

# INTRODUCTION AND DEDICATION TO MATIU DICKSON

Beyond the printed word of course materials and textbooks, Matiu's lectures created vaulted spaces of memory, where we students could access an exquisite repository of law, history and culture. More than lecturer, Matiu was librarian, gatekeeper and master narrator of the law – and I will always be grateful.<sup>1</sup>

This edition of the Waikato Law Review is dedicated to our dear friend and colleague, Matiu Dickson, and we thank Judge Craig Coxhead for his wonderful tribute to Matiu. The morning of the 7th of April 2016 will forever be imprinted in our minds and hearts. Matiu passed away that morning having just delivered the final speech in the opening ceremony for our new Law Building here at Waikato University. It was said at his tangi that this was a high price to be paid for such a building. A price that we would never have chosen to pay. That price brings an obligation to honour and respect the legacy that Matiu has left us, his commitment to the Faculty's founding goals and, in particular, the promotion of a bicultural legal education for Māori and non-Māori alike; that tikanga is recognised as the first law of Aotearoa New Zealand and continues to form a central part of our curriculum. Matiu personified the bicultural mission of Te Piringa Faculty of Law; that, through its curriculum, research activities and its structures, the Faculty would be the forefront of the development of a bicultural legal philosophy. Matiu worked hard to ensure this mission remained a stated goal of the Faculty and to give it meaning over his 20 year tenure. He constantly worked to infuse it into the structures and processes of this Law Faculty. He worked and campaigned for years, and successfully so, to make sure the name gifted to the Faculty by Dame Te Atairangikaahu at its founding, "Te Piringa", became our Faculty's officially recognised name. He was passionate about the use of te reo Māori in assessment. He encouraged and facilitated the use of te reo Māori mooting. It was our colleague, Ani Mikaere, who, during her time here as a legal academic, first publicly articulated tikanga Māori as the first law of Aotearoa. Through the years, Matiu and our academic colleagues, including Stephanie Milroy, Craig Coxhead, Caren Fox (all now Māori Land Court judges), Leah Whiu, Harata Paterson, Nan Seuffert, Ruth Bush, Wayne Rumbles, Robert Joseph, Valmaine Toki and ourselves, reaffirmed tikanga as the first law of Aotearoa in our teaching and research. Years later, the article "Lex Aotearoa: An Heroic Attempt to Map the Māori Dimension in Modern New Zealand Law" by Justice Joseph Williams<sup>2</sup> developed the idea further and is currently the leading piece on the weaving of tikanga and Anglo-New Zealand law.<sup>3</sup> Matiu Dickson was an expert in tikanga, the first law of Aotearoa. He lived it every day. He created and taught courses on it and made sure it was integrated throughout the curriculum. In Matiu's honour, it is entirely appropriate that there are a number of contributions in this Review that have a Māori or Indigenous theme, and we hope future issues will likewise assure such a balance.

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1 Dr Keakaokawai Varner Hemi, below, at 14.

2 Taken from his Harkness Henry Lecture and published by the Waikato Law Review: Justice Joseph Williams "Lex Aotearoa: An Heroic Attempt to Map the Māori Dimension in Modern New Zealand Law" (2013) 21 WLR 1.

3 This term, "Anglo-New Zealand law", mirrors that used by Brooke Greenwood ("Anglo Australian law") in her article in this edition. Other terms used to describe laws that are not Indigenous or first laws, include "western law" and "Pākehā law". Lex Aotearoa is a weaving together of tikanga and Anglo-New Zealand law, to create what Williams J refers to as the third law of Aotearoa.

In her article, former student of Te Piringa, and now lecturer in the Faculty, Dr Keakaokawai Varner Hemi (Keaka) recalls the privilege of being one of Matiu Dickson's undergraduate students. As a person of Native Hawaiian and Cherokee ancestry growing up on the Mainland of the United States, Keaka shares:<sup>4</sup>

I had never been taught like *that* in a classroom or lecture hall before. The tone of his voice, the patience, the almost sacred yet humorous way he shared knowledge evoked home and the ways of my parents, grandparents, aunties and uncles. As he discussed familiar principles – things like tapu and whanaungatanga that we Hawaiians live too – his kindness and generosity helped me to close the geographical distance between studying law and my own identity.

Keaka's article examines narratives of equality and the interpretation of the Native Hawaiian schools' preference for Native Hawaiian students as either reverse racial discrimination or an exception to the general rule of homogeneity and anonymity. For comparison, the article then examines similar equality narratives in New Zealand law.

Matiu was a passionate teacher and supported other Indigenous peoples in their quest to incorporate Indigenous law into the standard education and legal curricula of other colonised jurisdictions, and his work and legacy continues, as exemplified in Brooke Greenwood's article, "Teaching Indigenous Law". Brooke Greenwood highlights the absence of Indigenous law from Australian legal education and draws on the example of Te Piringa Faculty of Law to demonstrate the possibilities for embracing Indigenous law as an integral part of legal education.

Dr Andrew Erueti's article discusses current claims to freshwater by Māori in the context of different models for conceptualising Indigenous rights in New Zealand, and government responses to those claims. Andrew argues that unless frameworks for thinking about Indigenous rights to water embrace rights to property and to political authority, as well as to culture, "we risk falling short of our aspirations of creatively redressing historical wrongs and thereby creating a fairer and more just society."<sup>5</sup>

Lara Burkhardt, a practising lawyer putting words into action, analyses the pragmatics of water allocation for iwi. Matiu would have approved, as getting down to pragmatics was important to him, one example of this being his work as an advisor to the Family Court on tikanga issues. Lara explores whether an allocation of water for iwi, or something similar, can be achieved under the current legal framework and some of the implementation issues that might arise.

Associate Professor Linda Te Aho reviews and endorses the *Handbook of Indigenous Peoples' Rights* edited by Corinne Lennox and Damien Short (Routledge, London and New York, 2016), a collection of scholarly works addressing many important contemporary Indigenous rights issues, the sorts of issues that animated Matiu's life's work, as a lawyer and as a teacher. It is work which this Faculty will continue to carry on.

The Review is proud to publish the last of the Harkness Henry Lectures. We thank Harkness Henry for having supported this lecture series since 1992. As is traditional, the lecture is published at page 1 of the Review. The 2016 lecture was delivered by retired High Court Judge, Honourable Sir Ron Young, and it is provocative. Sir Ron was made Chief District Court Judge in 1993. Until 2001 he was responsible for the running of the District Court and oversaw its 112 judges in the criminal, civil, family and youth court sections. He was then made a High Court judge, presiding

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4 Dr Keakaokawai Varner Hemi, below, at 14.

5 Andrew Erueti, below, at 80.

over criminal and civil cases until his retirement. Sir Ron does not mince words in highlighting a number of worrying trends and his concern that the right of a defendant to a fair trial and the public's right to a fair and properly funded criminal justice system has been compromised in recent years and remains vulnerable to further compromise. This vulnerability stems from a variety of sources including: reduced legal aid for defence lawyers; unavailability of expert witnesses for the defence; reduced and changed funding for Crown solicitors and Crown Law; the effect of lobby groups such as the Sensible Sentencing Trust; and some recent legislative changes including the three strikes law and the effect of the media, especially when reporting sentencing and victim involvement in policing initiatives. He urges the legal community to engage with these changes that have the potential to undermine the criminal justice process. Like Matiu, Sir Ron is concerned that justice be fair and be fair to all; his was a lecture which Matiu would have found inspiring and most enjoyed.

We are also pleased to publish a commentary by Sir Grant Hammond, which provides an insight into the impact of the work of the Law Commission, an independent statutory agency that undertakes much of the government's legal research.

Tax lawyer and legal academic, Joel Manyam, writes about the Commissioner of Inland Revenue's statutory duty to collect the highest net revenue and provides some valuable practical insights.

It is always a pleasure to support students by publishing their work. In this edition, Selwyn Fraser addresses the issue of homeless youths and street families in Aotearoa New Zealand's youth justice system. This is an issue that would have been dear to Matiu, as he worked tirelessly for the dispossessed. His determination to make a difference for those who struggled was more than talk and teaching; he lived it. A former student's family told us that Matiu paid for a student's rental accommodation for a period of time so that the student, who was struggling financially, could continue and complete his studies effectively. That student did continue and is now a successful lawyer.

Matiu looked forward as well as back, anticipating what arising issues might impact Aotearoa and its people's ability to maintain their self-determination. In this vein, Andrew Shelley reviews some of the privacy and surveillance concerns created by the rapid proliferation of unmanned aerial systems, commonly known as drones, and considers the effectiveness of existing New Zealand law in addressing those concerns.

We end by thanking the referees in New Zealand and abroad to whom articles were sent, our student editors, led by Carey Church, and Mary-Rose Russell who assisted with editing and proof-reading.

Our final words are for Matiu,

*Taku tau kahurangi, tēnei ka ora mai, e kore rawa koe e warewaretia*

Dearest friend, your legacy lives on, you will never be forgotten.

Linda Te Aho and Gay Morgan  
Editors