

EDITORIAL: THE RULE OF LAW

The 2021 issue of *Taumauri*, the Waikato Law Review, reflects the founding goals of *Te Piringa* Faculty of Law: professionalism, biculturalism, and the study of law in context – and its wide-ranging contribution to creating a distinctive New Zealand jurisprudence since its establishment 30 years ago in 1991.

Justice Susan Glazebrook in her inaugural 2021 McKenzie Elvin lecture sets the scene with a magisterial analysis of the Rule of Law, questioning whether it is a guiding principle or merely a political catchphrase. She concludes that respect for human rights, access to justice for all, providing redress for historical disadvantage are essential ingredients for the Rule of Law if it is to operate as a guiding principle with normative effect across the legal system and transform society.

Continuing with the broad theme of the Rule of Law, Edward Willis interrogates the reasons why the New Zealand courts appear to be reluctant to address constitutional law issues. He considers whether the reluctance to grapple with constitutional issues merely reflects a tradition of political deference but concludes that judicial practice may be more nuanced and tempered by a last resort approach to determining constitutional issues only where required to do so to decide the case at hand. Willis suggests that judicial equivocation fits well with New Zealand's unwritten constitutional framework by preserving the ability for the courts to determine constitutional questions if and when required to do so at some future point. He also suggests that leaving constitutional questions open for legal determination in this way acts as a check and balance on political power similar to the influence that can be exerted under a written constitutional framework. While on the international plane, he considers the role of proportionality in the context of armed conflict.

Paul Hunt in his powerful Honorary Doctoral address surveys the broad field of human rights and concludes that beyond combating discrimination, human rights have a legitimate role to play in safeguarding human dignity and guaranteeing the right to a decent home. Human rights guarantees are considered further by Vinod Bal in relation to queer and transgender persons in the sphere of international criminal law. He concludes that international criminal law plays a critical role by ensuring that queer and transgender persons are treated with dignity and protected from persecution. While Danielle Graham considers the right to clean drinking water from the theoretical concept of Maslow's hierarchy of needs and SDG6 to demonstrate the current gaps in the law and policy relating to aquifer management under the framework of the Resource Management Act 1991.

Finally, Chief Judge Heemi Taumaunu in his 2020 Norris Ward McKinnon lecture sets out a powerful vision for access to justice for all in the District Court founded on a Māori worldview for the future: *Te Ao Mārama* – a more enlightened world, that provides wrap-around services to address the underlying causes of crime from the establishment of the Youth Court in 1989 to the Alcohol and Other Drug Treatment Court in 2021, and rehabilitate offenders.

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