

Faculty of Law  
Newsletter  
Winter 2012  
University of Otago

# OTAGO LAW



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### CONTACT US

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## GREETINGS FROM THE DEAN



Dear Otago law graduates and friends of the Faculty

The warm northern breezes have been replaced with the icy winds that we all know and love. You all survived winter in Dunedin and this helped build the persistence and determination all Otago law graduates have.

Thank you to all who participated in our graduate destination survey. We do want to know how you are going and that you have great and satisfying jobs and the survey helps show that. It puts a smile on my face and a spring in my step when I meet up with Otago law graduates doing so well all over the world.

What I love most about the Otago Law Faculty is the collegial and supportive way students treat each other. Every year I meet young people who would dearly like to study law at Otago but face financial barriers. The Faculty of Law in collaboration with the Development and Alumni Relations Office has decided to launch an appeal to raise funds for a scholarship. This scholarship is being established to provide support to high achieving, deserving year 13 students with the dream of studying first year Law at Otago.

If we all pool together we can give these young people a chance to study law at Otago and go on to make a major contribution to our society. We will be sending out more information about this soon.

We have had very sad news this week. Two of our law alumni, Shelley Griffiths (our colleague at the Faculty) and Trevor Shiels lost their daughter, Alexandra, following a sudden and brief illness. Alexandra was one of our brightest, most promising law students here. Trevor, Shelley and Alex's brother, Tim, are in our thoughts and we offer our sincerest condolences.

Alex's obituary is to follow.

## STAFF NEWS

**Congratulations to Professor Peter Skegg who has become a Companion of the New Zealand Order of Merit in the Queen's Birthday Diamond Jubilee Honours list.**

Professor Peter Skegg, an international expert in medical law, has been recognised for his work and made a Companion of the New Zealand Order of Merit.

His work in the field of medical law has been described as setting the highest possible standards in medical law scholarship.

Peter Skegg was educated at the Universities of Auckland and Oxford. He has been Professor of law at the University of Otago since 1984, before which he spent 15 years at Oxford. His 1985 book *Law, Ethics and Medicine* was recognised as the first major work on the subject in the Commonwealth, and the 2006 textbook he co-edited, *Medical Law in New Zealand*, was the first major work on medical law in this country.

Peter Skegg was instrumental in setting up the Masters of Bioethics and Health Law course at Otago, serves on various international editorial boards, and has advised government agencies, health organisations, and medical societies on medico-legal issues.

"New Zealand has a very distinctive medico-legal environment, which has attracted great interest from around the world". Peter Skegg says that Dunedin has been an "especially good place" for such work. "The Otago Law Faculty has a cluster of top scholars in this field and benefits from its links with the Otago Bioethics Centre. The Otago Law Faculty provides a superb environment in which to work, thanks in large measure to its remarkable Dean, Mark Henaghan. I know of no happier Law Faculty anywhere in the world."

He says that the greatest pleasure of his academic life is in guiding undergraduates with the research papers they write as part of his law and medicine course.

"I was amazed and delighted to receive the offer of a Companionship of the New Zealand Order of Merit," he said.

Peter Skegg is a much respected and admired senior staff member at the Faculty of Law.



## CONGRATULATIONS TO STRUAN SCOTT WHO WAS PROMOTED TO PROFESSOR FROM 1 FEBRUARY

Struan will be giving his inaugural professorial lecture on 7 August.



### Mistaken Payments and the Change of Position Defence: rare cases and elegance

Struan's lecture considers the statutory change of position defence recognised by s.94B of the Judicature Act 1908 and the common law change of position defence recognised by the English House of Lords in *Lipkin Gorman v Karpnale Ltd* [1991] 2 A.C. 548. Both defences may be available to a recipient of a mistaken payment. There is NZ case law holding that the actions of the payer and the recipient are relevant considerations for both defences. These cases are controversial. Some theorists believe that they are best forgotten or confined to New Zealand law. In his lecture Struan will explore why these cases are controversial and will argue that the controversy is misplaced.

You are most welcome to attend – otherwise the lecture will be available at [www.otago.ac.nz/news/itunesu/podcasts/otago025528.html](http://www.otago.ac.nz/news/itunesu/podcasts/otago025528.html) after the event.

## CONGRATULATIONS TO SELENE MIZE WHO HAS BEEN PROMOTED TO ASSOCIATE PROFESSOR FROM 1 FEBRUARY

Selene's research interests are Civil Liberties, Law and Psychology, Media Law, Negotiation, Legal Ethics. Selene is a great contributor to Faculty life and is a tremendous support to the students that she coaches for competitions.



### PROFESSOR PAUL ROTH

Professor Paul Roth was recently invited onto the OECD Expert Group that is reviewing the 1980 OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data. New Zealand's Privacy Act 1993 was enacted in part to promote and protect privacy in accordance with the OECD Guidelines.

The OECD Expert Group is comprised of OECD officials and privacy commissioners and academics from around the world. Jennifer Stoddart, the Privacy Commissioner of Canada, chairs the group.



The function of the Expert Group is to provide recommendations to the OECD Working Party on Information Security and Privacy (WPISP). The WPISP meets twice a year, bringing together delegations from the 34 OECD member governments, the European Union, observer countries, observer organisations (Council of Europe, International Conference of Data Protection and Privacy Commissioners), and representatives from business, civil society, and the Internet technical Community. The review of the OECD Guidelines arises out of the Seoul Declaration for the Future of the Internet Economy, which was adopted by OECD Ministers in June 2008. The Seoul Declaration calls for the OECD to assess the application of certain instruments, including the OECD Guidelines, in light of "changing technologies, markets and user behaviour and the growing importance of digital identities".

Paul has previously been involved with privacy and data protection projects with APEC and the European Union.

A review of Paul's latest book will follow later in this edition.

### REX AHDAR VISITS SAMOA

In 2011 I spent my sabbatical leave in Samoa (formerly Western Samoa) where I was a Visiting Professor at the National University of Samoa, Apia and at Piula (Methodist) Theological College at Lufilufi. Otago University has a small research house at the corner of the NUS campus, but I can't say I ever darkened its door:

Quite a few Otago law school alumni are in Samoa including Pierre Meredith (or, as he now known, Fonotoe Nuafesili Pierre Laufo), who was elevated to Deputy Prime Minister after the March 2011 General Election, Semi (Sammy) Leung Wai, Murray and Rubi Drake, Trevor Stevenson, Elisa Kohlhasse, (Dr Fanaafi Aiono Le Tagaloa (Ph D 2009), Sector Coordinator, Samoa Law and Justice and Dr Iutisone Salevao General Secretary of the Congregational Church of Samoa. It was good bumping into them. I enjoyed getting to know Semi's nephew, the Attorney General, Aumua Ming Leung Wai, who is a splendid fellow – even if he graduated from Waikato Law School.

My main academic focus was working on chapters for the second edition of *Religious Freedom in the Liberal State* (co-authored again with my buddy, Ian Leigh, Durham University), which will be published by Oxford University Press later this year or early 2013. I also penned a few articles for obscure journals on esoteric subjects such as 'Is Secularism Neutral?' 'Regulating Religious Coercion', 'The Scope of Religious Freedom in Samoa' and 'Post-Secularism and the European Court of Human Rights (or how God never really went away)'. With the advent of broadband Internet and satellite communications, research leave in the South Pacific is now a viable option.





The impact of China is evident in many recently-built imposing civic structures including a grand downtown 6-storey office building and conference centre used by the government, the magnificent Court House (pictured) and a sprawling sports complex built for the 2007 South Pacific Games. Most days I was virtually the only swimmer in the 50m Olympic sized pool as I battled up and down like Eric the Eel.

The constant 30 degree heat and 80 per cent plus humidity certainly agreed with me – I refused to ever have the air conditioning on – but obviously this is not everyone's cup of tea. Aside from the academic pursuits, I spent lots of invaluable time – usually centred around meals – with my wife, Lidwina's, *aiga* (extended family) and my own. My progress on trying yet again to master the basics of the Samoan language was regrettably slow and I think it might call for another extended visit in the future. Next time, deo volenti, I'll have to time it so there is not the World Cup on back home.

Rex's most recent publication is mentioned later in this newsletter.

### **JESSE WALL**

Jesse Wall has been awarded a Junior Research Fellowship at Merton for 3 years. A really amazing top notch field. We were very happy to have Jesse on the team here when he was teaching the first part of Public Law.

### **WELCOME TO NEW STAFF MEMBER CLAIRE RAMSAY**

I studied at Otago University and graduated with a BA majoring in English in 2009. I did take LAWS 101 in my first year as well!

Previously I worked in the Te Tumu – School of Māori, Pacific and Indigenous studies for four years before coming to Law.

In 2010 I took 10 months off to travel overseas and spend time painting so that I could have an exhibition which I did before coming back to work at Te Tumu. During my time off I temped in several

departments in the University, including the National Centre for Peace and Conflict Studies and the Social Work Department.

I love being a part of the Law Faculty team.



### **CARL SMITH MEDAL LECTURE**

Jacinta Ruru gave the Carl Smith Medal Lecture in April. Her very well received lecture topic was "Undefined and Unresolved: Māori water rights". Jacinta was the 2010 joint winner of the Rowheath Trust Award and Carl Smith Medal. Her lecture is available to download at [www.otago.ac.nz/news/itunesu/podcasts/otago025528.html](http://www.otago.ac.nz/news/itunesu/podcasts/otago025528.html)



### **ASSOCIATE PROFESSOR DONNA BUCKINGHAM NAMED NEW PRESIDENT OF THE OTAGO DISTRICT LAW SOCIETY**

Associate Professor Donna Buckingham is the latest President of the Otago District Law Society. Donna is the first academic lawyer to lead the branch in 40 years since the late Frank Guest who was the first full time law professor in 1960, and Dean of the Faculty of Law. Donna has been an alumna of the University of Otago for 25 years and her research interests include the law of evidence, including digital evidence, privilege and children as witnesses. In 2011, Donna advised Simon Power the Minister of Justice at the time about alternative ways for children to give evidence, including specialist cross examination.



Donna has been involved for many years in legislation relating to lawyers disciplinary matters in and governance of the legal profession.

She was the Chair of Women's Council, which advised the Board of the New Zealand Law Society on issues relating to women in the profession as well as the position of women under the law. She has since moved into issues relating to welfare of legal practitioners and the equally important and related issue of discipline. In 2009 she helped implement the NZLS initiative, "Practicing Well".

One of Donna's many other achievements is to have founded the largest online publisher of free legal information on New Zealand Law, New Zealand Legal Information Institute (NZLII). [www.nzlii.org/](http://www.nzlii.org/)

## STAFF/SOULS CRICKET 2 MARCH 2012

Staff beat the students by a whisker in the Staff/Souls cricket



### Staff/Senior Students

Mark Henaghan, John Dawson, Andrew Geddis, Abby Suszko, Jesse Wall, Alec Dawson, Sam McLernon, Patrick Ryan, Willie Allan, Paul Hunt, James Harty, Josh Pemberton, Vinnie Schumacher, Sam Cleland

### Junior Students

George Willis, Derek McLaughlin, Sam Teppett, Blake Hoare, Sam Poole, Nick Smith, Ollie Salt, Campbell Arnott, Alex Low, Lucas Schuler, Sam Davison, Angus Grayson, Sam Kember



### Helpers

Zak Hawkins, Sam Sygrove, Edward Bowie

### Students

111. Top score: Extras 21 / Derek 21

### Staff

114. Top score: Patrick Ryan 36

## PROFESSOR KIM ECONOMIDES

The Faculty of Law is bidding farewell to Professor Kim Economides from the Legal Issues Centre. Kim is taking up a new post in Adelaide and we wish him well for his next steps. The Legal Issues Centre Report follows.

# RESEARCH PROJECTS

## 1. DEVELOPING A LEGAL SYSTEM RESPONSIVE TO PEOPLE WITH INTELLECTUAL DISABILITIES.

An important research project is being undertaken by Professor Mark Henaghan, (Dean, Faculty of Law University of Otago), Dr Brigit Mirfin-Veitch, (Director Donald Beasley Institute), and Associate Professor Kate Diesfeld, (Te Piringa, Faculty of Law University of Waikato).

The project has been successful in receiving a New Zealand Law Foundation grant.

It has been identified that young people and adults with intellectual disabilities continue to find it difficult to exercise their human rights and access the legal system. The extent to which people with intellectual disabilities are able to benefit from key legislation or be active participants in the legal process is compromised by a discernible and widespread inability of legal practitioners to identify or to respond appropriately to clients with intellectual disabilities or to their advocates.

Despite the legislative and policy recognition given to people with intellectual disabilities such as the Protection of Personal

and Property Rights Act (1988), the Intellectual Disability (Compulsory Care and Rehabilitation) Act (2003), and the New Zealand Disability Strategy, as well as the status that New Zealand has as a signatory to the United Nations Convention on the Right of Persons with Disabilities (UNCRPD), New Zealanders with intellectual disabilities still find it difficult to get appropriate legal assistance. To achieve optimum outcomes for this group it is imperative that lawyers and judges have the requisite knowledge to develop appropriate strategies within the legal system.

Earlier research suggests that legal professionals are concerned to address the lack of knowledge in this area although relatively few research projects have focused on the views and perspectives of lawyers or judges involved in legal proceedings that concern people with intellectual disability. The project is designed to address this issue and to improve outcomes, and has been motivated by the importance of human dignity, particularly in legal proceedings. It has the potential to contribute to an important field of study both within New Zealand and internationally as well as influence policy and practice. Specifically the work will expand the understanding of issues and barriers faced by people with



intellectual disabilities and legal practitioners, as well as producing educational resources to better equip practitioners to meet the needs of clients with intellectual disabilities.

The project will also contribute to demonstrating New Zealand's actual commitment to UNCRPD.

## 2. CORONIAL RECOMMENDATIONS RESEARCH

### JENNIFER MOORE

Dr Jennifer Moore and Professor Mark Henaghan, Faculty of Law, have been awarded a research grant from the Law Foundation to undertake groundbreaking research about recommendations made by Coroners.

NZ's recent disasters, such as Pike River and the Christchurch earthquakes, have brought mortality into focus. There are approximately 29,000 deaths in New Zealand per year. About twenty per cent of those deaths must be reported to the Coroner. Most years there are approximately 1,334 inquests, which result in 212 recommendations. The New Zealand community has an interest in, and can benefit from, an efficient

and effective coronial system. The Coronial Services of NZ plays a role in highlighting where avoidable deaths occur and introducing measures to prevent recurrence.

A common refrain of those who have lost family members is that they want the coronial system to ensure that losing a loved one to preventable death does not happen to others. New Zealand families believe and hope that Coroners' findings and recommendations can "make a difference to saving people's lives". Recent recurring recommendations made by Coroners about the dangers of co-sleeping and quad bikes provide classic examples of the potential to prevent avoidable deaths.

Coroners have voiced their concerns that agencies are failing to take their recommendations seriously. However, are all coronial recommendations necessarily deserving of implementation? Should mandatory statutory regimes for follow-up to coronial recommendations be part of NZ law? Any such law reform must be evidence based, not merely anecdotal. An empirical and legal evaluation of whether Coroners' findings have the potential to save New Zealanders' lives is lacking and is well overdue.

## POSTGRADUATE NEWS

The Faculty is happy to have a diverse group of postgraduate students who are contributing to the intellectual and cultural life here.

### AMIR BASTANI

Why the University of Otago?

As graduate study is an important step in my academic activities, I do not want to make compromise on the quality of my education. When it comes to quality of education, the Faculty of Law at the University of Otago is one of the few places I can think of. I also considered its Center for Law and Policy in Emerging Technologies as an ideal research center where I would get a chance to research on my project. Additionally, I knew Dr Colin Gavaghan would be an excellent supervisor:



## UNDERGRADUATE NEWS

### COMPETITION SUCCESS

Brown-Mosten International Client Counselling Competition 2012 in Dublin.



Congratulations to Otago law students, Alex Boock and Rob Clarke (along with their coach Selene Mize) for winning the Brown-Mosten International Client Counselling Competition in Dublin in April.

New Zealand has now won five of the last ten competitions (plus one 2nd place and two 3rd places).

Selene also coached three runners up: Otago (3rd place) in 2011, Auckland (3rd place) in 2008 and Auckland (2nd place) in 2007.

The Brown-Mosten Competition is an annual competition for the winners of national competitions across the world. It provides an exciting opportunity for law students to learn and practise interviewing and counselling skills as well as to meet young (and not so young) lawyers from an amazing range of nations and cultures.

22 Teams competed in the 2012 competition at the Law Society of Ireland in Dublin.

The runners up were Cheng Zhou Ye Zi and Wang Kun from China and Luise Buehler and Deborah Irrgang from Germany.

Well done to the team and congratulations to Selene for all her work in coaching.

Selene says, "I want the focus to be on the students though. They did a fantastic job, receiving perfect scores during the preliminary rounds, then winning the semi-final and decisively winning a unanimous verdict in the final round (which was against China and Germany). They qualified for the competition by winning the University of Otago and national competitions. They also won the Australasian competition in July 2011.) The final round problem involved an emergency room nurse who became aware that a senior doctor was abusing drugs and seemed to be misdiagnosing patients, and also ducking his responsibilities. We tend to call this competition "client interviewing", but it is internationally the "client consultation" competition. This competition is a lot more sophisticated and difficult than many people appreciate. Students must interview the client to develop an understanding of the facts, develop rapport with the client and gain his/her trust, then give the client understandable information about the relevant law, and advice on both a practical and legal basis. Ethical issues are common. Each judging panel includes a professional counsellor, as well as legal practitioners and academics. In this final round, Rob and Alex discussed employment law, protection for whistleblowers, internal hospital procedures, complaints to the Medical Council, and the need to preserve patient confidentiality".

The team is extremely grateful to its sponsors for the international competition, the New Zealand Law Foundation. Their generous financial support means that they could spend valuable time preparing (and not fundraising) prior to the competitions.



### ASIA PACIFIC REGIONAL ROUND OF THE ELSA WORLD TRADE ORGANISATION (WTO) MOOT COURT COMPETITION

A team from the University of Otago reached the semi-finals of the Asia Pacific Regional Round of the ELSA World Trade Organisation (WTO) Moot Court competition held in Jakarta, Indonesia from 1-6 March. The team consisted of Sarah Baillie, Charlotte Greenfield, and Rosa Reynolds. Emma Foley who was part of team who competed in the competition in 2011 coached the team. Emma now works in the litigation department at Russell McVeagh in Wellington. Tracey Epps, a trade lawyer at the Ministry of Foreign Affairs and Trade and part-time senior lecturer at Otago also assisted the team.

Organised by the European Law Students Association (ELSA) and hosted by the Universitas Pelita Harapan (UPH), and, the moot is a simulated hearing in the WTO dispute settlement system.



Having worked over summer to prepare extensive written submissions, the team presented their oral submissions to panels of trade law experts in Jakarta. In the semi-final the Indian team that we competed against (and the eventual winners of the competition) were from Jindal Global Law School.

The team faced questions from a seven-member panel. The dispute involved complex arguments under the WTO's Agreement on Safeguards and the Agreement on Subsidies and Countervailing Measures. The Agreement on Safeguards is an important aspect of the international trading regime, as it allows countries – in certain instances – to impose tariffs or other measures on imports of particular products if such imports are causing or threatening to cause serious injury to the importing country's domestic industry. This essentially provides a "safety valve" for countries whereby they can give their domestic industry time to adjust in the face of unexpected increases in imports. The Agreement on Subsidies and Countervailing Measures disciplines the use of subsidies and regulates the actions countries can take to counter the effects of subsidies.

The Otago team displayed an impressive knowledge of the technical details of these agreements (particularly impressive as none of the team had previously studied international trade law) and were extremely unlucky in just missing out on qualification for the international final round of the competition. Tracey Epps who coaches the team said that she was talking to the person who actually wrote the case problem this year. She said it was amazing that our team made the semi finals when they had never studied trade law before. So this reinforces how well they did.

In previous years, teams from the Asia Pacific Round have consistently featured in the top teams in the international final round and the calibre of teams was very high again this year:

The ELSA competition provides an invaluable opportunity for students to develop their litigation skills while engaging with topical legal and policy questions. As Sarah said, "the best thing about the WTO Moot was meeting other teams from around the Asia-Pacific region as well as the experience of functioning well under pressure and challenging ourselves further than we thought we could go".

Charlotte and Rosa commented that they were still preparing the Moot the night before and felt that their Otago legal training so far gave them an advantage as they could be flexible under pressure and were not over rehearsed. They would like to thank Tracey and Emma for coaching them and especially Mark and the Faculty of Law for making this opportunity possible.

### ALTERNATIVE BUDGETING COMPETITION - MAY 2012

University of Otago law and commerce students Kishen Kaurah, Oliver Hornbrook and Nathan Blane won the Auckland final of an Alternative Budget Competition involving four student teams at the Auckland Business School. The other three teams were from Auckland. The event was run by the Management Consulting Club, a group of students from the Auckland school, and sponsored the Independent Policy Institute, a think tank focused on public policy issues. A similar pre-Budget event was held in Auckland in 2010, but this was the first time a non-Auckland University team had taken part in the finals. The three were all members of the Otago Business Case Club, a student-run group dedicated to organising business competitions.

### OTAGO UNIVERSITY DEBATING SOCIETY LAW STUDENTS DO WELL

Paul Hunt (OUDS President 2012) said, "I would like to express gratitude on behalf of the OUDS. The funding the Law Faculty provided for the five law students to attend the World University Debating Championships was greatly appreciated. All the law students in the squad (five out of eight) performed extremely well. Otago A (Will Cheyne/Paul Hunt) defeated both Harvard A and B, and Yale A in debates, and finished 36th out of 400 teams. Otago B (Alec Dawson) finished 66th and Otago C (Hannah Drury) placed 219th. On the adjudicator front, Kate Stewart judged in the later rounds.

### FREEMASONS SCHOLARSHIPS 2012



Louis Chambers and James Mountier were both recipients of 2012 Freemasons Scholarships. Louis is finishing a BA and LLB at Otago and James is in his final year of an LLB and BCom.

### SAM WEVERS



Sam has won the Legal Research Foundation Best undergraduate law essay award for his dissertation: see [www.legalresearch.org.nz/writing-awards.html](http://www.legalresearch.org.nz/writing-awards.html) and the NZ Law Commission's Bill Sewell Prize for writing on legislation. Sam's dissertation was.

'Recognising Rangatiratanga: Sharing Power with Māori through Co-management', and examined the trend that has emerged towards sharing governance of natural resources with iwi through the Treaty settlement process. It was aimed at outlining the constitutional imperatives behind co-governance with Māori.

### THOMSON REUTERS PRIZE IN LAW



Deborah Tillett won the Thomson Reuters Prize in Law. This is an annual prize, which was established in 1996 by Brooker's Ltd, Wellington, and awarded to the student who produces the best research dissertation.

The prize is awarded in the form of books published by Thomson Reuters, or firms for whom they act as an agent.

Deborah's thesis was: "Did you Not Say No?" How Cross-Examination May Influence Child Witnesses' Accuracy and the Viability of the 'Intermediary' Solution. Associate Professor Buckingham supervised Deborah's thesis.

### JOSHUA WILLIAMS MEMORIAL PRIZE

Allan Brent won the Joshua Williams Memorial Prize

Both Allan and Deborah are now at Simpson Grierson.



### OTAGO DISTRICT LAW SOCIETY PRIZES

Heidi Baillie and Luke Morrison won the 2011 Otago District Law Society prizes – Two prizes of the value set down in the University prize schedule are offered each year by the Law Society of the District of Otago for students completing the papers required for the degree of Bachelor of Laws who have shown general excellence throughout the degree course. Both LLB and LLB(Hons) students are eligible for this.



## DANIELLE DUFFIELD WINS ANIMAL LEGAL DEFENCE FUND SCHOLARSHIP



Danielle Duffield

Five students received the international scholarship this year for their outstanding work in the growing field of animal law: Misty Christo, Josmanny Horta, Danielle Duffield, Kevin Schneider, and Elizabeth Hallinan. Danielle is the only student from New Zealand and indeed anywhere other than America.

The Animal Legal Defense Fund's (ALDF) scholarships are awarded to second- and third-year law student members of Student Animal Legal Defense Fund (SALDF) chapters based upon demonstrated commitment to ALDF's mission – to protect the lives and advance the interests of animals through the legal system. Scholarship recipients also act as mentors for their chapters after graduation.

After graduation, Danielle says she will continue using her law degree to advance the interests of animals by working to build pro bono animal law networks within New Zealand, and on initiatives to promote greater regional collaboration between animal lawyers and campaigners throughout Asia-Pacific.

"I am incredibly grateful to the Otago Law Faculty, particularly Mark Henaghan, who has been supportive of all my endeavours since day one. With the Faculty's support, our chapter has been able to foster interest in the field of animal law both within law school and the wider community. This is just one of the many ways in which studying at Otago Law School, in addition to receiving a top-quality legal education, enables students to connect their studies with outside interests, and to use their law degree to make a difference."

The Faculty of Law sends out the alumni OtagoLaw newsletter twice a year.

If you would like to receive this and other information for alumni you can ensure your contact details are up to date at:

**[database.alumni@otago.ac.nz](mailto:database.alumni@otago.ac.nz)**

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## EMMA HODDER ON UNIVERSITY EXCHANGE



Emma is an Otago law student studying Law as well as a BA in English Literature and a Diploma in Language endorsed in French. In 2011-2012 she has been lucky enough to spend not one but two semesters abroad, studying at foreign universities as part of her Otago degree: firstly in Lyon, France, and then in Uppsala, Sweden. Emma has always been interested in International Law and these two semesters have been an eye opening and rewarding experience. After some travelling in South East Asia and Turkey, and a literature course in Cambridge, the first stop was Lyon. Coming from a Common Law country, French Constitutional Law, taught in French, was quite a challenge. The specific juridical vocabulary and almost biblical importance of the Code Civil is practically and philosophically very different from the New Zealand legal system. This is reflected in the way the society functions and the mentality of the general population. There are many international students in Lyon, so there is a bubbling student community, however the city in itself is also very beautiful and historically very interesting. Living in a French flat, and working as a nanny for a small French child, were great experiences for Emma in terms of improving language and really melding into French culture.

The comparison between Lyon and Uppsala was pronounced, and fascinating to observe from the perspective of a law student. Interestingly, Emma found that there were many more cultural similarities between Sweden and New Zealand than between France and New Zealand, or indeed, Sweden and France. Uppsala is a beautiful student town, not totally dissimilar from Dunedin, and the Swedes are a friendly, progressive and bilingual (Swedish and English) population. Whilst in Uppsala, Emma was exposed to some great opportunities – volunteering at the Red Cross, getting involved in the Uppsala Society of Foreign Affairs and going on a trip with them around Southern Caucasus to learn about regional politics, and being a member of the Uppsala delegation to the European Model United Nations in Maastricht, where she was a judge on the Model International Criminal Court.

Before heading back to New Zealand, Emma has been accepted to spend a month in Bologna at a symposium on "Conflict Prevention, Resolution and Reconciliation". The experiences whilst away have allowed Emma to realise that International Humanitarian Law and Conflict Mediation are where her main interests lie, and she now feels she now has the drive and some of the practical skills to pursue a career in this field.

## GRADUATION STORIES

### MAY GRADUATION

Associate professor Donna Buckingham also President ODLS with Deborah Tillett and Allan Brent at Otago Law graduation May 2012.



### JEREMY CALLANDER FATHER AND SON GRADUATE TOGETHER

Andrew and Jeremy Callander, celebrated having degrees conferred in the May graduation. Jeremy graduated with a Bachelor of Laws and Andrew with a Doctor of Philosophy.

Andrew has also completed a Bachelor of Arts degree in in Economics in 1977, a Postgraduate Diploma with credit in Economics in 1979, and A Bachelor of Theology with First Class Honours in 1994. Andrew also completed an MBA at Massey in 1994. He was awarded a University of Otago Prestigious Scholarship in 2009. Andrew's PhD topic is "Exploring a Christian perception of economic life from within Karl Barth's doctrine of creation."



## MEMORIAL LECTURE

### FW GUEST MEMORIAL LECTURE



The Faculty of Law was delighted to host Professor Andrew Ashworth as the 2012 FW Guest lecturer from 12 – 15 March. Andrew Ashworth is the Vinerian Professor of English Law at Oxford University.

**The FW Guest Lecture: NEGOTIATING THE FUNDAMENTAL RIGHT TO PERSONAL LIBERTY – FOUR PROBLEM CASES**



Professor Ashworth's lecture focused on liberty of the person, which is recognised as a fundamental right, both in the New Zealand Bill of Rights Act and in the European Convention on Human Rights. But what does this mean in concrete situations? How does it stand up when tested in situations such as a police stop-and-search (does this count as a deprivation of liberty? under what circumstances would it be 'arbitrary?'); or the police tactic of 'kettling' people into a restricted area for several hours as a means of controlling a demonstration (is that a 'deprivation of liberty'? is it justifiable, particularly when uninvolved members of the public are 'kettled?'); or the remand of a defendant in custody before trial (exactly why is the state responsible for the possibility that an unconvicted person might commit offences between the first court hearing and the trial?); or the preventive detention of 'dangerous' offenders (does the low success-rate of predictions of future serious violence raise serious doubts about the extent to which offenders are subjected to extra deprivations of liberty in the hope of securing extra public safety?).

The aim of the lecture was to examine these questions from the point of view of principle and practice, in order to assess how far liberty of the person goes and ought to go, and about exposing the problems than trying to find a solution (especially one that would translate across countries).

[www.law.ox.ac.uk/profile/ashworthapodcast](http://www.law.ox.ac.uk/profile/ashworthapodcast)

## VISITORS

The Faculty has been very pleased to host a number of distinguished visitors.

### PROFESSOR BRAD WENDEL



Brad with son Ben and daughter Hannah

#### Professor Brad Wendel was with us until June as a Visiting Fellow attached to the Legal Issues Centre

Brad worked on the following issues whilst in Dunedin:

- ~ Producing a book under contract with the American Bar Association to introduce practicing lawyers to philosophical legal ethics. The book will draw from Brad's experience teaching legal ethics in a workshop setting to law students and practicing lawyers, and aims to be an accessible introduction to theoretical legal ethics, as distinct from the rules of professional conduct. It will be organized around cases or dilemmas encountered by practicing lawyers that raise ethical issues. Because of the theoretical orientation of the book and its basis in the sorts of cases that are familiar in all common law systems, it will be extremely valuable to talk about the work in progress with lawyers and law students in New Zealand.
- ~ Preparing responses to reviews of his recent book, *Lawyers and Fidelity to Law*, published by Princeton University Press. Reviews are forthcoming in the *Texas Law Review*, the *Georgetown Journal of Legal Ethics*, and *Legal Ethics*.
- ~ Beginning work on a project on lawyer liability for legal advising, based on a number of recent cases in the U.S. It will be very interesting to see how similar problems are handled in New Zealand, given the very different liability regime here.

#### From the man himself:

"I am grateful to the Faculty of Law at the University of Otago for hosting my visit. When I started thinking about my plans for a sabbatical leave from Cornell University in the United States, there was no doubt I would come to New Zealand. I had visited several times for conferences and holidays, beginning in 2004, and came away with the same impressions as so many overseas visitors: Beautiful landscapes, friendly people, a refreshingly laid-back attitude, great wine. Beyond those tourist clichés, however, I noticed something else. There seems to be a commitment here

to fairness and decency, both in government policy-making and in relationships among individuals. New Zealand always felt like a calm, sane place, but I wasn't sure whether I was romanticizing or idealizing it. So I thought it would be a good idea to really settle in here, and try to get to know the country from the inside out. To add extra realism, I brought along my two children, who are in primary and intermediate school. My wife, who doesn't have the kind of job that tolerates periodic six-month absences, at least was able to come over to visit a couple of times.

Now that I am approaching the end of my time here, I can safely say that I have passed through the infatuation phase in my relationship with New Zealand and have moved on to true love. As it happens, my visit coincided with the publication of a comparative historical study of the United States and New Zealand, entitled *Fairness and Freedom*, by the Pulitzer Prize-winning historian David Hackett Fischer. I have spent much of my time here researching some of the legal issues that Fischer considered from the perspective of history, including the application of the Treaty of Waitangi by courts and the Waitangi Tribunal, and the operation of the ACC. The ACC is of particular interest to me since I teach torts and co-edit a torts casebook. Both constitutional law and accident compensation are significant areas in which the U.S. and New Zealand differ; and I must admit that I have come away with a sense that you are doing a lot of things right here (although the American tort system is not as bad as it sometimes seems to be). I am currently working on a paper considering these different approaches and how they fit within the notion of the rule of law.

Special thanks are due to Kim Economides, who sponsored me as a visiting fellow in his Legal Issues Centre and invited me to present a paper at a workshop in February on "The End of Adversarialism." Selene Mize was also instrumental in setting up the visit, and of course Mark Henaghan was a gracious host. It has been a real treat to be at Otago Uni and in Dunedin. I will have such fond memories of my daily walks through the Botanic Garden, the lovely Opoho neighbourhood, the sounds of tui and kereru in our trees, weekend days spent with the kids sliding down the dunes at Sandfly Bay, longer outings to places like Wanaka and the Catlins, Highlanders games, the blue cod and chips at Mornington Takeaways, Emerson's Bookbinder Ale, and of course all of the stimulating colleagues I have gotten to know at the law school. I hope I will be able to get back soon!"

### ASSOCIATE PROFESSOR DOMINIC ROUX

Associate Professor Dominic Roux from the University of Laval spent part of his sabbatical leave with us. He was based in the Faculty from January 9 until the end of May. Dominic is undertaking research in the areas of Labour Law and Human Rights. Dominic Roux is associate professor at Laval University's Faculty of Law (since 2005) and member of the Quebec Bar (since 1997). Specialist in labour law and international law, he is the author and coauthor of several books and articles in these areas of expertise, and he is also frequently invited as a lecturer on these topics. He advises some public organizations, trade unions and entrepreneurs, and he has delivered many communications, seminars or workshops, both in Canada and abroad. At two occasions, he provided university seminars in Haiti for students, professionals and judges. From 1999 to 2005, he was litigation lawyer at the Directorate of Legal Affairs of Quebec Labour Standards Commission – Montreal. He is actually a Researcher at the Interuniversity Research Centre on Globalization and Work (CRIMT) ([www.crimt.org](http://www.crimt.org)), Associate Member of the Quebec Institute of International Studies (IQHEI), an active member of Lawyers without Borders Canada.



## PROFESSOR ROB MERKIN



The Faculty of Law was pleased to host Professor Rob Merkin who is visiting New Zealand next month to offer a series of lectures on the Christchurch Earthquakes and insurance issues. Rob is the 2012 University of Canterbury Sir Eric Hotung Visiting Fellow.

Rob is an international expert in insurance matters.

The title of his lecture was: The Christchurch Earthquakes: Insurance and Reinsurance Issues.

"The Christchurch Earthquakes of 2010 and 2011 have thrown into sharp focus both the public and private insurance arrangements in place to protect homeowners and businesses against earthquake losses. They have raised a series of issues, some flowing from poorly thought-out policy wordings and some flowing from the uncertainties in fundamental issues in the law, notably the application of causation principles to business interruption claims where losses are the result of both insured (earthquake) and uninsured (depopulation) perils. For New Zealand insurers one of the most important considerations will be recoverability from their reinsurers, raising issues of the binding effect of settlements and whether an earthquake is an "event". The lecture will consider the issues which have arisen and possible alternative models for dealing with earthquake losses."

**PROFESSOR CHARLES RICKETT** taught "The Idea of Private Law" at Summer School.

**PROFESSOR JIM ALLAN** taught Comparative Bills of Rights at Summer School.

James Allan returned to the Otago law school to teach a summer school course on comparative bills of rights. Professor Allan and his family left Dunedin in 2004 after 11 years in the Otago faculty, firstly for him to take up the Bertha Wilson Visiting Professorship in Human Rights in Canada for six months and then to take up one of the oldest named law chairs in Australia, the Garrick Professorship at the University of Queensland where Allan still works.

Professor Allan's latest book, *The Vantage of Law*, was published late last year. Allan also writes regularly for *The Australian*, *The Spectator Australia*, *Quadrant*, and occasionally for New Zealand's *NBR*. He is a former contributor to the *ODT*.

**DR DAN MEAGHER** Deakin University was a guest of the Faculty earlier this year.

Dan hosted a seminar in the Faculty on Human Rights and the potential implications of the newly enacted *Human Rights (Parliamentary Scrutiny) Act 2011*, in Australia.



## SIR ROBERT STOUT LAW LIBRARY

Law Library changes: Retirement, refurbishment

Many of you will remember Law Librarian extraordinaire, Alan Edwards. In late 2007 he retired, after over 35 years in the Law Library. As the Law Faculty grew, so did the Library, creating a strong relationship between the two units. Alan and long-serving faculty developed the Library collection to become an internationally renowned resource.

Kate Thompson filled those very large shoes in early 2008. Kate is a qualified Librarian, with 15 years' of library experience in a range of roles and places from within the University of Otago Library. She has now embarked on a LLB in a very part-time way, to try and fill those shoes! Kate's first major task was the full refurbishment of the Law Library. The need for an upgrade was urgent and well overdue, and in 2008 the time was right.

Over the last 25 years of inhabiting the building, the Law Library had grown piece by piece and floor by floor, with second-hand furniture and shelving, and was very dreary, with a poor use of spaces. There were few power sockets, no network outlets, an out-moded sprinkler system, and ancient heaters. The bookshelves were overflowing, with no room for growth. The work conditions for the library staff were cramped, with no purpose-built spaces.

## 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**

**UNIVERSITY OF OTAGO**

To Whom It May Concern

### 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](mailto:scholarships@otago.ac.nz) or visit the website: [www.otago.ac.nz/study/scholarships/postgraduate\\_scholarships](http://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](mailto:postgraduatelaw@otago.ac.nz)

Please refer to the website for application forms and information

**[www.otago.ac.nz/law](http://www.otago.ac.nz/law)**

**YOUR PLACE IN THE WORLD**



A design group was established, consisting of Kate, and a small team of librarians, architects and Faculty staff. The brief was based on international planning principles for effective law libraries. There was a strong need to create a student-focused learning-space that made effective use of natural light for study spaces, and provided a range of places and seating. For the staff areas, anything was going to be a vast improvement, but the focus was on workflows, storage, and functionality. Last but not least was the overall look and feel of the library. The different pieces of worn out carpet, tired and scarred desks, and mismatched shelving was all replaced, designed and aligned with the classic 70's architecture of Ted McCoy's Category 1 building. The Law Library also acquired more floor space; the south tower of the 6th floor, ensuring the collections had

room to grow. The orientation of the collections were changed to create a more intuitive flow for browsers, and shelving was moved away from the windows, thus protecting the books from the sun, and allowing the sunlight to penetrate the building.

The planning and design took around 10 months, and work commenced in late 2008. Planning involved several convoluted and complicated stages, ensuring the library remained open and functional during the entire process, and stock was moved a minimal number of times. It was quite a feat of logistics. The refurbishment was completed in 12 months.

The Law Library now supplies users with current technology needs, with around 400 power outlets and 100 network ports, plus wireless Internet outlets liberally scattered throughout. Students can study in individual booths, or spread out at large tables. Study spaces are now larger than the standard minimum, acknowledging the need for larger desk space when doing legal research, and around 20 extra tables can be added during the examination months. Two new group study rooms are equipped with large plasma screens to assist in working on group projects.

The staff workspaces are now distinct from the service desk, providing staff with the ability to concentrate more easily on higher-level tasks. The entrance area has had the greatest transformation, with an ergonomically designed service desk and a range of seating spaces and computer stations. The only thing that hasn't changed is the wonderful plants. Do you remember?

## ALUMNI NEWS

As always we like to hear how our alumni are doing and the many diverse areas in which that they are utilising their law degrees.

### OTAGO SCHOLARS WIN FULBRIGHT AWARDS

#### The Otago grantees and their awards

All of the grantees that graduated with an LLB from Otago received Fulbright New Zealand General Graduate Awards, presented on 28 June. These provide funding of US\$25,000 towards one year of postgraduate study or research at US institutions in any field. Grantees are selected on the basis of academic excellence, leadership potential and ambassadorial qualities. This year, eight awards were granted.

#### MICHAEL DOBSON

Michael Dobson from Wellington will complete a Master of Arts degree in Politics, specialising in environmental political theory, at the New School in New York.

Michael graduated with an LLB in 2009 and a BA (Hons) in 2010 from the University of Otago.

#### ALEX LATU

Alex Latu from Dunedin will complete a Master of Laws degree in Administrative and Constitutional Law, at New York University.

Alex graduated with a BA and an LLB (Hons) from the University of Otago in 2010.

#### PETER MARTIN

Peter Martin from Wellington will complete a Master of Laws degree in International Law at Georgetown University in Washington, DC.

Peter graduated with a BSc and an LLB (Hons) from the University of Otago in 2006.

The grantees booklet, which contains more Otago grantees, is available here: [www.fulbright.org.nz/news-publications/publications/granteesbooklet/](http://www.fulbright.org.nz/news-publications/publications/granteesbooklet/)

The Fulbright programme was an initiative of US Senator J. William Fulbright from Arkansas, who in the aftermath of World War II believed that greater mutual understanding between different countries and cultures was crucial to ensure a peaceful future for the world.

The Fulbright Act, an ingenious piece of legislation that was passed by the United States Congress in 1946, directed proceeds from the sale of surplus war property, foreign loan repayments and reparations to fund the "promotion of international good will through the exchange of students in the fields of education, culture, and science." In Senator Fulbright's words, the programme aims "to bring a little more knowledge, a little more reason, and a little more compassion into world affairs and thereby to increase the chance that nations will learn at last to live in peace and friendship." The programme has been described as one of the largest and most significant movements of scholars across the face of the earth, operating in over 150 countries and funding around 6,000 exchanges yearly.

New Zealand was the fifth country to sign up to the Fulbright programme by bilateral treaty with the United States in 1948. Since then, Fulbright New Zealand has sent more than 1,500 New Zealand graduate students, artists, academics and professionals to the US and welcomed more than 1,200 Americans on exchanges here.

## RICHARD REEVE



On the very same day as I finished my Profs with the College of Law, I was offered a job with the Westport firm, Stevens Orchard Lawyers Ltd, where I'm currently a law clerk waiting for admission to the Bar on 31 July 2012.

To date, working here has been fantastic. My work is unfailingly stimulating and challenging. I get to help real people substantively on a regular basis, and the surrounding environment of the Buller District is also very appealing. I love living in Westport, and commute on a regular basis between the firm's two offices at Westport and Stoke (Nelson).

My immediate supervisor, Jane Austin, and the highly experienced principals of the firm, Lee Stevens and Margot Harkness, have been incredibly supportive, friendly and instructive. I'm currently on a steep learning curve, working in such varied legal fields as Family Law, Relationship Property, Wills and Trusts, Company law, the law of Incorporated Societies, Adoption and Commercial Law.

However, I'm soon to undertake training as a duty solicitor; after which time I will be concentrating on Criminal Law. On that basis, I'm already very regularly down at the local District and Family Court, learning the ropes, and have met a number of members of the West Coast legal community. I've even met a number of judges.

To those Otago students wondering whether to persist with the arduousness of studying the Law, I have to say, life just gets better and better. I highly recommend working in small-town or rural practice, which offers an extraordinary range of experiences. The exceptionally high quality of legal education provided by the Otago Faculty is also very obvious from this distance.

## GREG KING AWARDED EISENHOWER FELLOWSHIP

High profile barrister, Greg King, was selected as the Fellow from New Zealand for Eisenhower Fellowships' 2012 Multi Nation Program.

The Eisenhower Fellowships organisation is presently chaired by General Colin Powell (Retired) and The Honorable Henry Kissinger and President George HW Bush (senior). The Fellowship was established during the presidency of Dwight Eisenhower in 1953 to foster emerging leaders from around the world who have the potential to make important contributions to their society.

Greg was one of 22 Fellows selected from a pool of 155 nations for the 2012 Multi Nation Program. The Fellows come from a wide range of corporate, government and private sector backgrounds. All will have demonstrated outstanding leadership in their fields. The Fellowship is based in Philadelphia where all of the international Fellows were based for the first and last weeks of their 8 weeks in the US.



A particular focus for Greg during his time away was on problem-solving courts. Several papers written by Greg whilst on his fellowship (including his call for the establishment of a new problem-solving court for NZ) can be viewed on the website [www.justicehottub.co.nz](http://www.justicehottub.co.nz).

Greg is only the 17th New Zealander (and first lawyer) selected since the founding of the Fellowship. Greg graduated with an LLB in December 1992: Awarded University of Otago Award in Law. February 1994: Awarded University of Otago Maori Postgraduate Award.

## ERIKA YIGSAW (NEE PETERSEN)

Congratulations to Otago law and economics alumna, Erika Yigsaw. Erika, Chief Institutional Officer (CIO) of the American College of Healthcare Sciences (ACHS), has been awarded the 2012 Distinguished Recognition Award, presented at the 86th Annual Conference of the Distance Education and Training Council (DETC) in recognition and appreciation of her outstanding contributions to the advancement of distance education.

Erika graduated with a BCom (Economics) in 1994 and an LLB in 1995.

## MARK NORMAN'S STORY





I began my studies at the University of Otago in 2007.

I have always thrived on a challenge, and even as a kid I had big dreams and aspirations. Growing up on a farm in the country, I always knew that I was more cut out for the bigger cities. Throughout my later years of high school, I was tossing up between becoming a lawyer and pursuing communication design. No one could understand why I wanted to do two such different things, but I knew what I wanted.

By the time I reached University, I had decided to go down the path of design. However, after a year of my BCAPSc I realized I still craved to study law and so started an LLB as well.

Since then, I have made it through five years of Law School and am set to graduate in May back in Dunedin with both an LLB and a BCAPSc, with my admission a week later. My years at the University of Otago are the highlight in my life to date. The friends that I made at Otago I will keep forever, and the challenges and growth I experienced there have shaped me in a huge way. I will be forever grateful to have attended such a top University and Law School.

I originally assumed that I would end up working for a firm in Wellington or Auckland after studying at Otago, as it seemed the natural thing to do. However, around my third year (and a few visits) I decided that Sydney was where I wanted to be and set my sights on achieving that.

Now, I am working for the Employment and Commercial law teams for Duncan Cotterill in the Sydney office. I have been here a few weeks now and am thoroughly enjoying it; the work, the people and the city.

While New Zealand will always be home, I am looking forward to my time in Sydney and launching my legal career here.

#### JORDY BOWMAN



Following up on one of our high achieving recent graduates and new alumna, Jordy Bowman is set to make a difference in an important area of work for society.

2011 Otago Law graduate Jordy Bowman relocated to Canberra in February 2012 to take up a graduate position at the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). FaHCSIA is one of the biggest departments in the Australian Government, and is responsible for the development and implementation of most domestic social policy. During her graduate year, Jordy will complete two five month rotations. At present, she is working in the Policy and Research section of the Safety Taskforce, the branch responsible for implementing Australia's National Plan to Reduce Violence against Women and their Children. She has been working on a number of interesting issues including perpetrator interventions, briefing Australian government and non-government

representatives on the National Plan Implementation Panel, and on reporting progress under the National Plan to the Council of Australian Governments. In her second rotation, Jordy is hoping to work in Indigenous Affairs, before returning to the Safety Taskforce in 2013.

Jordy believes that the skills learnt through her law degree have been of great assistance in her role. The writing, analytical and research skills a law degree teaches you come in handy every day. Jordy also thinks that it is important that law students understand the alternative career pathways available to them, and that law degrees are the gateway to many exciting and fulfilling careers outside of the commercial law setting.

#### JOHNNY NU'U



Since leaving Otago, my life revolves around family, work and rugby. I couldn't have asked for a better start to my law career than working here at the Otara Community Law Centre. Giving back to my local community that has given me so much having been South Auckland raised. I deliver legal education sessions to local community groups on matters that affect their daily lives. From social security to family law, this has translated to up-skilling in areas of law that was once unfamiliar to me; Otago has prepared me well for this. Like most pacific island graduates, I want to be a positive role model to my community and make my family proud through my work and the effort and dedication I put in.

During Profs I discovered that I have a real passion for sports law, with this in mind I sought some mentoring advice from prominent sports lawyers who guided me on the right path. The first step was to get back into the sports scene, having been out of touch for many years due to studies, it was the natural thing to do. I am in my second year of managing at the prestigious Ponsonby Rugby, and this year I have been very fortunate enough to be the Assistant Manager for the Premier team, in a few words: IT'S BLOODY AWESOME!!

Hopefully this leads to bigger and better things in the future, but for now I am returning the favour to my community I embrace and thank every day, and hopefully my sports law dreams crystallise in the not-so-distant future. I admit it has not been an easy road, but life would not be as exciting if it were. All those lessons in life and in learning from Otago Law School have prepared me well for the legal workforce and the future; you have to do the hard yards to achieve anything. So in the immortal words of Ponsonby Rugby "NO EZY!"

## LEIGHTON CASSIDY



Leighton has lived in London since 2003 and is a partner in the intellectual property team at city firm Field Fisher Waterhouse LLP. His practise includes advising many household names in relation to their international trademark, design, domain and brand protection requirements. He is a committee member of the International Trademark Association and has been published in several leading IP publications.

Leighton completed his studies for his Bachelor of Laws and Bachelor of Science degrees in 1997 and was admitted as a Solicitor in the same year. After initially working at the Intellectual Property Office of New Zealand in Wellington he moved to a general commercial legal practice at Rice Craig in Auckland. In 2003 Leighton departed New Zealand to work and travel in the United Kingdom. While intending to be there for a few years, he has been there almost ten years. Leighton lives in central London with his wife and young family.

Leighton keeps in touch through his involvement in the Anglo Australasian Lawyers Society, KEA and attending University of Otago and Faculty of Law alumni events. He is looking forward to catching up for the Dean of Law's alumni drinks in London.

"It's always good to catch up with Mark Henaghan, hear the news from the Faculty of Law and have a drink or two with Mark. This year we had drinks at Suze in Mayfair on 5 July.

Congratulations to **SAM WELLS** an Otago Law graduate who was named as a likely 13th man in the Black caps squad to play in a one off test against Zimbabwe in Napier on Thursday 26 January.

It's a meteoric rise for Wells, who recently was playing in the Otago A side.

The resounding theme from those close to the 27-year-old all-rounder is that he's had to fight hard for every opportunity he's been given.

[www.stuff.co.nz/sport/cricket/6301811/Good-keen-kid-makes-it-into-Black-Caps-squad](http://www.stuff.co.nz/sport/cricket/6301811/Good-keen-kid-makes-it-into-Black-Caps-squad)

**GERARD SANDERS** joined the European Bank for Reconstruction and development (EBRD) in March 1993 as Counsel and was promoted first to Chief Counsel in 1995 then to Assistant General Counsel in 1999, advising mainly on loan and equity investments throughout the EBRD region and participating in the work of its Operations Committee.

In 2005 Gerard was appointed Deputy General Counsel and he is currently a senior member of the management of the Office of General Counsel (OGC). He has responsibility for the recovery and litigation work of the Bank, the administration of its investment portfolio and for supervising the teams advising on corporate and institutional matters. He has overall responsibility for the EBRD's legal reform work, which takes place throughout the Bank's region. He participates in the meetings of the group that prepares the work of the EBRD Executive Committee.

Before joining the Bank, Gerard practiced with the law firms of Simpson Grierson in Wellington and Arnold & Porter in Washington DC, and in the corporate headquarters of BP in London.

## JO SWINBURN

After finishing up in Otago in 2009, I enrolled into a Masters course in Public International Law at the University of Amsterdam. I began this course in September 2010 and finished it in July 2011.

The UvA was fantastic, and I really enjoyed the Masters course. I was able to take subjects like International Dispute Resolution, International Legal Pluralism and Comparative European Private Law however it was in the International Environmental Law courses that I found the area of law that suited me most. Under Professor Rene Lefebvre, my thesis concerned International Legal Theory, current Climate Change laws and human rights.

After completing my Masters degree in Amsterdam, I moved to Ibiza, Spain, to help my brother and sister start their respective businesses, whilst also being on the look out for jobs in the international environmental field. It is tough to get a foot in the door in this environment, even with Professor Henaghan as a referee!

But Ibiza has been great; I have been applying for some interesting jobs whilst learning Spanish, roasting coffee with my brother, and even play rugby for the local team here that competes in the National Spanish League. Formerly a forward, with my only experience in the backline coming from playing for the Vultures, I have ended up playing number 12 here, and even found myself taking on the kicking duties in a game or two!



Gerard has BCom and LLB degrees from the University of Otago in New Zealand and law degrees from Victoria University of Wellington and Harvard Law School. He is qualified to practice law in New Zealand, the state of Victoria in Australia, England and Wales, and is also a chartered accountant. He is a member of the Law Society of England and Wales, the Chartered Institute of Arbitrators, the Chartered Securities Institute and the New Zealand Institute of Chartered Accountants. He is a Visiting Professorial Fellow at Queen Mary College at the University of London, where he teaches international economic law and is co-editor in chief of EBRD flagship publication *Law in Transition*.

## DARRYL SAUNDERS



Having just completed initiation and setting up a of disputes resolution program for business students at Ballarat University, I was invited to join the Law School at Charles Darwin University, centred in Darwin, capital of Australia's beautiful Northern Territory. The CDU Law School specialises in synchronous (real-time) online delivery of its Units through innovative pedagogy and cutting edge technology. CDU also support a very strong community outreach programme for academics to take their research into the wider community. Within a very short time of arriving in Darwin I received a Ministerial appointment to the Department of Justice's Consultative Council of the Community Justice Centre. Collaborating with the amazing staff at the Centre I have the opportunity to participate in the promotion and

training of disputes resolution in some of the Northern Territory's remote communities. The current CJC training program facilitates participant's to qualify as nationally recognised mediators. Community leaders hope that the use of mediation techniques will go a long way to defusing and preventing the feuds between the various "skin groups" within the communities, thus preventing the traditional use of physically violent resolution. Having this opportunity to work in the field of disputes resolution across the spectrum from cutting edge technology to grassroots application is immensely productive and rewarding.

## KALI MERCIER

I worked for a while campaigning for individuals at risk in Africa and the Middle East (torture, disappearances etc), then moved to a role campaigning on economic and social rights. I don't know if you've heard that Amnesty has recently broadened its remit from just championing individual rights, to campaigning on collective rights, including the right to land, right to water, right to sustainable livelihoods etc. I helped to put together some campaigns for Amnesty UK on an indigenous group in India and a slum in Kenya.

## MAI CHEN

Congratulations to Otago law alumna, Mai Chen, for publishing her long awaited book *Public Law Toolbox*.



## REVIEWERS COMMENTS

### Rt Hon Sir Geoffrey Palmer

Distinguished Fellow Faculty of Law and the Centre for Public Law Victoria University of Wellington

This book is unique. There is nothing else like it. It adds a new dimension to understanding the New Zealand government and how New Zealanders are governed.

The insights contained in this book also empower people to use the institutions of government, whether they are businesses, non-governmental organisations or just plain citizens. They can learn from it who to go to, where to go and how to make representations on issues of concern to them.

### Sir Wharehuia Milroy

The *Public Law Toolbox* is a book designed to remove the complexities of the processes of government and how that then is translated into law.

In an era where Māori have been utilising the Treaty of Waitangi Act and the Waitangi Tribunal to challenge government and its policies past and present, this book would have made the matter of seeking redress under the Treaty a more efficient and manageable process at a much earlier stage.

### Vivien Maidaborn

Independent Consultant on NZ Community Development and Social Innovation says, "It is a book that re-energises and re-introduces us as New Zealanders to the power of citizenship and the importance of all of us being confident players in influencing our democracy and the law that guides it".

The Faculty was pleased to host Mai this year for a guest lecture, which was well received.

Mai also spoke to the Public Law students.



## ART IN LAW

The Faculty hosted the art in Law VII exhibition earlier this year – a collection of photographs from graduates of the Dunedin Art School curated by Peter Stupples.

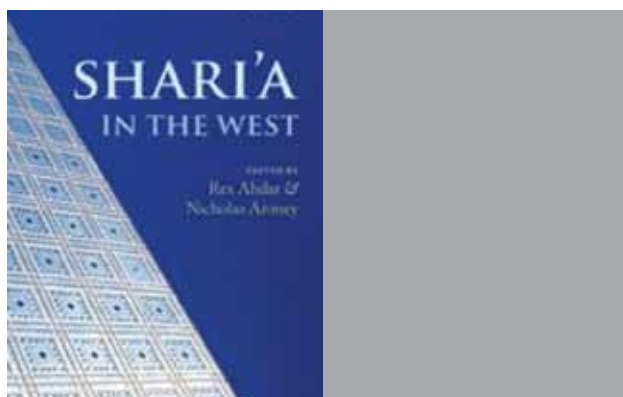
Art in Law VIII commences on 16 July – curated by Desi Livesage this is an exhibition of textile works from the collection of the Dunedin School of Art. The collection represents the Departmental Textiles collection and some work of the current

textiles students. Each year, the department selects a few examples of work that represents the quality of work by the students to add to the collection. You are invited to view this collection and meet some of the artists. For some, this will be an introduction to the transformation of so-called traditional feminine crafts, a quiet revolution that has been occurring in the art world for many years. The work ranges in media, technique and message.

## FACULTY OF LAW PUBLICATIONS

### SHARI'A IN THE WEST

Edited by Rex Ahdar and Nicolas Aroney  
(Oxford: Oxford University Press, 2010)



In February 2008, the Anglican Archbishop of Canterbury, Dr Rowan Williams, stirred up controversy when he suggested that certain extensions of Shari'a law in Britain were both 'unavoidable' and also desirable from the double point of view of civil cohesion and the defence of the 'group rights' of religious bodies. Public reactions to this pronouncement were both swift and overwhelmingly negative. The Prime Minister, Gordon Brown, distanced himself from the remarks, declaring that there could be but one common law for all in Britain, which must be based upon 'British values'. Tabloid columnist and Top Gear host Jeremy Clarkson, railed at the Archbishop's 'idiocy' and his behaving 'like some deranged Duracell rabbit'.

Prompted by this debate, Professor Rex Ahdar and Professor Nicholas Aroney of Queensland School of Law edited a collection of essays to explore the difficult question of the accommodation of Shari'a within the legal systems of the liberal-democratic West. The essayists were drawn from the UK, the Netherlands, the US, Canada, Australia and New Zealand and from the disciplines of law, sociology, political philosophy and theology. Included is an essay by Otago's distinguished alumnus, Professor Jeremy Waldron, entitled "Questions about the Reasonable Accommodation of Minorities".

So far a fatwa (edict) has not been issued against the book, which is a shame for sales but good for the longevity of the editors.

### PAUL ROTH

*Access to Information* Author(s): Graham Taylor & Paul Roth  
December 2011. Paul's book is about the access to information regime in New Zealand. In practice, the regime mainly involves access to official information under the Official Information Act 1982 and the Local Government Information and Meetings Act 1987. However, with the enactment of the Privacy Act 1993, it also involves access to individual's personal information held by both public and private sector agencies. This book aims to provide practical guidance on how to respond appropriately to information requests under the regime. The book is based on Chapter 9 of the highly successful *Judicial Review: A New Zealand Perspective*, Second Edition. The information in that chapter has been added to and reorganised to cover:

- General principles and concepts of the access to information regime.
- Practice and procedure in seeking access to information.
- Justifications for withholding information.
- Reasons for decisions.
- Correction of personal information.
- Remedies for denying access.

The book also includes appendices of practical tools. For example; a checklist for processing official information requests, a flowchart used by government departments when dealing with requests for access to information, guidelines for official information requests, and a table of parallel provisions. Graham Taylor is the author of *Judicial Review: A New Zealand Perspective*, Second Edition. He is one of the foremost administrative lawyers in New Zealand and currently practices as a barrister in Wellington. Professor Paul Roth is the author of the LexisNexis looseleaf publication *Privacy Law and Practice*. He is a Professor at the University of Otago and an expert in privacy and data protection law.  
[www.lexisnexis.com/store/catalog/apac/productdetail.jsp?jsessionid=D8051BE503CBE4EC065D3B514E219271.psc1700\\_bookstore\\_001?pageName=relatedProducts&catId=cat250010&prodId=prod720040](http://www.lexisnexis.com/store/catalog/apac/productdetail.jsp?jsessionid=D8051BE503CBE4EC065D3B514E219271.psc1700_bookstore_001?pageName=relatedProducts&catId=cat250010&prodId=prod720040)

## CHRISTOPHER WALSHAW

Book Chapter "Gadamer and Law: Common Law and Continental Developments" in *Hermeneutics and the Humanities dialogues with Hans Georg Gadamer*  
Leiden University Press, 2012

Christopher's essay is chapter 15 of this book, which includes essays in English and German from academics expert in Gadamer (1900-2002) mainly from Germany, The Netherlands and Canada.

In his essay Christopher explores the relevance of Gadamer to the task of the judicial interpretation of statutory rules and suggests that Gadamer's ideas on language and interpretation provide impetus for subsequent work that bears directly on this task. This is developed further in his PhD thesis "Interpretation of Statutory Rules As Application: A Legal Hermeneutics" submitted on 20 February 2012 and on 20 April awarded subject to minor editorial corrections.

## UO LEGAL ISSUES CENTRE



Since our entry last year in OtagoLaw the University of Otago Legal Issues Centre ([www.otago.ac.nz/law/lic/index.html](http://www.otago.ac.nz/law/lic/index.html)), established in 2007 through a generous endowment by philanthropists Grant and Marilyn Nelson of the Gama Foundation and the University of Otago Foundation Trust, has continued to prosper, bringing together foreign and interdisciplinary researchers, legal practitioners, policy makers and educators interested in advancing knowledge about the impact of law, legal processes and services. It is also beginning to lay solid foundations for a distinctive New Zealand socio-legal research base that should facilitate the creation of a pool of talent and expertise to exert leverage over the direction of future research agendas, and already we can see a shift toward civil litigation away from more populist interest in criminal justice. The buzzword this year is clearly "outreach".

The Centre was very excited to be co-hosting, together with the Law Commission, a half-day workshop dedicated to scrutinising the Law Commission's ideas for the wholesale reform of the Judicature Act 1908 but focusing on civil justice issues: and in particular judicial appointments, specialisation and representation. This builds on the NZ Justice Forum we launched in April last year in the Beehive but puts the spotlight on opinion emanating from the South Island. For further details of this event see: [www.otago.ac.nz/law/lic/forum/index.html](http://www.otago.ac.nz/law/lic/forum/index.html) Non-metropolitan views on and about law was also the topic of Professor Economides' opening keynote address to the 2nd National Rural & Regional Law & Justice Conference held in May at Coffs Harbour, NSW in May ([www.une.edu.au/law/rrljconference/program.pdf](http://www.une.edu.au/law/rrljconference/program.pdf)) at which the Australian Rural Law and Justice Alliance was launched.

Since joining the Law Faculty three years ago the centre's director, Professor Kim Economides has been building interdisciplinary teams, based locally, regionally and internationally, linking individual researchers and other research centres to collaborate on a range of projects that develop novel perspectives on civil justice reform. The following issues are amongst those being investigated by research teams associated with the centre: 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 (see our website for the full range of this activity). The core team conducts research on the progress and efficient processing of civil cases in the court system. So-called "delay" remains a major focus of the centre as we seek to identify efficient uses of court time and factors that can be linked to the timely disposal of cases. A range of advanced analytical and statistical techniques is being developed, together with Otago economist Professor Alfred Haug, to explain the full range of factors affecting case processing times, and papers that test-run innovative methodologies and approaches are being



scrutinised by international audiences at conferences held at the International Institute of the Sociology of Law in Onati, Basque Country, and the 2012 International Conference on Law and Society being held in June in Hawaii.

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. Foreign visitors attached to the Centre extend our knowledge of relevant developments taking place elsewhere. But international experts are also able to learn about kiwi adaptations and reforms that improve access to justice. In this context, we have been delighted to host as Visiting Scholar to the Centre, Professor Brad Wendel, a leading legal ethicist from Cornell, who in February opened the Australian and New Zealand Legal Ethics Colloquium on *Is Adversarialism Dead?* New Foundations for Legal Process and Lawyers' Ethics.

The event was a considerable success that brought together legal ethicists from New Zealand and Australia, as well as providing a platform for our doctoral researchers to discuss their projects, and a full report may be found at: [www.otago.ac.nz/law/lic/lec/LawTalk%20fd.pdf](http://www.otago.ac.nz/law/lic/lec/LawTalk%20fd.pdf) And our 'lunchbox' seminar series still successfully bring together a range of outside speakers with local colleagues and lawyers and, again, Brad Wendel's highly topical proposals on third party litigation funding attracted the attention of NZ Lawyer, as did the objections to those proposals raised by our home-grown commentator, Barry Allan.

We also had a lively "lunchbox" discussion stimulated by Anna Grear, a prominent socio-legalist who has now moved from Bristol to Waikato, who asked "Should 'law's persons' be re-imagined?" Ceri Warnock helped bring some 'high theory' down to earth.

As always the Centre is very keen to make contact and stay in touch with Otago alumni, and especially those now in legal practice in New Zealand or overseas. Please keep an eye on our website and share your views and experiences on the operation of legal system, either on our Facebook page ([www.facebook.com/otagolic](http://www.facebook.com/otagolic)) or through the blog that supports the work of the NZ Justice Forum (<https://blogs.otago.ac.nz/lic/>). Better still, do come along and support the events we host and let us know your views.

Email: [lic@otago.ac.nz](mailto:lic@otago.ac.nz) Ph: +64 3 479 8979 Fax: +64 3 479 8855

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

The Centre's activities over the past year have largely been divided between reproductive, nano- and neuro- technologies. Jeanne Snelling's presentation on preimplantation genetic diagnosis at the Brocher Foundation in Switzerland became a chapter in a collection published by Routledge in 2011. Colin Gavaghan has also contributed a chapter on PGD and sex selection, to a collection due to be published by UBC press later in 2012.



Colin Gavaghan

Our research on nanotechnology has continued apace, in large part thanks to the prodigious output of Jennifer Moore. Over the past year, Jen has published in the Journal of Bioethical Inquiry, the NZ Journal of Environmental Law, the Journal of Law and Medicine and – with Colin Gavaghan – in the European Journal of Law & Technology. In addition, she has presented papers at the annual Medical Law Conference in Wellington, at Victoria's Labour Law Conference (on workers' exposure to nano-particles) and at the Australasian College of Legal Medicine.

One of the most dramatic and controversial confluences of law and technology is in the emerging field of 'neurolaw'. In November 2011, the centre hosted a colloquium looking at the relationship between the neurosciences and law. An international cast of esteemed researchers in the field – drawn from New Zealand, Canada, Australia and the UK – shared their thoughts on the likely impact on notions such as responsibility and personal identity.

Colin Gavaghan's research in this area – and in particular, on neuro-testing for deviant appetites – His research will shortly appear in a collection to be published by Oxford University Press. Colin also gave a keynote address at the NZ Bioethics Conference in January, on enhancement technologies and ageing.

Our first PhD student, Amir Bastani, also presented at the NZ Bioethics Conference, on genetics and criminal responsibility.

Perhaps our most exciting current project is the introduction of our undergraduate programme on Law & Emerging Technologies. This innovative course, which will begin in July, will cover various areas of overlap between law and technologies, including genetics, nanotechnology, synthetic biology, neuroscience and the Internet. Early indications are that uptake will be high!

### OTAGO PUBLIC INTEREST LAW NETWORK

#### Can you help the Otago Public Interest Law Network in its first project?

The Otago Public Interest Law Network is appealing to former Otago Law students to participate in an exciting new project.

The Otago Public Interest Law Network is a recently created initiative focused on connecting students with public interest opportunities during and after their legal studies. We hope to bring together law students and lawyers who want to make a positive change with their legal degrees. Our goal is to build a network of lawyers around New Zealand to help law students learn how to use their law degrees for the public interest, as well as encouraging graduates to enter the legal profession with a commitment to social justice.

We are looking for people with any form of public interest law experience to make themselves available on an online searchable database. Otago graduates will be profiled on the database as a source of inspiration for current students looking to take their first steps in to public interest work and their legal careers. The database will be made up of Otago students and alumni, done purposefully to foster the connections between past and present law students. It is envisaged that this database will be used to find information and make contact with alumni who have relevant experience. Our long term goal is to make this database a forum for participants to connect with each other, discuss ideas and develop their involvement to public interest law. We are also creating a New Zealand Public Interest Law Handbook. The handbook aims to inform students of ways to be involved in public interest law while at university and as graduates. As well as cataloguing opportunities it will profile graduates who have had varied careers in public interest law. We also will be holding events for speakers to inspire and motivate students through sharing their experience in public interest work. If you are interested or you would like some more information please contact Sophie Kalderimis at [sophie.kalderimis@gmail.com](mailto:sophie.kalderimis@gmail.com).

## OBITUARY

### Alexandra Elizabeth Mary Shields

The Faculty of Law is sad to have lost one of our most promising admired and respected 3rd year law students. Alex loved her study of the law and was well on the way to completing her degree. She had her sights set on a United Nations position where she would have been able to utilise her fluent French. Those who knew Alex will remember her as a kind and very considerate young woman with sound opinions of her own and an excellent ability to articulate them. She was much loved by her friends, schoolmates and teachers, as well as her fellow law students. Alex's mother, Shelley Griffiths, is a very much esteemed and respected and loved colleague of ours at the Faculty. Trevor Shields, Alex's dad is a senior Barrister in law, highly respected by his peers. Tim, Alex's brother is a delightful and charming young man too. We offer the family our very deepest sympathy.