

## EDITORIAL: CLIMATE ACTION

The 2020 issue of *Taumauri*, the Waikato Law Review, reflects the research expertise and strength of *Te Piringa* Faculty of Law in the field of International Law generally. Together, the articles in this issue provide valuable insights into the critical thinking about Climate Action that contributed to the debates at the (postponed) Conference of the Parties under the UN Framework Convention on Climate Change (COP26) held in Glasgow in November 2021.

The article by Justice Susan Glazebrook on “The Role of Judges in Climate Justice” provides a wide-ranging and comparative analysis of climate change litigation, including, the increased risk of liability faced by company directors. In particular, Justice Glazebrook emphasizes the importance of climate action before the courts by giving increased publicity and attention to climate change, and the proper role of domestic courts (within constitutional limits) in responding to the climate crisis.

Samantha Johnston critically reviews the important role played by Charity Law in supporting advocacy and crowd-funding public interest litigation in relation to environmental protection and climate action. Absent the broader conception of charitable purposes applied by the High Court in *Greenpeace of New Zealand Inc v Charities Registration Board* [2020] NZHC 1999, it is unlikely that legal assistance or legal aid would be available to fund public interest environmental litigation. The decision therefore plays an important role in ensuring access to justice and enabling (inter alia) climate action to be brought before the courts.

Judge Peter Spiller provides a historical analysis of the work of the Immigration and Protection Tribunal during its first 10 years of operation. In particular, Judge Spiller acknowledges the important role played by the Tribunal in determining a heavy case load in a timely way, and the transformative nature of its work on the lives of people given refugee or protected person status. The work of the Tribunal (as emphasized by Justice Glazebrook in her article) has the potential to play an important role in the future in affording protection (on humanitarian grounds) to climate change displaced persons who seek refuge in New Zealand.

The natural rights based arguments critically assessed by Yu Cheung and Cao Mingde in their article provide a powerful jurisprudential basis for developing the law in relation to climate change displaced persons from low-lying or potentially inundated countries across the Pacific and other parts of the globe, and underpin the themes addressed by Justice Glazebrook and Judge Spiller.

Further atmospheric protection is also considered by Mekala Jeewanthi Delpage regarding the use of methyl bromide and its impact on the ozone layer, who recommends more widespread prohibition of methyl bromide by removing the exemptions currently allowed for quarantine and shipping purposes under both international and domestic law. While Debbie Crawford carefully analyses the wider problem affecting all environmental media (air, land, and water) arising from the use of PFASs in a range of products (including Teflon coated non-stick frying pans) and recommends a stronger legal response by prohibiting the use of these chemical compounds in most settings to prevent further bio-accumulation and adverse effects on the environment and human health.

On a different note, Justice Mark O’Regan in his 2019 Norris Ward McKinnon lecture essays the transformative impact of the settlement process under the Treaty of Waitangi Act 1975 on the development of New Zealand law generally. While Justice Glazebrook (in her article) brings the topics considered in this journal issue full-circle by noting the dynamic impact of tikanga

Māori in providing standing for climate action based on kaitiakitanga duties of guardianship for the environment.

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