preparing for expansion into other major centres in 2013.



TIM BEVERIDGE

Tim Beveridge's career has changed dramatically since he left his life as a lawyer some years ago.

Starting in musical theatre, he was one of the youngest performers to play the Phantom in "The Phantom of the Opera" at the early age of 29, then appeared on the world stage by winning a place in the final of the world's most prestigious music theatre competition, the BBC Voice of Musical Theatre in the UK in both 2000 and 2002 – the only person ever to appear in two consecutive finals. His first recording, "Singer" with the New Zealand Symphony Orchestra went gold within four weeks of release.



In 2004 he collaborated with the arranger Russ Garcia (arranger to Louis Armstrong, Ella Fitzgerald, Frank Sinatra, Count Basie, et al) on a big band recording that culminated in the release of Tim's second CD, "Come Rain, Come Shine" on the Sony/BMG label in 2004. The album, featuring Buddy Childer's Big Band and conducted by Russ Garcia, was recorded in Hollywood. Its endorsements included Burt Bacharach lyricist Hal David, among others.

Tim has sung in every major venue in New Zealand as well as the Sydney Opera House and Melbourne Concert Hall with well known New Zealand performers such as Sir Howard Morrison, Dame Malvina Major and Hayley Westenra. He has conceived, produced, directed and starred in his own festival productions over the past ten years.

His career as an independent concert producer has seen Tim produce concerts at major venues throughout New Zealand with his Neophonic Orchestra. Among those was "Fly me to the Moon" at Auckland's Town Hall conducted by Russ Garcia himself and recorded as a live-in-concert album. Other concert highlights include "The Vegas Experience" which paid homage to the Las Vegas swing era with classics from Sinatra, Martin, Darin and others and "In Love with Kiri" a special Valentines Day event with Dame Kiri Te Kanawa, and "The Music is Bond...James Bond" – which celebrated the music from the Bond films.

Tim has just finished a 5500 km tour of NZ with the VEGAS show performing in 20 venues around NZ. Another project he is working on is a Concert production of all the Music of James Bond for which he has an agent in New York working on getting a tour set up for the USA.

"People have often asked whether I have any regrets about leaving law, and I confess it is quite strange revisiting the Faculty and recalling all the time I spent in the library. But given some of the experiences I have had it is hard to have too many regrets – apart from the financial insecurity...!"

CHRIS MAHONEY

Chris Mahony took a particular interest in human rights and international criminal law during his studies at Otago University where he completed a BCom/LLB. During his fourth year, Chris embarked on a gap year abroad in Sierra Leone. Former chief United Nations humanitarian coordinator in Iraq, and now MP for Mt Albert, David Shearer, had put Chris in touch with a non governmental organization he'd help set up – the Campaign for Good Governance (CGG). At CGG Chris wrote papers on 'Addressing Corruption in Post Conflict Sierra Leone' and 'Access to Justice for the Ordinary Citizen in Sierra Leone'. The former solicited attention from Sierra Leone's Truth and Reconciliation Commission, which asked Chris to write its governance recommendations and co-author its chapter on 'The historical Antecedents to the Conflict'. Chris also visited Liberia where he assessed the feasibility of taking testimony relating to human rights abuses from persons in internally displaced persons camps.



After a year in West Africa Chris returned to Otago where he completed his studies in 2005 and won a scholarship to attend Oxford University to do a Masters in African Studies.

Between the conclusion of his studies in Otago and the start of his time in Oxford Chris returned home to Auckland, completed professional and admission to the bar and began working as a criminal prosecutor for Meredith Connell. While working for Meredith Connell, Chris was selected for the Auckland NPC team after completing his first full club (with Auckland University Rugby Club) season since leaving high school. He had played for Kaikorai and various Otago representative teams in Dunedin but had suffered a structural injury to a knee, elbow, shoulder or hip in each season he played.

The Auckland coaches agreed that Chris could leave halfway through the season to join the Oxford side for the start of their season in September but invited him to return to play the following year. He has also started at fullback in four Oxford v Cambridge Varsity matches.

After completing his masters, Chris was offered a place at Oxford to complete his PhD in politics. His thesis examines the methods used by States to affect prosecution independence in selecting whom to prosecute for international crimes (he specifically examines the case of Sierra Leone and Uganda).

Before beginning his PhD, Chris returned for the 2007 season, coming off the bench in the finals in which Auckland completed an unbeaten season seizing the title and the Ranfurly Shield.

In the first year of his PhD, the war crimes court in Sierra Leone asked Chris to direct the design of a witness protection program for Sierra Leone's domestic justice system. After completing the design in June 2008 he returned to Auckland for another season for Auckland before being contracted to carry out research and write a book on witness protection in Africa by the Institute for Security Studies (the book can be downloaded here: iss.co.za/pgcontent.php?UID=29956). The book was launched in May 2010 at the United Nations Office on Drugs and Crime in Vienna and in August in Nairobi, Kenya.

Chris has since advised the US Department of State, USAID, the UK Foreign and Commonwealth Office, the International Centre for Transitional Justice, the Carter Centre on issues of witness protection and international justice. He is currently writing up his PhD thesis.

Art in Law VI

DESI LIVERSAGE

Art in Law is collaboration between the Dunedin Art School and the Otago University Law Faculty. That we have arrived at the sixth round of Art in Law is emblematic of the wonderful relationship between the two institutions and smacks of tradition in the making.

Art in Law VI is curated by Desi Liversage and consists of works by students and alumni of the art school, with the focus being on a wide range of media – paint and print, drawing, ceramics, textiles – and different styles.

As well as large scale mixed media drawings, Blue Black brings us abstract expressionist hanging ceramic pieces on the eighth floor, such as *Playing With the Idiots*, *Make Haste Slowly*, *Little Green Riding Hood*, *Baby Doll* and *Swingers*. These vibrant pieces are in stark contrast to his darkly sombre pieces. His expressionistic style differs greatly from the almost impressionist otherworldliness of the landscape painting of Anya Sinclair. The detailed brushwork invites us to this cool place, but is it real?

The whimsy of Sally Shephard's *Josephine* in a pink nylon nightie and the almost monotone triptych of children are delightful.

Included in this exhibition are the works of some promising artists in their formative years at art school, such as Dan Roberts with a graphite drawing, *Evil Sexy Girl*, who exudes both evil and sexiness in her Catwoman-like outfit. Ex alumni and staff member Lynn Taylor's sepia-toned local history prints *Post Office* and *Listening Down the Wire* are nested together with the works of some of her promising young students, Petra Fersterer, Zoe Eccles and Rake! Blomsterberg. Blomsterberg's flouro coloured cross-stitch sampler on acrylic is particularly striking.

Self-portraits are well represented in this collection with the bold paintings of Vicki Urquhart, representing herself in the past, present and future and Jo Robertson's beautiful charcoal drawings.

Desi Liversage's embroidered pieces on old blanket illustrate the abjectness of the struggle of everyday life when even the basic of needs are regarded as luxuries in the series *Nice to Have*, representing pages torn from recent political discussions in New Zealand.

Last, but not least, is Hannah Joynt's magical painting, *The Flying Dream*, a joyous foray into memory and imagination.

Viewing these works is the embarkation of a small journey of discovery up and down stairs and along snaking corridors. Like our minds, these corridors twist and turn, and you are on a treasure hunt. Open doors, turn corners, ask questions and marvel at what you find.

With great thanks and appreciation to the Law Faculty of the University of Otago and the Dunedin Art School.

The Faculty of Law is looking forward to hosting Art in Law VII from early February 2012. You are most welcome to view the exhibition.

Report on the Shanghai Municipal Bureau of Justice Delegates Experience of Faculty of Law New Zealand Corrections System – Law and Practice

Ruth Molloy

For the last 7 years the Faculty of Law, spearheaded by Associate Professor Donna Buckingham, has offered an intensive programme to successive delegations from the Bureau on Law and Corrections in New Zealand. Associate Professor Donna Buckingham and I were recently hosted by senior officials from various departments and organs of the Shanghai Municipal Bureau of Justice Bureau and were able to gain many new insights into Chinese Law and Corrections as well as cement the ongoing relationship that has been developed with the Bureau, past delegates and those to come.

We were invited to visit Shanghai community work offices, work sites, Qingpu prison (one of the largest in China), a women's drug rehabilitation centre and we were privileged to watch a plea in mitigation in the Shanghai Number 2 Intermediate Court.

The visit was very useful in terms of reaching a better understanding of the Bureau's requirements as well as those of Central Government in Beijing and to be able to offer constructive and positive feedback to the course contributors.

It was extremely encouraging to note that past delegations have not only enjoyed their time at the Faculty of Law and the presentations offered by those involved in the course, but many of the initiatives that they have studied here have been incorporated into positive outcomes – particularly in the Shanghai Community Corrections Work Office and Shanghai City Volunteers Helpers Association. There was a real sense of openness about learning from other jurisdictions the methods and procedures that complement the existing Criminal Justice System



“Many of the interventions we take are of them are learnt from your course. For one example now we have to submit the pre-sentence report to court before a parole or probation sentence are given. For another, according to reoffending assessment, the criminals with high risk of reoffending must wear the electronic monitors. There are other interventions like unpaid work, prohibited activity, education, work skill training, mental health treatment, etc. The government officers are in charge of supervising the criminals to fulfill the community correction sentences, the social workers and the volunteers help them to reacquaint and reaccommodate the community.” Ms Lu Ling – Shanghai Community Correction Work Office.

The programme offered in the Faculty includes visits to the District and High Courts where Judges have hosted the delegates, as well as visits to the Otago Corrections Facility (and other prisons around New Zealand) Moana House and community work sites. The delegates receive presentations on all aspects of offending from arrest to rehabilitation as well as some of the factors that may predispose to or correlate with offending. The aim of the programme is to provide training in and experience of the New Zealand corrections system, which may offer a complementary focus for existing or reforming corrections systems in other jurisdictions. Our visit to Shanghai enabled us to identify ways in which we could augment and improve the programme, which we recently offered to this year’s delegation. The delegation was by Mr Chen Li Song from Qin Pu Prison, and included academics from the Shanghai Institute of Political Science and Law as well as senior practitioners from various offices of the Shanghai Municipal Bureau of Justice.

We welcome these opportunities to maintain and develop the relationship between our sister cities.

Faculty of Law Publications

The Faculty of Law has had a number of significant publications this year. Among these are the following:

THE OXFORD HISTORY OF THE LAWS OF ENGLAND

Volume XI 1820 – 1914: English Legal System and Volume XII 1820 – 1914: Private Law

Co authored by Professor Stuart Anderson

General Editor Sir John Baker, Published by Oxford University Press

The Oxford History of the Laws of England provides a detailed survey of the developments of English law and its institutions from the earliest times until the twentieth century, drawing heavily on recent research using unpublished materials.

Professor Stuart Anderson has been a major contributor to this impressive work and has written the following:

Volume XI Part Two: Public Law

Chapters

I. Parliament

II. Central Executive: The Legal Structure of State Institutions

III. The Church and State

IV. The Army

V. Local Government

VI. Judicial Review



Volume XII Part One: Property Chapters

I. Succession, Inheritance and the Family;

II. Property Rights in Land: Reforming the Heritage

III. Land Transactions: Settlements and Sales

IV. Leases Mortgages, and Servitudes

V. Changing the Nature of Real Property Law

VI. Trusts and Trustees

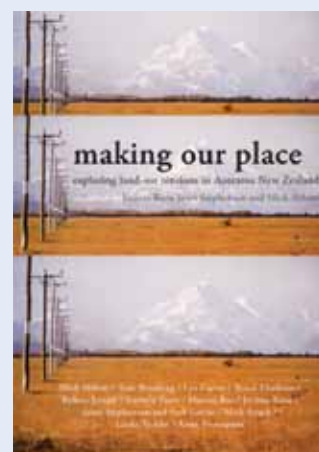
This is a work that will stand the test of time and still be read closely in the next hundred years. The research is in depth and provides an exceptional historical basis to understand where our laws and legal institutions have come from.

MAKING OUR PLACE - EXPLORING LAND-USE TENSIONS IN AOTEAROA NEW ZEALAND

Edited by Jacinta Ruru, Janet Stephenson and Mick Abbott

Fascination with the interplay of people and place inspired the editors to bring together New Zealanders from differing backgrounds and disciplines to explore some of the stories and sites of conflict and change to be found amongst our sacred, historic, rural, urban and coastal landscapes. All engage with the underlying question: are there better ways to reconcile the tensions inherent in our struggles with the land and each other?

The authors are from fields as diverse as architecture, ecology, design, history, planning, law, theology and tourism. They discuss issues ranging from the early-settler surveying lines to the Wanganui/Whanganui naming debate, the legal arguments over wahi tapu and Maori customary land to dairying in the Mackenzie Basin. In exploring different ways of framing landscape tensions, they seek new understandings of why such passion, reverence and contest is generated and ways to identify new approaches to resolving problems.

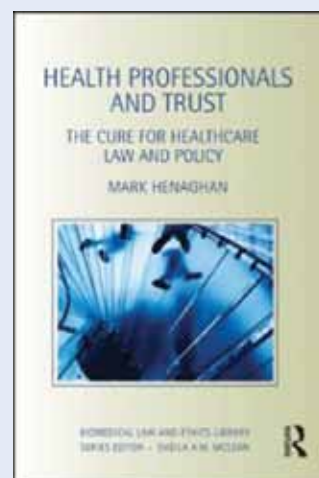


HEALTH PROFESSIONALS AND TRUST - THE CURE FOR HEALTHCARE LAW AND POLICY

By Mark Henaghan

“An ever increasing number of codes of conduct, disciplinary bodies, ethics committees and bureaucratic policies now prescribe how health professionals and health researchers relate to their patients. In this book, Mark Henaghan argues that the result of this trend in heightened regulation has been to undermine the traditional dynamic of trust in health professionals and diminish reliance upon their professional judgement, whilst simultaneously failing to trust patients to make decisions about their own care.

This book examines the issue of health professionals and trust comparatively in a number of countries including the USA, Canada, Australia, New Zealand and the UK. The book draws upon historical



analysis of legislation, case law, disciplinary proceedings reports, articles in medical and law journals and protocols produced by management teams in hospitals, to illustrate the ways in which there has been a discernable shift away from trust in healthcare professionals. Henaghan argues that this erosion of trust has the potential to dehumanise the unique relationship that has traditionally existed between healthcare professionals and their patients, thereby running the risk of turning healthcare into a mechanistic enterprise controlled by a 'management processes' rather than a humanistic relationship governed by trust and judgement.

This book is an invaluable resource for students and scholars of medical law and medical sociology, public policy-makers and a range of associated professionals, from health service managers to medical science and clinical researchers.

CHAPTER ONE: HEALTHY HEALTHCARE LAW DEPENDS ON TRUST

Chapter one sets out the connection between trust and healthcare, which the rest of the book explores. The chapter examines four examples of serious abuses of trust, from around the worlds, which have eroded trust in the healthcare profession. Chapter one argues that increased auditing procedures do not increase trust and do not benefit patients. The first chapter argues that trust is the primary value for the relationship between patients and healthcare professionals to work, and ultimately concludes that the purpose of healthcare law and policy must be to establish an environment in which trust thrives.

CHAPTER TWO: TRUST

Chapter two discusses what the book means by 'trust' with reference to world leading authorities on the philosophy of trust. The chapter explores all aspects of trust including subjectivity, risk, trusting individuals as well as systems, and the best ways to nurture trust. Chapter two argues that trust is earned, rather than given, and must be a priority of every interaction in the healthcare world. The chapter concludes that trust is reliant on the equalisation of power between people. Trust as an equalisation of power underpins the rest of the book.

CHAPTER THREE: THE EMERGENCY SITUATION - A PREMIUM ON TRUST

Chapter three explores the function of trust in emergency healthcare situations. The chapter explores literature and relevant legal cases that discuss what an emergency situation is, justifications for acting without a patient's consent, and the consequences of failing to act in an emergency situation. Chapter three also considers whether there should be a legal duty to act in emergency situations. The chapter finds that emergency situations should be based on trust and concludes that in emergencies, healthcare professionals equalize power by assisting those who are vulnerable, and that this provides clear evidence of a profession capable of being trusted.

CHAPTER FOUR: COMPLAINTS PROCESSES - A CHANCE TO BUILD TRUST

Chapter four examines complaints processes and argues that complaints can provide opportunities to rebuild trust. The chapter explores the theory of distrust, and the trends and patterns of complaints. Chapter four illustrates the complaint process from both the patients' and healthcare professionals' points of view. The chapter concludes that blame and punishment are not the answer when things go wrong. Chapter four suggests a complaint model based on trust, whereby the healthcare professional should disclose what went wrong, apologise to the patient and try and make amends, so the patient can be given an opportunity to forgive. The healthcare system should provide incentives to create and maintain trust.

CHAPTER FIVE: WHAT HAPPENS WHEN TRUST BREAKS DOWN?

Chapter five analyses the way patients are harmed when trust breaks down. The chapter considers the ways patients are harmed when relationships between different healthcare professionals breakdown, using the 'turf war' between obstetricians and midwives in New Zealand as a case study. Chapter five also considers the consequences of breakdowns in trust between healthcare professionals, their patients and the patient's families, using two New Zealand child cancer cases as graphic examples. The chapter finds that everyone loses when trust breaks down, and highlights the importance of equalising power between healthcare professionals, patients and patients' families.

CHAPTER SIX: TRUST, EMERGING TECHNOLOGIES AND INDIGENOUS PEOPLES

Chapter six explores the connections between trust, new technology and indigenous peoples. This chapter considers how indigenous groups were used and abused by medical technology researchers. The researchers made no attempt to equalize power between themselves and their research subjects, and put their individual careers before the wellbeing of the indigenous groups they studied. Chapter six concludes with two examples of the way medical technology research can be carried out in a trustworthy way that encourages equality, empowers the research subjects involved, and includes research subjects in every step of the process.

CHAPTER SEVEN: BUILDING TRUST INTO THE HEALTHCARE SYSTEM

Chapter seven emphasises the importance of trust in healthcare systems as a whole. The chapter provides an international comparison of healthcare systems, concentrating on patient equality, and finds that the lower a healthcare system's score for equality, the lower the healthcare system's performance in other areas. The chapter concludes with an analysis of New Zealand's healthcare inequality, whereby some patients' treatment is affected by their ethnicity and socio-economic position. Thus chapter seven finds that for a healthcare system to be trusted, power between patients must also be equalised. The chapter ultimately argues for a broad view of healthcare that includes preventing, as well as treating harm, and concludes that all healthcare professionals, patients, educators, governing bodies, policy makers and the government have their part to play in creating and maintaining a trustworthy healthcare system.

Here is a link to the book on the Routledge website which provides the official title and publication information:

www.routledge.com/books/details/9780415495820/

The New Zealand Law Foundation Centre for Law and Policy in Emerging Technologies Report

For the NZ Law Foundation Centre for Law and Policy in Emerging Technologies, 2011 has been a year characterized by fruitful collaborations, prolific publishing and significant 'public outreach'

The major research achievement by the Centre in 2011 was the publication of an 111-page report on the adequacy of regulatory systems with regard to manufactured nanomaterials. The report, commissioned in 2010 by the Ministry of Research, Science and Technology, was jointly authored by Centre staff Colin Gavaghan and Jennifer Moore, and was published on the website of the Ministry of Science and Innovation. As MORST no longer exists, the report is hosted on the website of the Ministry for Science and Innovation at www.msi.govt.nz/about-us/reviews/nanomaterials.

The nanotechnology research also led to a number of publications. Drs Moore and Gavaghan published jointly in the European Journal of Law & Technology, and Dr Moore also published in, or had articles accepted by, the Journal of Law and Medicine, NZ Journal of Environmental Law and Australian and New Zealand Journal of Public Health.

The Centre's core interest in reproductive and genetic technologies continued, with Jeanne Snelling and Colin Gavaghan both contributing chapters on preimplantation genetic diagnosis to forthcoming collections, while Richman Wee published an article on disclosure of genetic information in the Journal of Primary Health Care.

In March, the Centre – together with Genetics Otago – hosted its first international conference. The Future of Fairness conference addressed questions rising from the relationship between emerging technologies and our ideas of fairness and justice. The two-day conference, featuring speakers from a wide range of disciplines, drew an impressive audience of academics and members of the public. Keynote speakers professor Andy Miah (UK) and Professor Ronald Green (USA) remain good friends of the Centre, and we look forward to profitable collaborations with both of them.

A series of smaller symposiums and talks have also been hosted throughout the year, covering a diverse range of topics such as the Wikileaks phenomenon, the challenge of neuroscience to law, and the permissible limits of enhancement technologies. These have allowed a range of high-profile international thinkers (from the USA, Canada, Australia and the Netherlands) to share their ideas with Otago University students, and members of the Dunedin public.

Centre staff have also presented their research at a variety of conferences around New Zealand and further field, including



conferences in Belgium (Jen Moore), Canada (Jeanne Snelling) and Australia (Colin Gavaghan and Richman Wee).

2011 also saw the arrival of the Centre's first PhD student. Amir Bastani will be examining the development, and possible future, of the 'genetic defence' in criminal law. Indeed, the intersection between genetics, neuroscience and legal responsibility is a developing area of interest and expertise at the Centre. Colin Gavaghan has had a chapter included in a forthcoming collection on this topic, to be published by Oxford University Press in 2012, while talks are underway with universities in Australia and Canada about possible international collaborations in this area.

Finally, 2011 saw the approval of our proposed undergraduate course in Emerging Technologies and Law. The first course of its kind in New Zealand, this will run from 2012, and will allow our third and fourth year students to join our staff and growing postgraduate community in studying and discussing these fascinating subjects.

University of Otago Legal Issues Centre Report

The University of Otago Legal Issues Centre (www.otago.ac.nz/law/lic/index.html) focuses on effective research and law reform through seeking to understand root causes of problems before investing in superficial measurement that simply describes, but does not seriously address, such problems.



The Centre increasingly leads or participates in projects and initiatives that operate at the regional, international or global level, as well as drawing on legal experience in New Zealand. There are valuable synergies to be gained by operating at these different levels as local developments and knowledge can inform international developments, and vice versa. The centre hosts a regular stream of Visiting Scholars conducting independent research within the remit of the Centre, who extend our knowledge of relevant developments taking place elsewhere, and who invariably contribute to our Thinking Outside the (Lunch)box seminar series that aims to provide 'thought leadership' in the field of access to justice: www.otago.ac.nz/law/lic/lunchbox.html The following issues are amongst those currently being investigated by research teams associated with the centre: court delay, lawyer discipline and regulation, the costs and funding of litigation, court user perceptions, rural justice, the Disputes tribunal and no-fault loss-allocation and consumer disputes.

The centre also supports doctoral research (currently Bridgette Toy-Cronin who is researching Litigants in Person in the New Zealand Civil Courts and Susan Robson whose topic is Policy and process in employment and family relationship disputes) with other research topics, the psychological stress of litigation and innovative ways of 'by-passing' the legal system, in the pipeline.

In order to further stimulate national debate on the reform of civil justice earlier this year the Centre launched the NZ Justice Forum at the Beehive: (<http://www.otago.ac.nz/law/lic/forum/index.html>). The Forum aims to pool and thereby expand the collective knowledge, experience and expertise of New Zealand's lawyers, judges, policy-makers, academics and interested lay people in order better to define and understand underlying causes of defects that may weaken the integrity and efficacy of the legal system, and to co-ordinate research and reform efforts so that they are targeted accurately on those defects. Toward this end the Centre is experimenting with social media to aid dissemination of research findings and engage in public legal education, while also engaging in public debate on current developments through participating in more traditional media.

Looking to the future, the centre has plans to undertake major research on the relationship between legislative complexity and litigation rates that will bring together legal, economic and comparative analysis to explain the consequences of poorly drafted legislation and what might be done about this. Early next year we shall host the Australian and New Zealand Legal Ethics Colloquium 2012 that is taking as its theme "Is Adversarialism Dead? New Foundations for Legal Process and Lawyers' Ethics." This will examine the need for new ethical frameworks, beyond adversarialism, to support new and emergent forms of legal work, particularly those currently being opened up by increasing deregulation of the legal services market. Class actions, social advocacy and e-discovery are amongst the issues that we intend to investigate.

The Centre is very keen to make contact and stay in touch with our alumni, particularly those now in legal practice. We therefore encourage you to monitor our website and there share your views and experiences about the operation of legal system, either on our Facebook page (<https://www.facebook.com/otagolic>) or through the blog that supports the work of the NZ Justice Forum (<https://blogs.otago.ac.nz/lic/>). Email: lic@otago.ac.nz; ph:+64-3-479-8979; fax:+64 3 479 8855.

LLM and PhD in Law

Enhance your research skills, gain specialised legal knowledge and expand your employment skills

Welcome to the University of Otago Faculty of Law. Established in 1873, the Otago Law Faculty is proud of its long history and tradition of providing a world class legal education. Our very experienced staff have

international reputations in their fields. The University of Otago is New Zealand's most research intensive university. High quality research is a major contributor to our legal system. Be part of this contribution.

POSTGRADUATE STUDIES



CRITERIA FOR ENTRY TO LLM AND PhD

LLM (by Thesis)

LLB or equivalent undergraduate legal qualification
B+ average in papers taken in final years of undergraduate law degree
B+ standard in legal research
Demonstrated English language proficiency
Discretionary admission in other cases
2 academic letters of reference
The LLM is intended to represent the product of 12 months (or equivalent) full-time research

PhD

Honours or Masters degree or appropriate research experience
B+ grade point average for all 300/400 level papers (or equivalent) taken in LLB degree and other prior bachelor degrees, and Masters coursework or research
Demonstrated English language proficiency
2 academic letters of reference
The PhD involves a minimum of two and a half years' full-time, or at least four years' part-time study

UNIVERSITY OF OTAGO POSTGRADUATE AWARDS AND SCHOLARSHIPS

These awards and scholarships are awarded for the first 12 months of a Masters Thesis or the first 36 months of a PhD Thesis.

For scholarship and awards information contact the University of Otago Postgraduate Scholarships office at email: scholarships@otago.ac.nz or visit the website: www.otago.ac.nz/study/scholarships/postgraduate_scholarships

To further your enrolment plans, formulate a research proposal and discuss your plans with the Postgraduate Co-ordinator, Faculty of Law, email postgraduatelaw@otago.ac.nz

Please refer to the website for application forms and information

www.otago.ac.nz/law

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