

# OTAGO LAW

FACULTY OF LAW NEWSLETTER 2 2010  
UNIVERSITY OF OTAGO



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Baroness Brenda Hale and Professor Julian Farrand.

## 1. Welcome from the Dean

Dear fellow graduates of the Otago Law Faculty, I hope this newsletter finds you all well. This year has been tinged with sadness with the loss of two of our highly distinguished Māori graduates, Jolene Patuawa-Tuilave and Bevan Tipene-Matua. Both Jolene and Bevan made major contributions to their communities and to the legal profession.

We were also touched by the tragedy that befell Emily Sanson-Rejous. Emily lost her husband and two of her lovely children in the devastating earthquake that hit Haiti earlier this year.

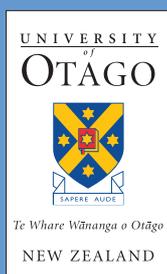
Tributes follow.

It has been a very busy 2010 for the Faculty of Law. We have had the pleasure of hosting a number of visitors over the year including two Law Lords of the Supreme Court of the United Kingdom, Lady Hale (pictured above with her husband Professor Julian Farrand) and Lord Walker. Justice Edwin Cameron, Judge of the Constitutional Court of South Africa was at the Faculty as a University of Otago James and Jean Davis Prestige Visiting Fellow in July. Former University of London Vice-Chancellor and current President of the Valuation Tribunal of England, Professor Graham Zellick was visiting New Zealand as the 2010 New Zealand Law Foundation Distinguished Visiting Fellow. Along with a string of International guests, the Faculty has also had the

privilege of hosting a guest lecture by the Honorable Simon Power, Minister of Justice, Minister for State Owned Enterprises, Minister of Commerce, Minister Responsible for the Law Commission, Associate Minister of Finance, and Deputy Leader of the House.

The Faculty of Law staff and students have continued to shine this year. Professor Stuart Anderson was a contributor to a major eight year project which saw the publication of *The Oxford History of the Laws of England*, volumes 11-13. Jacinta Ruru was a major contributor to the recently published book *Discovering Indigenous Lands The Doctrine of Discovery in the English Colonies*. Professor Paul Roth was appointed a peer reviewer for the European Science Foundation and Associate Professors' Andrew Geddis and Donna Buckingham were both awarded NZLF grants for research on *The Rule of Law in New Zealand* and *NZLII Development of an ACC Database*, respectively.

This year the Faculty of Law were host to the 2010 New Zealand Law Students' Association annual conference and national competitions. The Otago team won the President's Prize for the best overall University team for the second consecutive year. The Otago team who went on exchange to USP Vanuatu won their moot, and finalist student Maia Wikaira won the New Zealand Māori National Mooting Competition.



We hope you have all had a good 2010 and as the end of the year is fast approaching, you are able to enjoy some rest and relaxation. Our thoughts are with our Christchurch alumni and University of Canterbury colleagues after the terrible earthquake recently. We know that as Otago Law graduates, you will have the skills to

adapt and survive. We send our best wishes and thoughts to all those affected.

All the very best for the remainder of the year. Keep in touch; we always like to hear from you and what you and your colleagues are up to.

## 2. Visitors to the Faculty

### LADY HALE

Brenda Hale, Justice of the Supreme Court of the United Kingdom – more formally “Baroness Hale of Richmond” – and that country’s most senior female judge, delivered two public lectures in Dunedin in May: the FW Guest Memorial Lecture and the annual Ethel Benjamin Commemorative Address.



“She was the first woman to be appointed as a Lord of Appeal to the House of Lords and in that respect she is certainly a trailblazer,” says Professor Mark Henaghan, Dean of Faculty of Law, University of Otago, through whose academic offices, and considerable sway, the visit has been arranged.

But Baroness Hale also has a number of other “firsts” to her name.

Born in Yorkshire in 1945 to teacher parents, she studied law at Girton College, Cambridge, and, as top of her class, came away with a “starred” first class honours degree.

In 1966 after graduation, she joined the Manchester University Law Faculty as a junior lecturer and, while teaching, studied for the bar exams, again achieving top honours for her year.

Initially, she practised part-time as a barrister while lecturing but eventually had to choose and spent the next 18 years or so in academia.

In 1984, she became the first woman and youngest person appointed to the United Kingdom Law Commission – to which she remained attached for nine years overseeing important reforms in family law – and two years later, in an overlapping role, Professor of Law at Manchester.

In the same year she co-wrote with a fellow academic and published *Women and the Law*, regarded as a seminal work on women’s rights at work, in the family and in the State, which concluded: “Deep-rooted problems of inequality persist and the law continues to reflect the economic, social and political dominance of men.”

In 1989, she was made a Queen’s Counsel and appointed a part-time circuit judge before becoming a judge in the Family Division of the High Court of Justice in 1994 and, according to convention, a Dame Commander of the British Empire.

In 1999, she was appointed to the Court of Appeal and in 2004 she became the first female Law Lord (“Lord of Appeal in Ordinary”) and was created a life peer as Baroness Hale of Richmond, transferring to the Supreme Court last year, when it superseded the Law Lords.

It is implausible, of course, that in achieving all this in such a traditional bastion of the British Establishment, Baroness Hale’s progress, and her influence, has gone unnoticed.

According to a profile published by UK newspaper the *Guardian* on her ascension to the Law Lords in 2004, she had by then become a “totemic hate figure” for the conservative *Daily Mail*.

On the announcement of her appointment, it called her a “hard-line feminist” whose “appointment epitomises the moral vacuum within our judiciary and wider establishment”, a verdict which the article balanced with comment from friend and Labour peer Helena Kennedy QC.

“Brenda is an absolutely straightforward, completely honest and principled person,” she said. “This idea of a man-hating feminist is wrong. She’s extraordinarily human, by no means anti-male and great fun.”

For her part, the *Guardian* reported, she was judicious about being elevated to such company.

“Male judges,” she said, were “very welcoming, very friendly, lovely people to work with. The only comment one would make is that they tend to be of an age and background where they have rarely had a woman as an equal colleague, as opposed to a secretary, clerk or whatever. So they are sometimes nonplussed.”

As Professor Henaghan points out, Baroness Hale’s “unusual pedigree – which is also her strength” sets her apart from her colleagues, too.

“She’s a very well-versed judge, widely read, has an incredibly sharp mind and because she has worked in a number of different areas and practised law in different courts and worked in social welfare and the law, she’s got a good feel for how people operate.

“It is not common for such high-level judges to come out of these areas. They tend to come more from the commercial and civil jurisdictions ...”

Baroness Hale’s FW Guest lecture (Professor Frank Guest was the first full-time professor and Dean of the Otago Faculty of Law) focused on a case relating to the ability to sue a local authority for “lack of care”.

She followed that up with a lecture to law students on the “voice of the child” in Family Court proceedings.

Says Professor Henaghan: “It is a great coup for us that the senior female judge in the United Kingdom would want to come to the southernmost law faculty in the world to deliver these lectures.”

Baroness Hale also gave the 2010 Ethel Benjamin address on the “concept of dignity”.

Ethel Benjamin was New Zealand’s first woman lawyer. She attended Otago Girls’ High School from 1883 to 1892. In 1893, she enrolled for an LLB degree at the University of Otago. She graduated in July 1897 and in September that year, when she represented a client in the recovery of debt in the Dunedin court, it was said to be the first time

a female lawyer had appeared as counsel in any case in the British Empire. Responsible for her own body of “firsts”, she made it possible for women to enter and practise in the New Zealand legal profession.

Baroness Hale follows in a line of illustrious speakers in this annual event, hosted by the Otago Women Lawyers’ Society (OWLS). Taryn Gudmanz, Owls convener, and associate at Gallaway Cook Allan lawyers, says her appearance is a privilege for the society.

“Like Ethel, she is a trailblazer – not only because she sits in the Supreme Court, but also because of the judgments that she gives.

“Ethel had an interest in human rights, and worked hard to benefit women and children in Dunedin, and many of Baroness Hale’s more famous judgments and opinions promote human rights and the rights of women.

“It is a privilege for us to be able to hear her speak.”

*Taken from the Otago Daily Times, Breaking the mould of UK judiciary By Simon Cunliffe on Mon, 3 May 2010*

### JUSTICE EDWIN CAMERON

Edwin Cameron confidently expects to live past 90. Old age is something he never takes for granted though, after coming close to dying of AIDS 13 years ago.

Justice Cameron, a judge with South Africa’s Constitutional Court, the highest court in the land and the equivalent of New Zealand’s Supreme Court, credits the emergence of revolutionary antiretroviral drugs for saving his life.



And gaining a second chance at life caused him to do something many considered professional suicide.

In 1999, during a speech to a panel of his peers who were considering whether to appoint him to the Constitutional Court, he announced he had HIV-AIDS.

“I am not dying of AIDS, I am living with AIDS,” he told them, becoming the first senior public servant in southern Africa to acknowledge he had the virus.

Jaws dropped, and journalists seized upon the story, giving it mass coverage throughout southern Africa. It was not surprising. Justice Cameron is gay and AIDS is primarily sexually transmitted.

He knew the stigma and disapproval associated with AIDS, and the fear and mistrust many people had towards AIDS sufferers at that time.

He says he felt an obligation to speak out, both because of his second chance at life, and because he knew many South African AIDS sufferers did not have the same access to the antiretroviral drugs he had.

“It was the worst thing I had ever done in my life, and it was the best thing I had ever done.

“The public support I received was incredible.”

He says he has lived a “full and vigorous life” since, working full-time and continuing his campaign to raise awareness

and understanding about HIV and AIDS, reinforce the need for people, especially gay men, to practice safe sex, and improve access to antiretroviral drugs.

He is in demand as a speaker worldwide.

The HIV virus which leads to AIDS took hold in the human population only 30 years ago.

It is now officially a worldwide pandemic, affecting an estimated 33.4 million people.

In South Africa, an estimated five to six million people – 11-12% of the population – are living with HIV-AIDS, Justice Cameron says. (The total in New Zealand is about 1500.)

In the early 2000s, Justice Cameron again stood by the courage of his convictions, challenging then president Thabo Mbeki’s statements that the idea AIDS was a sexually transmitted disease was an idea racially motivated against black men.

His Aids denialism caused antiretroviral drugs to be withheld from South Africans for a period Justice Cameron describes as “a four-year nightmare”.

It took a successful civil law suit in 2002 to ensure the drugs became available, and two years later the Government introduced a widespread public health programme training staff in the treatment of AIDS and providing affordable drugs to almost everyone.

Justice Cameron says almost everyone, as there are still an estimated 500,000 South Africans too afraid of the stigma of AIDS to risk a formal diagnosis and agree to treatment.

AIDS does not define him, Justice Cameron says.

“I believe it is my work as a judge and on human rights issues which will define my legacy.”

But he says he is happy to be known as the Judge with AIDS.

“I don’t see it as demeaning to my work.

“There are too few voices speaking out about AIDS, and about access to AIDS drugs.

“I believe my AIDS work complements my court work and my court work complements my AIDS work.”

*Taken from the Otago Daily Times, Speaking up on Aids will define his legacy, By Allison Rudd on Sat, 24 Jul 2010*



### LORD WALKER

The Right Honourable Lord Walker of Gestingthorpe was in New Zealand recently as a Canterbury University Law School Eric Hotung Visiting Fellow.

Lord Walker was appointed as a High Court Judge in 1994 and as a Lord Justice of Appeal in 1997. He was made a Law Lord in 2002 and, in October 2009, he became one of the first Justices of the new Supreme Court of the United Kingdom. He is also a Judge of the Hong Kong Court of Final Appeal and an Honorary Fellow of Trinity College, Cambridge.



While Lord Walker was in residence at the Canterbury Law School from 1-21 August, he expressed an interest in coming to speak with staff and students at the University of Otago. Lord Walker presented his lecture "Treating Like Cases Alike and Unlike Cases Differently: Some Problems of Antidiscrimination Law" to a packed Moot Court in the Faculty of Law. A number of local practitioners and local judiciary were in the audience to hear Lord Walker's lecture.

### PROFESSOR GRAHAM ZELICK

English legal scholar Professor Graham Zellick QC believes the concept of a Criminal Cases Review Commission, which investigates possible miscarriages of justice in England, will eventually be accepted in many other countries.



The England-based Commission has, since 1997, considered possible miscarriages of justice in England, Wales and Northern Ireland.

Another commission operates in Scotland, and Norway also has a similar system.

Professor Zellick is a former chairman of the English commission, and, as the New Zealand Law Foundation's Distinguished Visiting Fellow for 2010, gave a series of lectures throughout the country.

On Wednesday night, he gave a public lecture at the University of Otago on "The investigation of possible miscarriages of justice and the quashing of wrongful convictions".



The Commission investigates cases, both major and minor, many having attracted little or no previous publicity, and refers them back to appeal courts where there is a "real possibility" a conviction would not be upheld.

Professor Zellick, who is also a former Vice-Chancellor of the University of London, noted there was considerable support in New Zealand, including in criminal bar circles, for a Commission to also be established here.

Adopting this approach had also been debated "for years" in Canada and Australia.

"I simply don't understand why it hasn't been adopted more readily in other countries.

"The experience of both England and Scotland shows that it works and works well," he said.

The Commission approach strengthened public confidence in the legal system by identifying cases in which something may have gone wrong, but did not imply any criticism of the overall justice system.

Creating a Commission did not generate huge numbers of extra appeals.

The English Commission had taken a "pretty hard-headed" approach, and about 96% of applications to it had been unsuccessful, he said.

*Taken from the Otago Daily Times, Scholar supports idea of criminal review, By John Gibb on Sat, 21 August 2010*

### HONORABLE SIMON POWER



Honorable Simon Power visited the Faculty of Law in August and spoke to a crowded Moot Court, filled with staff, students, local practitioners and members of public on 'Challenging Tradition'.

Honorable Simon Power is Minister of Justice, Minister for State Owned Enterprises, Minister of Commerce, Minister Responsible for the Law Commission, Associate Minister of Finance, and Deputy Leader of the House.

Mr Power said expenditure on legal aid had risen by \$45.3 million in the past three years.

He believed that expenditure on legal aid has got out of hand and significant steps will have to be taken to rein it back in.

"Last year the legal aid system cost \$128.6 million. In three years' time that figure is projected to pass the \$200m mark."

A lot of that stemmed from decisions made in 2007 to increase lawyer remuneration and extend eligibility for legal aid, he said.

By 2011/2012 legal aid was expected to be \$69m over budget.

“To put it in perspective, plugging that hole would require wiping out an entire year’s budget for family and civil legal aid – plus some.”

Mr Power said other countries used spending caps, eligibility restrictions and fixed fees to keep spending under control, and the introduction of such measures would not be ruled out here.

Bulk funding law firms was also an option, as was expanding the public defence service faster than originally planned.

Mr Power said he would report back to Cabinet in November on options to bring spending under control while maintaining access to justice.

He said he also expected to be able to introduce a bill to Parliament before the end of the year on ways to speed up justice processes.

Proposals being looked at include:

- ~ Raising jury trial thresholds;
- ~ requiring counsel to attempt to resolve cases prior to a hearing and avoid unnecessary court cases;
- ~ requiring defence to identify issues in dispute so courts can focus on those issues at trial;
- ~ ensuring all pre-trial matters are adequately dealt with.

*Taken from Stuff (www.stuff.co.nz) Legal aid spending ‘out of hand’, says Power*

### 3. Staff achievements:

Congratulations to the following Faculty of Law staff members on their recent promotions, which are effective from the 1 February 2011:

**Ms Margaret Briggs** has been promoted to Associate Professor.

Margaret is recognised nationally and internationally for her outstanding research in relationship property and in criminal law. She has been widely published in both national and international books and journals and is frequently asked to contribute her research at conferences worldwide. Her criminal law research is extensively cited in the High Court and in leading texts such as *Adams on Criminal Law*, and international journals such as the *Criminal Law Quarterly* and the *Singapore Journal of Legal Studies*. Based on the quality of her research, in 2009 Margaret was invited by the Centre of European Legal Studies to collaborate on an international study on marital agreements.

Her paper on marital agreements in New Zealand has been accepted for publication by one of the top legal British publishers, Hart Publishing. In 2009 she also had the distinction of having her criminal law article about officially induced error published as the lead article in the *Common Law World Review*. Margaret is the editor of the *Otago Law Review*.

Margaret teaches Criminal Law, Advanced Family Property Law and Crime and Property.

**Mr Michael Robertson** has been promoted to Associate Professor.

Michael is first and foremost a legal philosopher with a strong reputation as a writer on legal theory for an international audience. He is renowned for his work on major intellectual figure and legal and political theorist, Professor Stanley Fish. Michael has been invited by academics from major American universities, along side Terry Eagleton from Oxford University to write a chapter for the book *Postmodern Sophistry: Stanley Fish and the Critical Enterprise*.

His major articles on Fish are published in top ranking legal philosophy journals, including the *Legal Theory Journal* published by Yale University, the *Canadian Journal of Law and Jurisprudence*, the *Southern Californian Interdisciplinary Law Journal* and the leading legal theory journal in the United Kingdom, *Ratio Juris*.

Michael has also published articles on property theory in the *Journal of Law and Society*. Based on this work he has been invited by Hart Publishing to contribute a chapter on law and the constitution.

He has contributed a number of articles on law and film to the *International Journal of Law in Context* and his work on research and academic freedom is widely cited in publications in the United Kingdom and Canada.

Michael is currently the co-editor of the *New Zealand Universities Law Review*.

Michael teaches Jurisprudence and he has developed three specialist courses for the Faculty of Law – Landlord and Tenant, Legal Theory, and Law and Society.

**Mr Stephen Smith** has been promoted to Senior Lecturer.

Stephen has published major research articles in internationally recognised peer reviewed journals.

Stephen has written a novel article offering a critique of the International Criminal Court for the *International Criminal Law Review*. The impact of this article was to influence the Judges of the Appeals Chamber of the International Criminal Court to reverse an initial judgment – high peer esteem for a young scholar.

Further publications include articles on the legal aspects of Mormon polygamy published in the international academic publication, the *Journal of Church and State*. Stephen has since been invited to serve on the Journal’s editorial board and act as a referee for submissions on Mormon polygamy. He has had a major article accepted by the *Florida Journal of International Law* on the Obama administration and the International Criminal Court and has written an important article for the *New Zealand Journal of Public and International Law* on the status of the Cook Islands’ eligibility for membership of the United Nations.

Stephen teaches Legal History, Criminal Law and Evidence and has developed a specialist course on the International Criminal Court.

### THE OXFORD HISTORY OF THE LAWS OF ENGLAND, VOLUMES 11-13 (1820-1914)

#### STUART ANDERSON

The Oxford History of the Laws of England was conceived as a successor to, and replacement for, Holdsworth’s multi-volume History of English Law. It was meant to contain 12 volumes; one would be on canon law down to 1640, and the other 11 would be divided by period. Each would have its own specialist author. For the medieval volumes the idea was to include research on documentary sources (Holdsworth used printed sources only). Because there is so much nineteenth century law there were to be two volumes, under the separate editorship of Emeritus Professor Bill Cornish, from Cambridge. The series editor is Professor Sir John Baker, also of Cambridge.

Stuart was in on the planning of the nineteenth century volumes from the start. Bill had decided that they needed a team of specialists and, in the event he chose six, including himself. Stuart is one of those specialists, and has written about a sixth of the work. The 12 volume series has become 13. Volumes 11, 12, and 13, spanning the period 1820-1914, took about eight years before publication in March.

There are Oxford Histories of all sorts, and where there is a substantial secondary literature they are often syntheses of contemporary scholarship. These new volumes do of course build on what there is, but are mostly new works, which is why it took so long. Those interested in the modern history of any aspect of English law will find much to think about and (they hope) argue over. Much of it is relevant to the UK's former colonies, which during the nineteenth and twentieth centuries imported much of their law from England. Knowledgeable readers will be able to see where jurisdictions depart from English models and perhaps why. The work will be used for a long time to come.

Stuart is the sole author of the 'Public Law' section in volume 11 and the 'Property' section in vol 12. 'Public Law' has an institutional slant: it describes Parliamentary law-making, local government, the place of the army in the state, and the place of the church in the state. But there are substantive sections too, one on judicial review, and one on the liability of public officials.

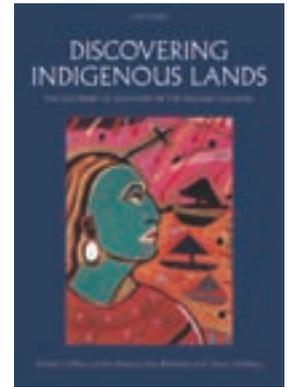
'Property' spans land law, trusts and succession, but not personal property (which was written by another of the authors, Michael Lobban, as part of commercial law.)

The book was launched in January in London. The authors met in a snow-bound London, at the British Academy, with the snow falling, trains and planes being cancelled by the hour, against the sort of background silence that snow brings even to a metropolis like London. There had been publishing delays, so all they had to show off was a specially bound set of page proofs – impressive nonetheless.

Publication of other volumes in the series is slow and spasmodic, depending on the speed at which authors work. One author withdrew, so there is a gap where the plans for the 1689-1760 volume should be. The authors are looking forward to James Oldham's volume covering 1760-1820, with fingers crossed that their interpretation of that period, the next before their own, is not too different.



## DISCOVERING INDIGENOUS LANDS THE DOCTRINE OF DISCOVERY IN THE ENGLISH COLONIES



Jacinta Ruru, along with Robert J. Miller, Larissa Behrendt, and Tracey Lindberg recently published their book *Discovering Indigenous Lands The Doctrine of Discovery in the English Colonies*.

This book presents new material and shines fresh light on the under-explored historical and legal evidence about the use of the doctrine of discovery in Australia, Canada, New Zealand and the United States.

North America, New Zealand and Australia were colonised by England under an international legal principle that is known today as the doctrine of discovery. When Europeans set out to explore and exploit new lands in the fifteenth through to the twentieth centuries, they justified their sovereign and property claims over these territories and the indigenous peoples with the discovery doctrine. This legal principle was justified by religious and ethnocentric ideas of European and Christian superiority over the other cultures, religions, and races of the world. The doctrine provided that newly-arrived Europeans automatically acquired property rights in the lands of indigenous peoples and gained political and commercial rights over the inhabitants. The English colonial governments and colonists in North America, New Zealand and Australia all utilised this doctrine, and still use it today to assert legal rights to indigenous lands and to assert control over indigenous peoples.

Written by indigenous legal academics - an American Indian from the Eastern Shawnee Tribe, a New Zealand Maori (Ngati Rawkawa and Ngai Te Rangi), an Indigenous Australian, and a Cree (Neheiyiwak) in the country now known as Canada, *Discovering Indigenous Lands* provides a unique insight into the insidious historical and contemporary application of the doctrine of discovery.

## EARLY CAREER RESEARCH AWARDS 2010

Jessica Palmer was a recipient of an Early Career Award for Distinction in Research for her outstanding work in the area of equity in the law. Jessica received a grant to support her ongoing research and scholarly development.



## OUASA TOP 10 TEACHING EXCELLENCE AWARDS 2010

Congratulations go out to **Professor Mark Henaghan** and **Professor J. Stuart Anderson** who have been named amongst the top 10 teachers in the OUSA Teaching Excellence Awards for this year.

Professor John Dawson received an OUSA award as one of the top 10 postgraduate research supervisors for 2010. Congratulations John.

## PEER REVIEWER APPOINTMENT TO THE EUROPEAN SCIENCE FOUNDATION

This year **Professor Paul Roth** was appointed as a peer reviewer for the European Science Foundation, which annually awards over 50 million euro worth of research funding. Professor Roth is the first Otago University staff member to be appointed, although there are a handful of European Science Foundation reviewers elsewhere in New Zealand.



In the last year, Professor Roth has reviewed 2 multi-million euro projects for the ESF in the area of data protection/new information technologies, which is the area where he been appointed a peer reviewer.

## NEW ZEALAND LAW FOUNDATION GRANTS

**Associate Professor Andrew Geddis** received a \$5000 grant from the New Zealand Law Foundation to fund a report on the Rule of Law in New Zealand. This research will review the current state of the rule of law in New Zealand, referring in particular to any weaknesses or areas of concern. It examines four key questions:

- (1) What is “the rule of law”?
- (2) How is the rule of law currently supported and protected in New Zealand?
- (3) What challenges does the rule of law presently face in NZ (with case studies of particular areas of concern)?

- (4) How might the rule of law be strengthened in New Zealand?

**Associate Professor Donna Buckingham** also received a grant from the NZLF for her research on NZLII Development of an ACC Database”

## WITH MANY BEST WISHES

The Faculty of Law is very sad to lose one of its longer serving and largely indispensable staff members, **Matt Hall** who is taking up a new position in Wellington. Matt has been the IT Coordinator in the Faculty for the last ten years and has acted as major creative IT innovator and invaluable trouble-shooter.

Matt will be missed very much by all the staff. He has been a great colleague and friend. We all wish him well.



## 4. Dunedin Community Law Centre 30th Birthday

The Dunedin Community Law Centre, which was the second Community Law Centre to be established in New Zealand, recently celebrated its 30th birthday on 12 July at the Filleul Street offices.

A student initiative, driven most notably by an honours student by the name of John McManamy, the Dunedin Community Law Centre was established in 1980. His Honour’s dissertation identifies a demand by law students for practical legal education as the key reason for starting the Law Centre. There was a perception that neither the law degree nor a form of apprenticeship proposed by the New Zealand Law Society was a suitable source of practical legal training. Six dedicated students spent the summer of 1979 working out the practicalities of starting and running a Community Law Centre and, with the catalyst of a \$5,000 gift, the Centre was under way.

Its core business then, as now, was to satisfy the unmet legal need of the community. It had 20 students on roster, premises provided by the University of Otago and very welcome support from the Faculty of Law and the Dunedin law profession. Ten clients were seen on its opening night and it has never lacked clients since.



In the mid 1980's, the Dunedin Community Law Centre received funding from Legal Services Board – which morphed into the Legal Services Agency – which has allowed it to employ full time staff which in turn allowed it to grow and strengthen services right throughout Otago. These services include telephone support, educational talks and the making of legal submissions to Parliament, Councils and other relevant bodies. Today, 120 students and 60 practitioners volunteer their time and six full-time staff are involved. They provide assistance to 7-8,000 members of the community every year.

The model adopted by the Dunedin Community Law Centre is to have volunteer law students (typically third year and above) seeing clients and giving advice, but with the support and supervision of volunteer practitioners. This has been a very successful, and has since been exported to Christchurch, Wellington, Waitakere and also Hamilton. In addition to other Community Law Centres taking up the Dunedin model, many former Otago students now sit on management committees around the country.

Since the mid 1990s, the Dunedin Community Law Centre has had a unique and ongoing partnership with the Ngai Tahu Maori Law Centre, to reflect the Treaty of Waitangi. Under this partnership, the centres work co-operatively and refer clients to each other to avoid duplication of expertise. The Treaty itself forms the basis of the division of expertise: the Dunedin Community Law Centre assists Māori clients of the Ngai Tahu Māori Law Centre with issues arising under Article 3 (problems with government departments) and the latter sees clients of the Dunedin Community Law Centre who have issues relating to

Articles 1 and 2 (particularly problems with Māori land).

Undoubtedly, the strength of the Dunedin Community Law Centre is that it brings together three communities: the wider community of Dunedin and Otago as service users and as social service organisations; law students and the Faculty of Law along with the law profession. The Centre is community based and has a focus of empowering those who seek assistance, and shares with the other law centres in New Zealand a commitment to providing effective community based legal services.

Tying into the birthday celebrations was also the inaugural presentation of the Joan Bethia Chadwick prize, made to reward outstanding contributions by law student volunteers at the Dunedin Community Law Centre. The recipient for 2009 was fourth year law student, Joschka Hoffmann.

The prize was established as a consequence of a gift from the Rua and Clarrie Stevens Memorial Charitable Trust. Lee Stevens, trustee of the Trust, was there to present the award to Joschka and to speak about the background of the establishment of the Joan Bethia Chadwick Prize.

Joan was a legal secretary, who started work in the 1940's for the Law Partnership comprised of Clarrie and Osborne Stevens. When Clarrie went out as a sole practitioner in 1968, Joan went with him as his typist. She continued to work for Clarrie even after his retirement, assisting with the Trust and personal matters by means of dictation over the phone from Auckland to Waiheke Island, where Joan lived. Joan worked for Clarrie for some 35 years and was a most loyal and competent member of staff. She passed away in 2000 and the prize was named in her honour.

## 5. Otago/USP Exchange Expands

### PROFESSOR JOHN DAWSON

The academic exchange programme that commenced in 2008 between the Faculty of Law of Otago and the University of the South Pacific has expanded this year, drawing in students from Auckland, and scholars from throughout the Pacific, to a fascinating 3-day conference on Law and Culture in the Pacific, held at the USP law school, in Port Vila, Vanuatu, in late August.

A group of Otago staff and students first visited the USP Faculty of Law two years ago, for a smaller conference of this kind, plus a moot on Pacific legal issues. At Easter 2009, a group from USP visited Otago for a similar programme. This year the event blossomed into a general legal conference in Vanuatu, with about 100 participants.



The programme focused on legal pluralism in the Pacific, particularly relations between customary law, state law, and national constitutions – enormously interesting terrain for NZ lawyers raised on a largely different structure to their sources of law. Other sessions covered corruption, traditional dispute resolution, customary land rights, and customary elements to criminal law, logging disputes, constitutional developments in Fiji and Tonga, and legal responses to climate change. A fascinating dialogue ensued at the sessions between USP law students, who live onsite at the campus, and come from the 12 participating nations of that university, and the visiting scholars from Otago, Auckland, Australia and other parts of the Pacific, who thoroughly enjoyed the event.

The USP law school has just opened a new moot court, funded by AUSAID. This was christened on two evenings at the conference through the conduct of formal moots



between two teams from USP and visiting teams from Otago and Auckland. More than 200 gathered to see these events, including almost the entire USP law student body. They were conducted, before judges of the Vanuatu courts in the brand new building.

The USP-Auckland moot concerned a conflict between the customary power to banish people from a village to maintain order and the right of the group banished to freely practise their religion, an issue litigated on several occasions in Samoa. The USP-Otago moot concerned difficult issues current in Melanesia – the conflict between the male-oriented foundations of customary land rights and the constitutional right of women to equality. Both

these moots forced the students to argue as if they were in a Pacific jurisdiction, and from local sources of law – a hugely educational experience for Pacific students from NZ law schools.

The Otago group were also thrilled to be welcomed at a remote school, on the island of Efate, to which they gave some hundreds of children's books donated by Otago staff.

A further event of this kind is planned for 2011, in late August, in Vanuatu. It is hoped more NZ law schools will send delegations, at their own expense. For further details as they unfold, see the conference website: [www.pacii.org/law-and-culture/](http://www.pacii.org/law-and-culture/). This was a fabulous experience for the delegation from Otago.

## 6. Art and Law Symposium

In collaboration with the Faculty of Law the Dunedin School of Art at the Otago Polytechnic hosted the Art and Law Symposium.

The first of its type in New Zealand, presenters drew on many of the substantive areas where art and law intersect. Topics included historical examples of artists and their patrons, art and colonisation, customary rights and sovereignty of centralised legislation, copyright and protection and legal rights to freedom of speech, and expression and censorship. Presenters were drawn from Australia and New Zealand in what has been an illuminating and thought provoking event.

Many thanks to Peter Stupples for his successful organisation of an interesting programme and to Professor Leoni Schmidt, Head of the Dunedin School of Art, for co-sponsorship of the symposium.

The symposium follows a series of exhibitions of artistic works by students from the Dunedin School of Art hosted by the Faculty of Law and very much enjoyed by staff and visitors.



## 7. Postgraduate Studies

The Faculty of Law was pleased to host the inaugural Otago Post Graduate Law Symposium. This event was the first of its kind and has attracted postgraduate students from many New Zealand universities.

The dual emphasis of the symposium was to draw together current and prospective law postgraduate candidates and law academics and provide perspectives from University of Otago Faculty of Law members on practical aspects of the process of postgraduate study as well as providing the opportunity for postgraduate candidates to present their research ideas in a conference format.

This has been a great opportunity for candidates to practice presenting for conferences and to expose their research to a wider audience.

All PhD Law and LLM by thesis candidates were made welcome. The feedback received from attendees was very positive. As commented by one postgraduate, "The symposium was very useful and informative and a great networking opportunity. Judging by the calibre of staff and students, Otago University is a great place to learn and work".

This year the Faculty of Law has attracted a high number of postgraduate candidates of an outstanding calibre. The candidates and their research topics are:

- ~ Abby Suszko PhD Law – The foreshore and seabed debate: contrasting visions of equality and rights;
- ~ Christopher Walshaw PhD Law – The judicial process in the exercise of statutory discretions;
- ~ Richman Wee PhD Law – Safeguarding the rights and interests of health research participants in the genomics era in New Zealand;
- ~ Maria Pozza PhD Other – Satellites as space weapons;
- ~ Melvin Salahuddin PhD Law – International environmental law – involvement of sub-national governments in climate change;
- ~ Jeanne Snelling PhD Law – The ambit of reproductive liberty with respect to the regulation and provision of preimplantation genetic diagnosis;
- ~ Debbie Kapohe PhD Law – Māori and Pakeha conceptions of procedural justice;
- ~ Riki Kotua LLM Critical race theory;
- ~ Alexander McCabe PhD Law – The modern relevance of deviation doctrines in international point to point contracts;
- ~ Keron Niles PhD Other – Can renewably generated interconnected electricity save (the power sector in) Small Island Developing States (SIDS) from Peak Oil? The case of Pacific and Caribbean nations;

- ~ Allan Cooke PhD Law – What is the State’s responsibility to children who are in state care?;
- ~ Simon Currie PhD Law – A critical and jurisprudential analysis of the *Criminal Proceeds (Recovery) Act 2009*;
- ~ Giovanni Di Lieto PhD Law – Transnational labour citizenship as a framework within international governmental organisations;
- ~ Matthew Downs PhD Law – History and application of “the proviso” per s385 of the *Crimes Act 1961*;
- ~ Mary Foley PhD Law – The duty to provide for adult children in wills;
- ~ Benjamin France-Hudson PhD Law – The registration of interests in natural resources as a method of assisting regulation;
- ~ Arie Afriansyah PhD Law – State responsibility in international environmental protection during armed conflict;
- ~ Mohamad Bin Abd Rahman PhD Law - Computer/information technology law;
- ~ Sarah Butcher PhD Law – The effect on the right to a private life by prior publication of words, photos and other personal information;
- ~ Xiju Zhao PhD Law – Traditional Chinese medicine practitioners and the law: informed consent and the duty of care;

- ~ Nada Matas-Runquist MA – From pharmacogenetics to nutrigenomics: legal framework for innovations in biotechnology;
- ~ Natalie Pierce LLM – Conspiracy under the Rome Statute of the International Criminal Court: The inability to agree on a powerful prosecution weapon;
- ~ Liam McKay LLM – Tikanga Māori and New Zealand’s legal system;
- ~ Claire Green (Harris) LLM – Economic Disparity between couples upon divorce: an exploration of the impact of *section 15 of the Property (Relationships) Act 1976* on this vexed problem;
- ~ Christopher Gullidge LLM – Accessibility of law to the public;
- ~ Andre Abderrezak LLM – Developing a regulatory framework for Islamic finance to thrive in Australasia;
- ~ Simon Connell LLM – “Generous and unnigardly” interpretation of accident compensation law in New Zealand;
- ~ Tobias Barkley LLM – Property interests in the New Zealand family trust.

Postgraduate students are an integral part of the intellectual life of the Faculty of Law and it is crucial to us that students share our passion for high-quality and original research.



## 8. Student Activities

### OTAGO CLAIM PRESIDENT'S PRIZE FOR SECOND CONSECUTIVE YEAR



For the second consecutive year, University of Otago law students have won the president's prize for the best overall performance in a national university law competition. The competition was held during the New Zealand Law Students Association's latest conference, which was hosted at the University of Otago Faculty of Law.

Otago students Nic Blumsky-Gibbs and Sean Conway won the Client Interviewing Contest, which was one of several events in the competition. Gaining second place in the mooted contest were Alice Osman and Louis Chambers. Another team member, Kate Lawson-Bradshaw, was second in the witness examination event.

Two other Otago students, Alice Selby and Joshua Pemberton, also enjoyed success, winning an inaugural second-year mooted contest, also held during the conference.

Society of Otago University Law Students president Rob Harris said the recent Otago student successes were a "fantastic achievement" which showed the quality of legal education at Otago.

Faculty of Law staff and Dunedin lawyers had also provided strong support, he said.

### MĀORI NATIONAL MOOTING COMPETITION

Te Hunga Roia Māori o Aotearoa, the Māori Law Society held their annual conference this year in September. As part of the conference, the National Mooting Competition Final was held on Thursday evening in the Old High Court Building, where



University of Otago law finalist student, Maia Wikaira competed. The moot problem was based on a hypothetical scenario in which a hapū was claiming ownership to the water of a local stream that ran through their land based on tikanga Māori, the doctrine of native title, and fiduciary duties. The judges presiding over the case were Justice Joe Williams of the High Court and Deputy Chief Judge Caren Fox of the Māori Land Court, who declared the respondents the winners. The mooted finalists were:

#### Counsel for the Appellants:

- ~ Luke Claasen  
(Waikato University – Mooted in Te Reo Māori)

- ~ David Jones  
(Victoria University – Mooted in Te Reo Māori)
- ~ Victoria Skelton (Auckland University)

#### Counsel for the Respondents:

- ~ Maia Wikaira  
(Otago University – Mooted in Te Reo Māori)
- ~ Whetu Taukamo (Waikato University)
- ~ Jonaan McLeod (Auckland University)

### LATIN MOOT COURT COMPETITION

Earlier this year, University of Otago law student, Aimee Gulliver and Canadian team mate, Jennifer Turliuk were placed first runners up and received the Outstanding Presentation Award, in this year's Latin Moot Corp® Competition in Sao Paulo, Brazil.



Aimee is currently in her fifth year of study towards her double degree in LLB(Hons) and BA(Hons) and is currently on exchange in Canada, studying at Queens University in Kingston, Ontario.

Aimee got involved in the competition through Jennifer, her roommate and commerce student, who had previously been involved in both organising and attending various entrepreneurship competitions. So, when the chance to enter the Brazil competition arose, the two teamed up for what was to be a very successful combination.

The Latin Moot Corp® competition has been the responsibility of Fundação Getulio Vargas since 2001, and is one of a number of "feeder" competitions for the Global Moot Corp® competition, which is held annually by the University of Texas at Austin.

The "feeder" competitions are held all around the world, with the winner of each competition going forward to compete at the Global Moot® Competition. The competition is one of the most renowned business plan competitions in the world. As the website quotes it is "The Super Bowl of World Business-Plan Competition".

Although Aimee and Jennifer will not go through to compete in the Global Moot Competition, they did not leave Sao Paulo empty handed. "It was amazing seeing the quality of ideas and presentations that the other candidates had. We were over the moon with both our placing in the competition, and the feedback we received from the judges. Sao Paulo was an awesome experience, and the competition provided us with an amazing opportunity to experience Brazilian culture for a week!" said Aimee.

"I'm very grateful for the opportunity to compete in such a prestigious competition".

### CONGRATULATIONS to two Otago Law students



Mitch Singh and Roshni Kaur, who won the 2009 Buddle Findlay Negotiation Competition. The brother and sister duo went on to represent New Zealand at the 2010 World Negotiation Competition in July this year, reaching the semi finals.

## **INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA (ITLOS) – INTERNSHIP**

### *HONOR LANHAM*

From January to March 2010 I completed an internship with the International Tribunal for the Law of the Sea (ITLOS) in Hamburg, Germany. I was one of five interns representing the various United Nations' geographical regions. As interns we were attached to the Legal Office and conducted research and prepared notes and documents on various legal issues under consideration by the Legal Office. I learnt a great deal about the law of the sea and in particular I enjoyed exploring sea piracy further. A highlight of the internship was meeting the 21 judges of ITLOS while they were in Hamburg for an Administrative Session. They were truly inspiring and each had significantly contributed to the development of international law.

I would like to thank the Otago Faculty of Law for their generous financial support of my internship and the Humanities Division, especially the Politics Department, for allowing me to complete my BA by distance.

## **FOURTH INTERNATIONAL INDIGENOUS CONFERENCE ON TRADITIONAL KNOWLEDGE**

### *JORDY BOWMAN AND HANA NYHOF*

The Fourth International Indigenous Conference on Traditional Knowledge, organised by Nga Pae O Te Maramatanga (New Zealand's Māori Centre for Research Excellence), was held in Auckland from 6 – 9 June 2010. Six students, including ourselves, from Jacinta Ruru's Law and Indigenous Peoples class had the privilege of attending. The Conference brought together people from all walks of life and cultures, with speakers and participants from a number of African nations, Bolivia, Canada, Mongolia, Australia, India, Italy, Hawaii, North America and New Zealand. Over the four days of the Conference, there were eleven invited speakers, and 180 individual presenters, who shared their research with us. Research areas branched from science and information technology, to law and politics, to environmental issues and health and education.

Attending the Conference was an interesting, topical and informative way to end our Law and Indigenous Peoples study. The Conference provided us all with the opportunity to learn and share how Indigenous peoples interact with and are affected by the law in many varied, and unexpected, ways. In many cases, we were privileged to hear the first hand experiences of Indigenous peoples, and both their struggles and successes in the face of the law. Further, the cultural diversity of presenters provided interesting points of comparison between different Indigenous communities and legal systems, which was particularly relevant to us as Law and Indigenous Peoples is a comparative paper between Australia, Canada and New Zealand.

The Conference provided a fantastic forum for dialogue with a wide range of people, from a variety of backgrounds – from community leaders to undergraduate students, to world-renowned academics. The experience was particularly beneficial for us, as in Dunedin we do

not have the same exposure and contact with people who specialise in Indigenous issues. It also gave us an important opportunity to discuss our own research papers that we were completing for Jacinta, as well as opening our minds to many research areas relating to Indigenous issues that previously we had not personally considered. As non-Indigenous students, it was humbling to be privy to the personal experiences, stories, cultures and ideas of such a diverse and focussed group of Indigenous peoples. The Conference really was a sharing of ideas and a meeting of important minds, and it was an invaluable opportunity to be a part of such an event. Further, as undergraduate law students it increased our awareness of the role we could play in advancing a climate of understanding in Indigenous issues in our own studies, and potentially our future careers. It was enlightening to be shown how Indigenous knowledge and ideas can and should be a key contributor to topical discussions, such as those surrounding climate change and food sustainability, as well as governance and alternative dispute resolution.

Jacinta Ruru was fundamental in organising for us to attend the Conference, and we would like to extend our thanks to her – without her hard work, we would not have been able to enjoy this amazing opportunity. We would also like to thank the Law Faculty for its generous support with funding our attendance.

## **INTERNSHIP – INTERNATIONAL BAR ASSOCIATION'S HUMAN RIGHTS INSTITUTE, LONDON**

### *SARAH-ROSE WILLIAMS*

From January to March of this year I undertook an internship with the International Bar Association's Human Rights Institute in London. I have always had a strong interest in international law, particularly human rights, and so this internship seemed like the perfect opportunity to experience this kind of law in practise.

There were nine other interns in the January intake who came from right across the globe. It was great to be able to work in an office together and discuss not only the projects we were working on but also learn about their backgrounds and future aspirations and form lasting friendships. Each intern worked under a different lawyer and they would delegate us various projects. It was fantastic to be able to work under such experienced and highly qualified human rights lawyers and learn about the fascinating work they had done over the course of their careers. The area I especially focused on while at the IBA was Freedom of Speech. Each morning I would update the IBA's Freedom of Speech website with press articles and in the afternoons I would work on longer term projects. These long-term projects were especially interesting and I would often help with compiling reports on trial observations. One report that I was very much involved with was the trial of Le Cong Dinh in Vietnam who was being tried for promoting democracy in the country. The IBA had sent trial observers to Vietnam and they would send information on the trial throughout each day, which I would then incorporate into the overall trial report.

I found this experience invaluable, not just in terms of the academic work that I did, but also in terms of the lawyers and other interns that I met who gave me a real insight into what it would be like to be a human rights lawyer and how to go about getting into such a competitive field. The lawyers that work full-time there have such exciting

lives; being based in London then travelling every few weeks to remote locations where human rights abuses are occurring, and it made me keen to pursue such a career. The IBA's offices are right in the heart of London just off Oxford St (which made for a lot of lunchtime shopping expeditions!) and I was lucky to experience first-hand this amazing, vibrant city.

Thank you to the Otago University Law Faculty for

making this opportunity possible by providing financial support. This internship was a particularly valuable reminder that there are an abundance of law careers out there that do not involve big corporate law firms and that you have to keep searching to find out what really interests you. I would recommend this type of internship to any law student; it is a great way to figure out what career-path you actually want to follow and a fantastic way to meet people from throughout the world.

## 9. Catching up with Alumni

### LEGAL FELLOWSHIP – REFUGEE ADVOCACY AND SUPPORT PROGRAM OF HELSINKI CITIZENS' ASSEMBLY – ISTANBUL, TURKEY

University of Otago Law graduate Matthew Smith (BA, LLB (Hons) 2006) has been awarded a six-month legal fellowship with the Refugee Advocacy and Support Program of the Helsinki Citizens' Assembly.



Based in Istanbul, Turkey, the Helsinki Citizens' Assembly is an independent, nonprofit, non-governmental

organization working to advance fundamental rights and freedoms, peace, democracy and pluralism in Turkey and beyond. The Helsinki Citizens' Assembly's Refugee Advocacy and Support Program was founded in 2004 to empower and support refugee populations in Turkey and to ensure that the rights of refugees are upheld under national and international law.

The free legal services that the Refugee Advocacy and Support Program provides (the work Matthew Smith will be undertaking as a fellow) include in-depth interviews of refugees focusing on why they left their home country and why they fear returning to it; conducting legal research and research on country conditions in specific refugee-producing countries; drafting affidavits and legal arguments; representing clients during interviews at the UN Refugee Agency (UNHCR); and drafting or editing advocacy or training materials.

### THE SOLOMON ISLANDS INFORMATION NETWORK: MEDIATION FRAMEWORK INVOLVES ANOTHER OF OUR GRADUATES – JUSTICE SIR ALBERT PALMER HAS BEEN INVOLVED WITH THE INTRODUCTION OF A MEDIATION FRAMEWORK. THE STORY BELOW IS FROM THE SIBC (23 JAN 2010).

A member of the World Bank Group is supporting the Solomon Islands' judicial system in introducing a mediation framework, which will help Solomon Islanders resolve disputes quickly and on good terms.

The International Finance Corporation, (IFC), held a workshop this week for the Court's Steering Committee on Mediation.

IFC is an international financial institution focused exclusively on the private sector, the engine of sustainable development in emerging markets.

It also held a series of consultations with other interested organizations, including the Solomon Islands Chamber of Commerce and Solomon Islands Christian Association.

The workshop involved designing a plan to introduce a formal mediation framework, and the drafting of mediation rules for the court.

IFC's program in the Solomon Islands is supported by the governments of Australia, Japan, and New Zealand.

According to the IFC-World Bank's Doing Business 2010 report, it would take on average 37 procedures and 455 days in the Solomon Islands for both parties to resolve the dispute, at a cost of 79 percent of the claim amount, using standard litigation processes.

Chief Justice, Justice Sir Albert Palmer who also presided over the Court's Mediation Steering Committee says the initiative is an exciting development for the country's legal system.

He says mediation will extend the court's services and help parties resolve their differences fairly and quickly.

#### Professor Jeremy Waldron

who graduated from the University of Otago with a BA in 1974 and an LLB in 1978 is now Professor of Law at the University of New York. Jeremy gave the 2009 Oliver Wendell Holmes Lecture series at Harvard Law School. His topic was Hate Speech. He was arguing for the regulation of hate speech to reinforce society's collective commitment to uphold one another's personal dignity. These lectures have been published in the *Harvard Law Review* 123.



**Sir Bruce Robertson** retired from the New Zealand Court of Appeal this year. He graduated from Otago University with an LLB and BA and later gained an honorary LLD. Sir Bruce Robertson was made a Knight Companion of the New Zealand Order of Merit in the 2010 Honours list. He is still serving on the Court of Appeal in Samoa and the Court of Appeal in Vanuatu.

**Sir John Hansen** was appointed by the Government earlier this year to be chairman of the Legal Services Agency Board. The Board has been tasked with enquiring into the delivery of Legal Aid as well as reform of the LSA's provision of legal services.

Sir John has also been appointed to the newly established New Zealand Cricket Committee.

## BEST LEGAL TEAM – BRITISH LEGAL AWARDS

Adrian Good, a law graduate from Otago, was part of the Abbey Bank legal team, which won the award for Best Legal Team in the British Legal awards late last year.



## APPOINTMENT TO THE MĀORI LAND COURT

Congratulations to Otago Law graduate, Sarah Reeve who was appointed a Māori Land Court Judge in September 2010.

## HAITI EARTHQUAKE SURVIVOR

You will all be aware of the devastating earthquake, which hit Haiti early this year. One of our Otago Law graduates, who gained an LLB from Otago University in 1997 Emily Sanson-Rejouis tragically lost her husband and two of her three daughters, but miraculously, she and one of her daughters, Alyana survived. Alyana was only one year old at the time and suffered from cuts and bruises and a broken leg when the Port au Prince hotel the family was staying in collapsed.

Since this terrible tragedy, Emily is helping to rebuild the lives of others back in Haiti, particularly reconstruction of the schools. Her mission is inspired by her husband's dream to help impoverished children.

Our sincere thoughts go to Emily and Alyana, and all those affected by the Haiti earthquake.

## DAME SILVIA CARTWRIGHT

Dame Silvia Cartwright has been appointed by the Supreme Council of Magistracy of Cambodia as one of two international judges in the Trial Chamber of the Cambodia Tribunal set up pursuant to an agreement between the UN and the Government of Cambodia to try senior Khmer Rouge officials for crimes against humanity, war crimes and for genocide. Tribunal updates can be viewed online on the Cambodia Tribunal Monitor.

## 10. In Memory

### JOLENE PATUAWA-TUILAVE

Staff at the Faculty of Law were saddened to hear of the passing of prominent Māori lawyer, Jolene Patuawa-Tuilave earlier this year.

Ms Patuawa-Tuilave graduated from the Faculty of Law at the University of Otago in 2000 and went on to become a distinguished lawyer specialising in Māori, Treaty and Environmental Law. She practised law in Tauranga for five years at Holland Beckett before moving to Wellington in 2006 to work in the Māori Legal Group at Kensington Swan. She became Senior Associate before returning to Tauranga in 2009 to be a Partner at Jackson Reeves. Jolene was the Co-President of Te Hunga Roia Māori o Aotearoa (Māori Law Society), and held the role from 2008.

She was a tremendous supporter of Māori and Treaty issues for many years and represented a number of iwi in their Treaty claims including those in the Tauranga, Central North Island, Northland, East Coast, Whanganui, National Park and Rotorua. Jolene was an early member of Te Roopu Whai Putake, the Otago University Māori Law Students Association and became president in 1999. In 2009 Jolene was the key note speaker for the Māori Law students at the Faculty of Law annual Te Wiki o te Ture Māori (Māori Issues in law week). She maintained a close relationship with the Faculty of Law and was a great mentor of Māori law students.

Jolene was highly respected by her colleagues, clients and friends.



*Hei maumaharatanga mō Roia Jolene Patuawa;*

*Ki te tokanui o te ao ture, ki tō tātou nei tapairu, i tū koe i mua i te aroaro o Ngāi Kaimahi Roia hei poutokomanawa, hei pou whakawhirinakitanga. Kei te heke matōtoru iho ngā roimata o te hunga kirimate e maumahara ana ki ō tikanga me ō mahi e hāngai pū ana ki te Tiriti o Waitangi. Makeremumu he hupe tautau.*

*Haere e hine ki te moe ki runga i te ū Hine nui-te-pō moe mai rā moe mai rā.*

### BEVAN TIPENE-MATUA

Mr Tipene-Matua passed away tragically earlier this year in a diving accident in Hawkes Bay.

Having studied at Te Aute College, and finishing an undergraduate degree, he was the inaugural Māori Research Fellow at the New Zealand Institute for Crop and Food Research in 1994 where he looked at intellectual property, plant variety rights and tikanga Māori. He completed a Masters thesis on the socio-cultural impacts of biotechnological inventions on Māori and worked for four years as a Senior Policy Analyst for the Ministry of Māori Development and then as the inaugural Senior Policy Advisor (Māori) for the Environmental Risk Management Authority (ERMA). He was an expert consultant for the Royal Commission on Genetic Modification. Bevan was formerly the Head of the Department of Māori at Canterbury University and Executive Director (Māori) and Director of Research and Development (Māori) at the Christchurch Polytechnic Institute of Technology.

He was a doctoral candidate at the University of Otago in the Faculty of Law researching an ethical and legal



framework for genetic research with indigenous people and was the senior Māori researcher on the Human Genome project. Bevan was a prominent member of the community and a former Green Party candidate. He was very much respected and admired in his personal and professional life.

*Hei maumaharatanga mō Bevan Tipene-Matua:  
Kei te tīkoko nui o te ao tupu, kei te manutaki, nāhau  
ngā rangahau mō te hunga tamariki a Haumietiketike i*

*whakatākoto hei whakahaerenga i a tātou katoa. Haere rā  
ki Hawaiki nui, Hawaiki roa, Hawaiki pāmaomao, ki tua o  
te ārai, kei reira koe okioki ai i te taha o ō mātua tīpuna hei  
wāhanga o te rārangi toto rangatira.*

*Nō reira e te tuakana,  
Moe mai rā.*

The Faculty of Law extends its ongoing sympathy to their families.

## 11. The Richard Sutton Memorial Prize in Restitution

The Faculty of Law takes great pleasure in announcing the intention to establish the Richard Sutton Memorial Prize in Restitution in honour of the late Emeritus Professor Richard Sutton who gave such an outstanding contribution during his tenure here at Otago. Richard took up his professorship here in 1980, a position he held until 2004 and spent two periods as Dean of the Faculty of Law (1981-1984 and 1998-1999). He served as a Law Commissioner from 1992-1997. In



this role he worked on many projects, which have led to considerable improvements in the *Wills Act*, the law of damages, the law of evidence, the law of contract, property law and fraudulent conveyancing.

From 1996 onwards Richard worked on the Te Matahauariki Project with colleagues at the University of Waikato to help develop Māori legal systems recognized in New Zealand law. He was instrumental in helping Māori to incorporate their customs and values into the law of passing on property within families.

Richard is greatly missed by his colleagues and friends.

Correspondence will be forthcoming to Alumni seeking donations from those who may wish to contribute towards the establishment of this prize.

We are keen to keep in touch with as many of our alumni as we can with news and developments of what is happening here at Otago. We also like to hear your news. If you have friends and colleagues who graduated from the Faculty of Law at Otago and who would like to be a part of this global network please pass on the alumni contact details. [www.alumni.otago.ac.nz](http://www.alumni.otago.ac.nz). Otago Alumni and friends are also on Facebook at [www.facebook.com/otagoalumni](https://www.facebook.com/otagoalumni).

To update your own details update the alumni Relations Team at [www.otago.ac.nz/alumni/updateyourdetails](http://www.otago.ac.nz/alumni/updateyourdetails) so you continue to receive Otago publications and updates about what's on for alumni.



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### 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

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

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To further your enrolment plans, formulate a research proposal and discuss your plans with the Postgraduate Co-ordinator, Faculty of Law,  
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