Editors' Note

Justice Winkelmann continues to challenge the Auckland University Law Review to make a real contribution to New Zealand's legal landscape. In 2013, her Honour commented on her "vision for the Review as an incubator of fresh thought."[1] At this year's Alumni Dinner, Justice Winkelmann reflected on her time as Editor-in-Chief of this publication, stating that she "wished we had made more of our opportunities to criticise and challenge."[2] And, although her Honour recognised there has been change for the better, "there will always be areas in which the law needs to develop to respond to changes in society, or to better meet the needs of a just society."[3]

We hope that we have risen to this challenge this year. Our predecessors certainly have. All levels of the judiciary have cited the Law Review's articles.[4] Two years away from the Law Review's 50th anniversary, we are confident that the Law Review will continue to produce articles that challenge the status quo and demand new approaches to problems both old and new.

This year the Law Review contains nine articles, and five commentaries and reviews. Andrew McIndoe identifies Colonial Office attitudes towards sovereignty prior to the signing of the Treaty of Waitangi. Importantly, McIndoe concludes that the Crown's conception of sovereignty was consistent with ongoing Māori customary law and authority. In our Ko Ngā Take Ture Māori article, David Green suggests that a minority rights framework, incorporating Māori values, could provide a solution to Māori overrepresentation in the criminal justice system. Continuing the theme of inequality, Daniel McDougall argues that economic, social and cultural rights can — and should — be included in the New Zealand Bill of Rights Act 1990. McDougall says this would improve social standards and demonstrate a commitment to justice. Taking a step back, Christopher Pouwels asks whether New Zealand has a pragmatic constitution. Pouwels finds that we do not and should not especially given the threat that pragmatism may pose to the rule of law.

Shevan (Jennifer) Nouri critiques the rigid parameters of the compulsion defence, noting that women in abusive relationships typically cannot avail themselves of this defence. Compulsion, historically aimed at stand-over situations, fails these women who suffer in situations riddled with fear, coercion and violence. Compulsion must be reformed. Ian Ko and

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1 Thomas Clark and Nupur Upadhyay "Editors' Note" (2013) 19 Auckland U L Rev 6 at 6.

2 Helen Winkelmann "Auckland University Law Review Alumni Dinner Speech 2015" (2015) 21 Auckland U L Rev 10 at 13.

3 At 14.

4 See, for example, *Quake Outcasts v The Minister for Canterbury Earthquake Recovery* [2015] NZSC 27 at [90], n 139; *Paki v Attorney-General (No 2)* [2014] NZSC 118, [2015] 1 NZLR 67 at 150, n 414; *Minister for Canterbury Earthquake Recovery v Fowler Developments Ltd* [2013] NZCA 588, [2014] 2 NZLR 587 at 604, n 36; *Corbett v Western* [2011] 3 NZLR 41 (HC) at 57, n 16; *Bartle v GE Custodians* [2010] NZCA 174, [2010] 3 NZLR 601 at 611, n 7; *Saunders v Houghton* [2009] NZCA 610, [2010] 3 NZLR 331 at [99]; and *Complaints Assessment Committee v Medical Practitioners Disciplinary Tribunal* [2006] NZSC 48, [2006] 3 NZLR 577 at 606, n 78.

Stephanie Panzic demonstrate that reform sometimes goes amiss. Ko addresses New Zealand's civil forfeiture regime, which has attracted relatively little academic comment. Ko characterises the powers under this regime as draconian, suggesting that further safeguards are necessary to protect the fundamental due process rights of those affected. Panzic examines the Harmful Digital Communications Act 2015, which was passed with commendable purposes in mind. But the Act itself is, Panzic argues, poorly drafted and unlikely to provide justice to victims, whilst burdening the District Court and stifling free speech.

In the civil sphere, Nupur Upadhyay addresses Lord Sumption's recent attempt at rehabilitating the doctrine of lifting the corporate veil. Upadhyay contends that the doctrine remains confused, uncertain and largely superfluous given the raft of other remedies available in situations where the doctrine arises. Joshua Woo considers consumer protection legislation, noting that good consumer protection laws should empower consumers. Woo specifically analyses the mandatory conflict of laws provision in s 137 of the Credit Contract and Consumer Finance Act 2003. Despite laudable goals, this provision fails to empower consumers.

The commentaries section sees Aidan Lomas, Allanah Colley, Samuel Jensen, Miriam Bookman and Zena Razoki comment on recent developments in the law of insolvency, arbitration, tax and human rights. Bookman, in particular, considers the Marriage (Definition of Marriage) Amendment Act 2013. Although this was a great step forward, Bookman points to inequalities that must still be addressed for the LGBTI community. We hope that New Zealand continues to fight boldly for LGBTI rights.

The Law Review continued the tradition of the Annual Symposium this year. Sir Grant Hammond (Contributor 1967, Editor-in-Chief 1968) chaired a lecture by Penelope Nevill (Sub-Editor 1995, Senior Editor 1996). Nevill returned from London, where she is a barrister at 20 Essex Street, to discuss sanctions and their role within international public law. The aforementioned Alumni Dinner followed the Symposium, where Justice Winkelmann (Editor-in-Chief 1984) spoke about her time as Editor-in-Chief. We are privileged to publish that speech in this year's Law Review. It was a speech that truly challenged and inspired us and we hope that her Honour's words can have same effect on the wider legal community.

As always, the Law Review is only made possible by our team of dedicated and talented staff. Our Business and Advertising Managers — Ana Lenard, Joshua Wong, Jasjit Grewal and Joyce Chiu — have been invaluable, particularly in organising the Symposium and Alumni Dinner. We are immensely grateful for Adam Ross' wonderful contribution to the Law Review. For some time now, he has generously provided invaluable training sessions for our editors. We also thank those members of the legal profession, of whom there are too many to name, that provide continuing and consistent support. We are grateful to the University of Auckland, Bell Gully, Chapman Tripp and TGT Legal for advertising in the Law Review this year. Their support is instrumental to the Law Review's continued

existence. Of course, we must also thank Dean Andrew Stockley and the Faculty of Law who have stood behind the Law Review since its inception. Finally, we express our sincere thanks to Professor Michael Littlewood and John Ip, our Faculty Advisers, who calmly support and guide us through rough waters.

It has been a privilege and a pleasure to be the Editors-in-Chief of the Auckland University Law Review for 2015. We wish next year's editors all the best. Our final hope is that the articles published in this year's journal go some way towards addressing the many inequalities and ills that continue to exist in our society. It is lamentable that, year after year, this publication produces articles addressing the same issues, such as the marginalisation of Māori in the criminal justice system. We are grateful that our authors continue to produce impassioned pleas for the protection of our society's most vulnerable. We hope that the articles in this publication meet Justice Winkelmann's challenge. Our authors have pointed out failings in the law. We only hope that these failings are addressed.

Samuel Jeffs and Kit Adamson October 2015