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Announcements

Victoria University of Wellington Student and Alumni Subseries Issue VI: General Topic Issue

The General Topic Issue is the sixth in 2018 of several issues of the Student/Alumni sub-Series of the VUW Legal Research Papers.

The Student/Alumni sub-Series was launched in 2015. It distributes a selection of honours and postgraduate papers from Victoria University of Wellington Law School.

The sub-Series includes both general and thematic issues.

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VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

"Nuclear Weapons Before the International Court of Justice: A Critique of the Marshall Islands v United Kingdom Decision"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 25/2018.

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The International Court of Justice (ICJ) recently gave judgment in Obligations Concerning Negotiations Relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament. The case concerned three parallel claims brought by the Marshall Islands against India, Pakistan and the United Kingdom for

their alleged failure to fulfil obligations concerning negotiations relating to the cessation of the nuclear arms race and nuclear disarmament under Article VI of the Non-Proliferation Treaty (NPT) and customary international law. The Court in all three proceedings dismissed the claims at the preliminary objections phase on the sole ground that a legal dispute did not exist between the parties. In determining whether a legal dispute existed, the Court appears to have deviated from the objective determination taken in its previous jurisprudence by introducing for the first time a new requirement of "awareness". The Court also failed to address the other preliminary objections brought by the United Kingdom, such as the Monetary Gold principle, which appears to have been a more credible avenue for the Court to dismiss the case. The case also illustrates the failure by the ICJ to yet again confront the issue of nuclear weapons.

"Self-Defence and Family Violence: Where Do We Draw the Line?"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 26/2018

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Family violence is one of New Zealand's most pressing social issues. The Law Commission recently addressed whether the law adequately protects victims of family violence who attack their abuser in self-defence. It was recommended that in situations of family violence, self-defence should still be available where the threat is not imminent. In doing so, the Law Commission recommended that the definitions of key terms such as "family violence" and "family relationship" be consistent with the definitions found in the Domestic Violence Act (and Family and Whānau Violence Legislation Bill). This research essay analyses the effect of adopting these definitions and whether they adequately protect victims of family violence who attack their abuser in self-defence. It is argued that the definitions recommended are imprecise and inappropriate for the purpose of self-defence. Instead, a draft provision of the defence is put forward, including detailed definitions of "family relationship" and "family violence".

"Why Build a Sandbox on a Beach? An Analysis of Fintech Regulation in New Zealand"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 27/2018

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Regulatory reforms following the 2008 global financial crisis have introduced a significant regulatory burden in the financial services sector. The regulatory burden has created a compliance barrier, making it difficult for financial technology (fintech) start-ups to test new ideas in a timely manner. One solution to this regulatory barrier is the 'regulatory sandbox' approach, which has been adopted in Australia, Hong Kong, Malaysia, Singapore, the United Arab Emirates, and the United Kingdom. The regulatory sandbox model differs depending on the existing domestic regulation, but aims to offer standardised concessionary regulation to fintech start-ups while encouraging innovation in the sector. This paper assesses the current legislative environment for fintech in New Zealand and the worth of the regulatory sandbox concept in the New Zealand environment. It concludes that a regulatory sandbox is unnecessary in New Zealand, instead suggesting industry-wide consultation (allowed by already flexible legislation) is a more effective approach to regulating fintech. Regardless, the paper outlines suggests as to how the New Zealand Government can learn from the fintech regulation strategies developed by Australia and the United Kingdom.

"Venturing Beyond the OECD: An Analysis of New Zealand's Response to Multinational Corporate Tax Avoidance"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 28/2018

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Multinational tax avoidance is a major economic issue that has generated significant political traction in recent years. Multinational corporations have been eroding the tax bases of states by shifting profits around the globe. The OECD has recently finalised a co-ordinated response to this so called "base erosion profit shifting". The OECD has created "action plans" that states can adopt by renegotiating existing tax treaties. New Zealand has chosen to venture beyond the OECD's action plans and create domestic legislation to target multinational tax avoidance. This paper examines whether New Zealand's proposed legislation will be consistent with its tax treaties. It is argued there will be some inconsistencies, which may engage New Zealand's state responsibility in international law and cause double taxation. I also analyse the legal and policy implications of New Zealand's proposals, and draw on comparative perspectives. I ultimately conclude that New Zealand's proposals may reduce

commercial certainty and foreign investment. However, I suggest both New Zealand's proposals and the OECD's initiatives are a novel step towards harmonising the international tax regime. The effects of which will likely be felt for years to come.

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About this eJournal

Victoria University of Wellington Legal Research Papers Series primarily contains scholarly papers by members of the **Faculty of Law at Victoria University of Wellington**. Some issues collect a number of papers on a similar theme to form a suite of papers on a single topic. Others issues are general or distribute mainly recent work.

The Student/Alumni Series is a subseries of the Victoria University of Wellington Legal Research Paper Series. The subseries started in 2015 and publishes papers by students and alumni of Victoria University of Wellington, comprising primarily work for honours and postgraduate courses. Papers are collected into thematic or general issues.

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachusetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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