

CONSTITUTIONAL **KŌRERO**

2022

*Indigenous Futures
&
New Zealand's Constitution*

He pātaka kōrero - He tuāpapa mō te Motu



Michael &
Suzanne
Borin
Foundation



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WELCOME



**E ngā mana, e ngā
hau e whā, tēnā
koutou katoa**

Nau mai, haere mai

**E koa ana te ngākau
kua tae mai koutou
ki te whakanui i
te kaupapa o te
constitutional kōrero**

**No reira, e aku
rangatira,**

**tēnā koutou, tēnā
koutou, tēnā koutou
katoa**

On behalf of the Borrin Foundation (our generous funder) and Te Puna Rangahau o te Wai Ariki | Aotearoa Centre for Indigenous Peoples and the Law, nau mai ki te “Constitutional Kōrero”. We are excited to welcome our highly esteemed and world renowned international speakers, our taonga, our rangatira, from around Aotearoa New Zealand and all our guests.

Our “Constitutional Kōrero” will be a once-in-a decade national wānanga bringing together experts to present arguments and options for constitutional transformation to realise Māori rights in te Tiriti o Waitangi, He Whakaputanga and the UN Declaration on the Rights of Indigenous Peoples. In doing so, we will collectively be considering the ways in which New Zealand’s Constitution might be transformed so that it benefits all New Zealanders.

As we all know, momentum for transformation of New Zealand’s Constitution to realise Māori rights is building. There is an uninterrupted history of Māori assertion and practice of tino rangatiratanga increasingly repeated, reinvigorated and amplified around the motu today. The Iwi Chairs’ Forum’s commissioned report of *Matike Mai* and nation-wide engagement with Māori on how New Zealand might realise its obligations in the UN Declaration on the Rights of Indigenous Peoples are only some examples. At the same time, there is a growing awareness among all New Zealanders of the fragile foundations underpinning New Zealand’s Constitution, in particular the illegitimate means by which sovereignty was asserted over Aotearoa and the ongoing effects of colonisation. These dynamics occur in a wider global context of the international movement to realise Indigenous peoples’ self-determination.

There is an expectation that New Zealand undertake a process of self-examination and transformational change to address the fundamental shortcomings in its basic constitutional structure.

Two questions remain: what and how? What would a te Tiriti based Aotearoa/ New Zealand’s Constitution look like and how do we realise it? The objective of this conference is to bring international thought-leaders on constitutions and Indigenous peoples together with Aotearoa-based thought-leaders to generate transformative, practical and robust options for constitutional transformation in Aotearoa. We will consider lessons – both good and bad – we can learn from other jurisdictions that have grappled with both the place of Indigenous peoples in state constitutions and under our own Indigenous constitutions.

Mostly, we hope that we all come away feeling inspired to constitutionally transform to achieve a fundamentally and practically just constitutional order.

Enjoy!
Ngā mihi maioha,

DR CLAIRE CHARTERS

Ngāti Whakaue, Tainui, Tūwharetoa, Ngā Puhi
Associate Professor, Waipapa Taumata Rau | Auckland University
Co-director, Te Puna Rangahau o te Wai Ariki | Aotearoa Centre for
Indigenous Peoples and the Law



PROGRAMME

Monday 21 November

7:30 – 9:00am	Registration Arrival tea and coffee
9:00am	Mihi Whakatau
9:30am	Welcome address Associate Professor Claire Charters
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10:00 – 10:30am	Morning tea
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10:30 – 12:00pm	VISIONS FOR MĀORI CONSTITUTIONALISMS <ul style="list-style-type: none">• The Hon Justice Joe Williams Kaiāwhina o Kaiwhakawā Mātāmua Williams• Ani Mikaere, Pou Whakatupu Mātauranga at Te Wānanga o Raukawa• Rikirangi Gage, Porourangi Panel discussion Session chair: Associate Professor Maria Bargh and Professor David V Williams
12:00 – 12:45pm	COMPARATIVE CONSTITUTIONAL LAW AND PLURALISM <ul style="list-style-type: none">• Professor Cheryl Saunders• Associate Professor Nicole Roughan Session chair: Professor Janet McLean
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12:45 – 1:30pm	Lunch
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1:30 – 3:00pm	GLOBAL PERSPECTIVES <ul style="list-style-type: none">• Distinguished Professor S. James Anaya• Dr Miriam Jorgensen• Victoria Tauli-Corpuz Panel discussion Session chair: Associate Professor Claire Charters
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3:00 – 3:30pm	Afternoon tea
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3:30 – 4:30pm	PACIFIC <ul style="list-style-type: none">• Professor Emerita Jennifer Corrin• Dr Morsen Mosses Panel discussion Session chair: Dr Tamasailau Suaalii
4:30 – 6:00pm	Welcome Reception <ul style="list-style-type: none">• Kerensa Johnston, Ngāti Tama Ngāruahine Te Ātiawa Ngāti Whāwhakia• Distinguished Professor S. James Anaya• Anaru Erueti (Book launch)

Tuesday 22 November

8:30 – 9:00am	Registration Arrival tea and coffee
9:00 – 9:15am	Morning Kauhau <ul style="list-style-type: none">• The Honourable Nanaia Mahuta, Minister of Foreign Affairs and Trade
9:15 – 10:30am	TURTLE ISLAND/USA <ul style="list-style-type: none">• Professor Matthew Fletcher (via zoom)• Professor Angela R Riley, Citizen Potawatomi Nation Panel discussion Session chair: Associate Professor Claire Charters
10:30 – 11:00am	Morning tea
11:00 – 11:30am	HAWAII <ul style="list-style-type: none">• Professor D. Kapua’ala Sproat Session chair: Associate Professor Andrew Erueti
11:30 – 1:00pm	TURTLE ISLAND/CANADA <ul style="list-style-type: none">• Professor Val Napoleon• Professor John Borrows• Clement Chartier Panel discussion Session chair: Celeste McKay
1:00 – 1:30pm	Lunch
1:30 – 3:00pm	AUSTRALIA <ul style="list-style-type: none">• Professor Kirsty Gover• Professor Megan Davis• Mary Spiers Williams Panel discussion Session Chair: Dr Fleur Te Aho
3:00 – 3:30pm	Afternoon tea
3:30 – 5:00pm	ASIA <ul style="list-style-type: none">• Associate Professor Dr Ramy Bulan• Professor TSUNEMOTO Teruki, Ph.D. Panel discussion Session Chair: Vicky Tauli Corpuz
5:00pm	End of day two
6:00pm	Optional Dinner for attendees at Ebisu Restaurant

Wednesday 23 November

8:30 – 9:00am	Registration Arrival tea and coffee
9:00 – 10:30am	LATIN AMERICA <ul style="list-style-type: none">• Dr Isabel Altamirano-Jimenez• Professor Elisa Loncon Antileo• Associate Professor Roger Merino (via zoom) Panel discussion Session chair: Associate Professor Elizabeth MacPherson
10:30 – 11:00am	Morning tea
11:00 – 11:30am	GREENLAND <ul style="list-style-type: none">• Sara Olsvig (via zoom) Session chair: Tracey Whare
11:30 – 12:30pm	SAMI/SCANDINAVIA <ul style="list-style-type: none">• Professor Anne Nuorgam• Professor Mattias Åhrén Panel discussion Session chair: Professor Kirsty Gover
12:30 – 1:30pm	Lunch
1:30 – 2:00pm	AFRICA <ul style="list-style-type: none">• Dr Elifuraha Laltaika (via zoom) Session chair: Professor David V Williams
2:00 – 3:30pm	Mai te Kore ki te Ao Maarama: Strategies for Constitutional Transformation 2022 – 2040 <ul style="list-style-type: none">• Annette Te Imaima Sykes, Ngāti Pikiao and Ngāti Makino• Dayle Takitimu, Porourangi• Dr Veronica Tāwhai, Ngāti Porou; Ngāti Uepohatu• Professor Te Maire Tau, Ngāi Tahu Panel discussion Session chairs: Professor Jane Kelsey and Professor Carwyn Jones
3:30 – 4:00pm	Afternoon tea
4:00 – 4:30pm	Closing Ceremony / Discussion <ul style="list-style-type: none">• Professor Margaret Mutu, Ngāti Kahu, Te Rarawa, Ngāti Whātua• Kerensa Johnston, Ngāti Tama, Ngāruahine, Te Ātiawa, Ngāti Whāwhakia Session chair: Associate Professor Claire Charters
4:30pm	Conference finish

KEYNOTE SPEAKERS

Listed in order of programme sessions

Visions for Māori constitutionalisms

Our first panel of highly esteemed speakers have each in their own ways driven constitutional transformation in Aotearoa. In this session, reflecting on Moana Jackson's comment that incrementalism is stasis, they will set the scene for the Kōrero, touching on the justifications, both in principle and in practice, for transformation as well as the different methods we might consider to realise that goal.



The Hon Justice Joe Williams

Kaiāwhina o Kaiwhakawā Mātāmua Williams

Justice Williams has an LLB from the Victoria University of Wellington and an LLM (Hons) from the University of British Columbia. He became a partner at Kensington Swan in 1992 and went on to co-found Walters Williams & Co in 1994. In 1999 he became Chief Judge of the Māori Land Court and was appointed Chairperson of the Waitangi Tribunal shortly after in 2000. He was made Chairperson of the Waitangi Tribunal in 2004. Justice Williams was appointed a judge of the High Court in September 2008, a judge of the Court of Appeal in February 2018, and a judge of the Supreme Court in May 2019.

Justice Williams' iwi are Ngati Pūkenga, Waitaha and Tapuika.



Ani Mikaere

Pou Whakatupu Mātauranga at Te Wānanga o Raukawa

Ani Mikaere is from Ngāti Raukawa and Ngāti Porou. She is the mother of four and Nanny to eleven mokopuna. In her role as Pou Whakatupu Mātauranga at Te Wānanga o Raukawa, she is responsible for leading and promoting activity which nurtures and grows the mātauranga continuum—the constantly evolving body of knowledge that has been produced by successive generations of Māori theorists and practitioners.

In 2016 she was awarded Te Kāurutanga, a degree conferred by the founding iwi of Te Wānanga o Raukawa. Her thesis, entitled *Like Moths to the Flame? A History of Ngāti Raukawa Resistance and Recovery*, investigates the impact of colonisation on Ngāti Raukawa thought and was published in 2017. Other publications include *He Rukuruku Whakaaro: Colonising Myths, Māori Realities* (2011) and *The Balance Destroyed* (2017).

KEYNOTE SPEAKERS



Rikirangi Gage

Rikirangi is of Te Whānau -a-Apanui descent.

Rikirangi is currently the Chief Executive Officer for Te Rūnanga o Te Whānau. He has a wealth of experience in the marine environment. Rikirangi has served as a member of the Ministerial Advisory Committee for Oceans Policy and was a prominent spokesperson during the allocation discussions. He served as a board member for Te Papa for three years and represented the Treaty of Waitangi Fisheries Commission at the Convention on Biological Diversity in Argentina in 1996.

Notes

A series of horizontal lines for taking notes, consisting of approximately 22 lines.

COMPARATIVE CONSTITUTIONAL LAW AND PLURALISM

Professor Saunders and Dr Roughan are world renowned experts on comparative constitutional law and pluralism respectively. They will consider both the merits and potential pitfalls of borrowing ideas for constitutional transformation from other jurisdictions as well as theoretical justifications for pluralism, including the different ways pluralism can manifest in constitutional structures.



Professor Cheryl Saunders

Cheryl Saunders is a Laureate Professor Emeritus at Melbourne Law School and a convenor of the Constitution Transformation Network. She specialises in Australian and comparative public law and has particular interests in constitution-making and change, multi-level government, the implications of globalisation and the interface between domestic and international law. She was Deputy Chair of the Constitutional Centenary Foundation during the decade leading to the centenary of the Australian Constitution and has been a Senior Technical Advisor to the Constitution-Building program of International IDEA. She has had some form of engagement with constitutional development in countries throughout the world, most recently in Myanmar, the Philippines, Papua New Guinea and Chile. In 2022 she was awarded the Tang Prize for the rule of law.



Associate Professor Nicole Roughan

Nicole Roughan is an Associate Professor at the Faculty of Law, University of Auckland, and co-Director of the NZ Centre for Legal Theory. Nicole's research in general jurisprudence includes work on theories of law's authority, law's persons (both officials and subjects of law), and law's relation to the state.

In 2017, Nicole was awarded a Rutherford Discovery Fellowship from the Royal Society Te Apārangi, supporting a five-year project on 'Legalities: Jurisprudence without Borders'. This project develops the claim that interactions between legal orders make key questions of general jurisprudence both more difficult, and more important. Nicole's research in 'pluralist jurisprudence' examines interactions between posited state law and diverse legal phenomena beyond or within the state, including Indigenous law, international law, transnational law, and customary law. Nicole's major publications include a monograph, *Authorities* (OUP, 2013); and a co-edited volume (with Andrew Halpin), *In Pursuit of Pluralist Jurisprudence* (CUP 2017). Recent smaller projects include articles or chapters on theories of recognition, the relation between plurality and pluralism, conflict of laws in state-Indigenous relations, precedent and change in rules of recognition, fiduciary political theory, the roles and claims of legal officials, and theories of Indigenous-state legal interactions both in practice and in the work of jurisprudence.

KEYNOTE SPEAKERS

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GLOBAL PERSPECTIVES

Professor Anaya and Vicky Tauli Corpuz were both previously UN special rapporteurs on the rights of Indigenous peoples, building on their many decades of advocacy in international fora to realise our rights, not least in the drafting of the UN Declaration on the Rights of Indigenous Peoples. Dr Jorgensen, Research Director for the Native Nations Institute at the University of Arizona and for its sister program, the Harvard Project on American Indian Economic Development, has insights into the benefits of Indigenous peoples' self-determination drawn from decades of research. Each panellist brings their deep knowledge of Indigenous peoples' experiences around the globe to bear on constitutional transformation.



Distinguished Professor S. James Anaya

S. James Anaya is a University Distinguished Professor and the Nicholas Doman Professor of International Law at the University of Colorado Law School (USA), where he teaches and writes in the areas of international human rights and issues concerning indigenous peoples. Professor Anaya is a graduate of the University of New Mexico (B.A. in Economics, 1980) and Harvard Law School (J.D., 1983). Among his numerous publications is his acclaimed book, *Indigenous Peoples in International Law* (Oxford Univ. Press, 1996, 2d. ed. 2004) and his widely-used co-authored textbook, *International Human Rights: Problems of Law, Policy and Practice* (Aspen, 6th ed. 2016) (with Hurst Hannum and Dinah Shelton). Professor Anaya served as the United Nations Human Rights Council's Special Rapporteur on the Rights of Indigenous Peoples from 2008 to 2014. In that capacity, he examined and reported on conditions of indigenous peoples worldwide and responded to allegations of human rights violations against them, including through country visits and direct contacts with governments. In addition, Professor Anaya has litigated major indigenous rights and human rights cases in domestic and international tribunals, including the United States Supreme Court and the Inter-American Court of Human Rights. Among his noteworthy activities, he participated in the drafting of the United Nations Declaration on the Rights of Indigenous Peoples and was the lead counsel for the indigenous parties in the case of *Awás Tingni v. Nicaragua*, in which the Inter-American Court of Human Rights for the first time upheld indigenous land rights as a matter of international law.

KEYNOTE SPEAKERS



Dr Miriam Jorgensen

Miriam Jorgensen is Research Director of the University of Arizona Native Nations Institute and of its sister organization, the Harvard Project on American Indian Economic Development. At the University of Arizona, she holds the additional titles of Research Scientist, with tenure, Udall Center for Studies in Public Policy; Affiliate Faculty, James E. Rogers College of Law; and Affiliate Faculty, Graduate Interdisciplinary Program in American Indian Studies.

Jorgensen's work on Indigenous governance and economic development – in the United States, Canada, and Australia – has addressed issues as wide-ranging as child welfare policy, policing and justice systems, natural-resource management, cultural stewardship, land ownership, tribal enterprises, housing, financial education, asset building, and philanthropy.

She is a co-author of *Structuring Sovereignty: Constitutions of Native Nations* (UCLA AIS Press 2014) and *The State of the Native Nations: Conditions under US Policies of Self-Determination* (Oxford University Press 2008); editor and co-author of *Creating Private Sector Economies in Native America: Sustainable Development through Entrepreneurship* (Cambridge University Press 2019), *Indigenous Justice: New Tools, Approaches and Spaces* (Palgrave Macmillan 2018) and *Rebuilding Native Nations: Strategies for Governance and Development* (University of Arizona Press 2007); lead author of the U.S. Treasury Department's two-part *Access to Credit and Capital in Native Communities* reports (2016, 2017); lead technical expert supporting the Indian Law and Order Commission (2012-2013) and Commission on Native Children (2020-present); and USA senior editor of the *International Indigenous Policy Journal*.

Jorgensen co-founded the University of Arizona Indigenous Governance program and has been a Visiting Scholar in law and social work at Washington University in St. Louis, Distinguished Visiting Scholar at the University of Technology Sydney, Research Professor in the Jumbunna Institute for Indigenous Education and Research at the University of Technology Sydney, and Professorial Research Fellow at the Melbourne School of Government. She received her BA in economics from Swarthmore College, MA in human sciences from the University of Oxford, and both an MPP in international development and PhD in political economics from Harvard University.

She grew up in Vermillion, South Dakota, on the territory of the Dakota, Lakota, and Omaha peoples and currently resides in St. Louis, Missouri, on the ancestral homelands of the Osage Nation.



Victoria Tauli-Corpuz

Victoria Tauli-Corpuz was the 3rd UN Special Rapporteur on Rights of Indigenous Peoples from 2014 to 2020. She is a human rights expert, focusing mainly on indigenous peoples' rights and women's rights as well as the right to development and a safe and sustainable environment. She is a community organizer and an institution and movement builder. She helped establish and strengthen local and national indigenous peoples' organizations and institutions as well as regional and global indigenous formations. Some of these are the Indigenous Peoples' Rights International (IPRI), Asian Indigenous Women's Network (AIWN); the Global Partnership of Indigenous Peoples on Climate Change, Forests and Sustainable Development (ELATIA), among many others.

Her work for almost four decades, up to the present, is to raise awareness on indigenous peoples' rights and train and help build capacities of indigenous peoples to assert and claim their rights. She has been engaged in drafting and negotiations of the UN Declaration on the Rights of Indigenous Peoples from 1985 until its adoption in 2007. From 2005 to 2009, she was the Chairperson of the UN Permanent Forum on Indigenous Issues. She participated and continues to engage with the Conference of Parties of the UN Framework Convention on Climate Change. She is the founder and the Executive Director of Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education), an indigenous-led institution based in the Philippines, which engages actively in various global, regional and national arenas to advocate for indigenous peoples' rights and development and does research as well as training indigenous peoples.

Specific Regions and States

We are delighted to bring so many experts from around the globe to speak to the relationship between Indigenous peoples and state constitutions, to Indigenous peoples' own constitutional structures and ideas for constitutional design from their own parts of the world. Each panel will outline the basic constitutional structures in "their" jurisdiction before analysing the lessons – both good and bad – that we might take from them to effectively realise Indigenous peoples' rights and aspirations.

PACIFIC



Professor Emerita Jennifer Corrin

Jennifer Corrin is Professor Emerita at The University of Queensland. Her current research focuses on law reform and development in plural legal regimes and legal issues affecting small states. She has published in the areas of legal pluralism, comparative law, South Pacific law, customary law, human rights, court systems, evidence, civil procedure, family law, land law, constitutional law and contract. She is the author of *Contract Law in the South Pacific* and co-author of *Introduction to South Pacific Law, Courts and Civil Procedure in the South Pacific* and *Proving Customary Law in the Common Law Courts of the South Pacific*. Her latest publication is the co-edited book, *Legal Systems of the Pacific: Introducing Sixteen Gems*. Jennifer has participated in a number of research grant projects and provided advice in several legal cases. Her memberships include the Australian Academy of Law, the Board of the Commission on Legal Pluralism, the Executive Committee of the Australian Law Academics Association, and titular membership of the International Academy of Comparative Law. Before joining The University of Queensland, Jennifer spent five years at the University of the South Pacific, having joined the Faculty after ten years in her own legal firm in Solomon Islands.



Dr Morsen Mosses

Dr Morsen Mosses is a lecturer in law at the School of Law, the University of the South Pacific. He is currently the General Editor of the *Journal of South Pacific Law*. His areas of expertise include human rights and legal pluralism in the Pacific. He is particularly interested in the intersection of law and custom/culture in the Pacific. He has published in the areas of human rights, customary law and constitutional law in the Pacific. His full biography can be accessed via this link: [Morsen Mosses-Discipline of Law \(usp.ac.fj\)](https://usp.ac.fj).

TURTLE ISLAND/USA



Professor Matthew Fletcher

(via zoom)

Matthew L.M. Fletcher is a full professor with a joint appointment with the University of Michigan Law School and the Department of American Culture. He sits as an appellate judge for more than a dozen Indian tribes. He is a member of the Grand Traverse Band of Ottawa and Chippewa Indians. Professor Fletcher graduated from the University of Michigan Law School in 1997 and the University of Michigan in 1994. Professor Fletcher is the primary editor and author of the leading law blog on American Indian law and policy, Turtle Talk, <http://turtletalk.wordpress.com/>. He is married to Wenona Singel, a member of the Little Traverse Bay Bands of Odawa Indians, and they have two sons, Owen and Emmett.



Professor Angela R Riley

Citizen Potawatomi Nation

Angela R. Riley (Citizen Potawatomi Nation) is Professor of Law and American Indian Studies at UCLA. She is Special Advisor to the Chancellor on Native American and Indigenous Affairs and directs UCLA School of Law's UCLA's Native Nations Law and Policy Center as well as the J.D./M.A. joint degree program in Law and American Indian Studies. She has chaired the UCLA campus Repatriation Committee since 2010. Professor Riley's research focuses on Indigenous peoples' rights, with a particular emphasis on cultural property and Native governance. Her work has been published in the nation's leading legal journals, including the *Yale Law Journal*, *Stanford Law Review*, *Columbia Law Review*, *California Law Review*, *Georgetown Law Journal* and numerous others. She received her undergraduate degree at the University of Oklahoma and her law degree from Harvard Law School.

Professor Riley began her career clerking for Chief Judge T. Kern of the Northern District of Oklahoma. She then worked as a litigator at Quinn Emanuel in Los Angeles, specializing in intellectual property litigation. In 2003 she was appointed to her tribe's Supreme Court, becoming the first woman and youngest Justice of the Supreme Court of the Citizen Potawatomi Nation of Oklahoma. She has served as Chief Justice since 2010. She previously served as Co-Chair for the United Nations-Indigenous Peoples' Partnership Policy Board, with a dedicated mission to implement the UN Declaration on the Rights of Indigenous Peoples. She has worked as an Evidentiary Hearing Officer for the Morongo Band

KEYNOTE SPEAKERS

of Mission Indians and currently sits as an Appellate Justice at the Rincon Band of Luiseño Indians Court of Appeals and at the Pokagon Band of Potawatomi Indians Court of Appeals.

Professor Riley is a member of the American Law Institute. She taught as the Oneida Indian Nation Visiting Professor of Law at Harvard Law School in Fall 2015 and co-teaches the Nation Building course at the Harvard Kennedy School of Government.

Notes

HAWAII



Professor D. Kapua’ala Sproat

Kapua’ala Sproat is a Professor of Law at the University of Hawai’i’s William S. Richardson School of Law and the Director of Ka Huli Ao Center for Excellence in Native Hawaiian Law. Ka Huli Ao is an academic center that promotes education, scholarship, community outreach, and collaboration on issues of law, culture, and justice for Native Hawaiians and other Pacific and Indigenous Peoples. Professor Sproat teaches doctrinal and clinical courses in Native Hawaiian and environmental law and legal writing, including the law school’s only live-client clinic that addresses both Native Hawaiian and environmental issues while also providing direct legal services to rural, Neighbor Island communities. In 2014, Professor Sproat received the Board of Regents’ Medal for Excellence in Teaching, the University of Hawai’i’s highest teaching award. Her areas of scholarship and interest include Native Hawaiian law, water law, Indigenous rights, climate justice, the public trust doctrine, and natural resource protection and management. She is an Executive Editor and author of multiple chapters in NATIVE HAWAIIAN LAW: A TREATISE. – the world’s first Indigenous law treatise. Professor Sproat has a special interest in co-powering and supporting Kānaka Maoli (Native Hawaiian) culture and communities and works to preserve the resources necessary to perpetuate her culture.

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TURTLE ISLAND/CANADA



Professor Val Napoleon

Professor Val Napoleon [Indigenous Peoples' Counsel, LLB, PhD] is the Acting Dean of the Faculty of Law, UVIC, and the Law Foundation Chair of Indigenous Justice and Governance. She is the co-founder of JID/JD (dual degree program in Indigenous legal orders and Canadian common law), and the founding director of the Indigenous Law Research Unit. She is Cree from Saulteau First Nation and an adopted member of the Gitanyow [northern Gitxsan]. Her research areas are Indigenous legal traditions and methodologies (e.g., land, water, governance and democracy, human rights, gender, dispute resolution, and intellectual property), Indigenous legal theories, Indigenous feminisms, legal pluralism, Indigenous democracy, and Indigenous intellectual property. She teaches common property law and Gitxsan land and property law intersocietally / transsystemically in the JID/JD.



Professor John Borrows

John Borrows B.A., M.A., J.D., LL.M. (Toronto), Ph.D. (Osgoode Hall Law School), LL.D. (Hons., Dalhousie, York, SFU, Queen's & Law Society of Ontario), D.H.L. (Toronto), F.R.S.C., O.C., is the Canada Research Chair in Indigenous Law at the University of Victoria Law School in British Columbia, and Loveland Chair in Indigenous Law at the University of Toronto Law School. His publications include, *Recovering Canada: The Resurgence of Indigenous Law* (Donald Smiley Award best book in Canadian Political Science, 2002), *Canada's Indigenous Constitution* (Canadian Law and Society Best Book Award 2011), *Drawing Out Law: A Spirit's Guide* (2010), *Freedom and Indigenous Constitutionalism* (Donald Smiley Award best book in Canadian Political Science, 2016), *The Right Relationship* (with Michael Coyle, ed.), *Resurgence and Reconciliation* (with Michael Asch, Jim Tully, eds.), *Law's Indigenous Ethics* (2020 Best subsequent Book Award from Native American and Indigenous Studies Association, 2020 W. Wes Pue Best book award from the Canadian Law and Society Association). He is the 2017 Killam Prize winner in Social Sciences and the 2019 Molson Prize Winner from the Canada Council for the Arts, the 2020 Governor General's Innovation Award, and the 2021 Canadian Bar Association President's Award winner. He was appointed as an Officer of the Order of Canada in 2020. John is a member of the Chippewa of the Nawash First Nation in Ontario, Canada.



Clément (Clem) Chartier

Clément (Clem) Chartier of Buffalo Narrows was born at Ile a la Crosse, Saskatchewan where he later attended residential school for 10 years. He is a lawyer, writer, lecturer and activist and has served in both political and administrative capacities with numerous Indigenous peoples’ organizations and governments nationally and internationally.

In February 1998 Clément was elected to the Presidency of the Métis Nation-Saskatchewan where he served two terms until January 2004. In October 2003, President Chartier was elected President of the Métis National Council and served five terms until September 2021.

Internationally, Clément was President of the World Council of Indigenous Peoples (WCIP) from 1984 to 1987. He is now the President of the American Council of Indigenous Peoples (ACIP) which was formed in 2018 in Lima, Peru.

In November 2021 Clément was appointed Inter-Nation and International Relations Ambassador by President David Chartrand of the Manitoba Métis Federation, the National Government of the Red River Métis.

Notes

AUSTRALIA



Professor Kirsty Gover

Professor Kirsty Gover (Melbourne Law School) is a settler scholar who grew up on Kāti Māmoe and Ngāi Tahu land. She writes about settler law affecting Indigenous peoples in Australia, Aotearoa New Zealand, Canada and the United States, with a focus on legal pluralism. She is currently an Australian Research Council Future Fellow, working on a project about relationships between Indigenous and settler legal systems and legal theories, and is co-director of the Melbourne Law School Indigenous Law and Justice Hub (with Dr. Eddie Cubillo).



Professor Megan Davis

Professor Megan Davis is a professor of constitutional law and holds the Balnaves Chair in Constitutional Law and is Pro Vice-Chancellor Indigenous at UNSW Sydney. Professor Davis is an Acting Commissioner of the NSW Land and Environment Court.

Professor Davis was a member of the Prime Minister's Referendum Council and the Prime Minister's Expert Panel on the Recognition of Aboriginal and Torres Strait Islander Peoples in the Constitution. Professor Davis is a globally recognised expert on Indigenous peoples' rights. Megan was an expert member of the United Nations Permanent Forum on Indigenous Issues (2011-2016) and is currently an expert member and Chair of the United Nations Human Rights Council's Expert Mechanism on the Rights of Indigenous peoples (2017-2022). In 2022 Megan will be a co-recipient of the Sydney Peace Prize for the Uluru Statement from the Heart.



Mary Spiers Williams

Mary Spiers Williams descends from Darkenung and first coloniers in sandstone Country, is the Associate Dean (Indigenous Studies Portfolio) and is a lecturer in law at the Australian National University. She currently convenes Australian Indigenous Studies. Her research interests are in sociolegal studies and legal anthropology, concern the impact of state laws on First Peoples, and centring the knowledge, laws and insights of First Peoples in Australia.

ASIA



Dr Ramy Bulan

Dr Ramy Bulan a Research Fellow and Director of the Centre For Legal Pluralism and Indigenous Law at the Faculty of Law , University Malaya where she served as Associate Professor of Law prior to mandatory retirement. She continues to teach there. An indigenous Kelabit woman from Borneo, her work and research has centred on creating awareness on indigenous peoples' legal issues in Malaysia. She pioneered work that push for more acknowledgement of Constitutional Legal Pluralism in Malaysia, advocating Native and Aboriginal Customary Land Rights, and legitimacy of customary Laws and their traditional knowledge, governance and institutions. Working both with academia and grassroot communities, and civil societies, she was a lead consultant to the Malaysian Human Rights Commission on their National Inquiry on Indigenous Land Rights 2007-2008, 2010-2013. She sits on a number of Board's and expert panels to represent indigenous voices. She is currently leading the Legal Workstream in a state commissioned work to transform and elevate the Native Courts System in Sarawak, which hopefully will happen soon.



Professor TSUNEMOTO Teruki

Ph.D.

Specializing in constitutional law, Professor Tsunemoto received his Ph.D. in law from Hokkaido University in 1983. He was a research fellow at the University of California, Berkeley, a visiting scholar at Harvard Yenching Institute, and Dean of the School of Law at Hokkaido University before assuming his current position in 2020. The Foundation for Ainu Culture was established by the government to implement measures to promote Ainu culture, including the operation of the UPOPOY, the National Ainu Museum and Park. From 2007 to 2020, he has also served as Founding Director of the Centre for Ainu and Indigenous Studies at Hokkaido University. He was appointed as a member of the Council of Experts on Ainu Policy established by the Chief Cabinet Secretary, which set the framework for current Ainu policy in 2008, and since 2009, he has been serving as a member of the Ainu Policy Promotion Council, where Ainu people and experts discuss the specifics of Ainu policy. The deliberations of the Council resulted in the enactment of the Ainu Policy Measures Promotion Act of 2019, the first legislation to declare the Ainu to be an indigenous people of northern Japan.

LATIN AMERICA



Dr Isabel Altamirano-Jimenez

Isabel Altamirano-Jiménez is Binizá or Zapotec from the Isthmus of Tehuantepec, Mexico. She is Professor of political science and Canada Research Chair in Comparative Indigenous Feminist Studies. Her research program interrogates how different modalities of natural resource extraction are operationalized and experienced by Indigenous communities in Canada and Mexico. Her work has documented the tensions and legal dissonances that arise between the implementation of Indigenous rights and the neo-liberalization of natural resources as well as the self-determining strategies enacted by Indigenous peoples in the process of interpreting their rights in ways that align with their aspirations.



Professor Elisa Loncon Antileo

Professor Loncon Antileo was born in the Mapuche community of Lefwluan, in Traiguén, on January 23, 1963. She did her first studies in the rural school of her community, then continued her general education in Traiguén and did her undergraduate studies at the University of la Frontera de Temuco, where she obtained the title of Teacher of English language, in 1986.

She has a PhD in Humanities from the University of Leiden, the Netherlands (2016), Doctor in Linguistics from the Pontifical Catholic University of Chile (2019), Master in Linguistics from the Autonomous Metropolitan University of Mexico.

Nowadays she represents the Mapuche people in the conventional constituent of Chile and she was the first President of the Convention, elected on July 4, 2021.

Time Magazine included her among the 100 most influential women of 2021, and the Financial Times Magazine named her among the 25 most influential women in the world last year.

On December 12, the Euskadi government awarded her the René Cassin International Prize for her commitment to Human Rights.

She is also Academic of the Department of Education at the University of Santiago de Chile and an external professor at the Pontificia Universidad Católica de Chile. She is coordinator of the Network for the Educational and Linguistic Rights for the Indigenous Peoples of Chile.

She is the author and co-author of books and articles, including:

- *Violeta Parra in the Wallmapu*, 2017. Ed. Pehuén (Co-authored with Paula Miranda and Allison Ramay)
- *Morphology and aspects of the Mapudungun*. Mexico: Metropolitan Autonomous University Sign Library, Iztapalapa Unit, (2011).



Associate Professor Roger Merino

(via zoom)

Roger Merino is Associate Professor at the School of Public Management, Universidad del Pacífico of Lima, Peru. His research areas include political ecology, international environmental governance and indigenous rights. He earned his PhD in Social and Policy Sciences and a M.Sc. in International Public Policy at the University of Bath (United Kingdom). He has published research articles in leading international journals, such as World Development, Third World Quarterly, American Journal of International Law, Leiden Journal of International Law, Environmental Policy and Governance, Oxford Development Studies, among others. He has also been Visiting Scholar at Harvard University's Institute for Global Law and Policy and at the Social Science Summer School of the Institute for Advanced Study of Princeton. He is author of the book *Socio-legal Struggles for Indigenous Self-determination in Latin America: Reimagining the Nation, Reinventing the state* (Routledge, 2021).

Notes

GREENLAND



Sara Olsvig
(via zoom)

Sara Olsvig is a Ph.D.-fellow at Ilisimatusarfik, the University of Greenland. Olsvig is an appointed member of the Constitutional Commission of Greenland, and member of the Human Rights Council of Greenland. Sara Olsvig served as member of the Parliament of Denmark (2011 – 2015) and the Parliament of Greenland (2013 – 2018). She has been leader of the political party Inuit Ataqatigiit. Olsvig was Vice Premier and Minister of Social Affairs, Families, Gender Equality and Justice in the Government of Greenland from 2016 to 2018. Olsvig was member (2011 – 2014) and Chairperson of the Standing Committee of Parliamentarians of the Arctic Region from 2013 to 2014. Olsvig holds a MSc in Anthropology and has previously worked as Executive Director for Inuit Circumpolar Council Greenland, to which she today is a delegate. Sara Olsvig is Inuk and lives in Nuuk, Greenland with her partner and their children.

Notes

SAMI/SCANDINAVIA



Ms Anne Nuorgam

President of United Nations Permanent Forum on Indigenous Issues (UNPFII)

Ms. Nuorgam is a long-term Saami politician, who holds a Master of Laws degree and is currently a PhD student at the University of Lapland. She has been a member of the Saami Parliament of Finland since 2000. Ms. Nuorgam is the Chair of Veahčanjárga Fishery. She has been working on reconciliation issues and now works as the Head of the Saami Council's Human Rights Unit.



Professor Mattias Åhrén

Mattias Åhrén originates from Ohredahke Sami indigenous Reindeer Herding Community in Northern Sweden. He is a visiting Professor at the Faculty of Law at UiT-The Arctic University of Norway. Åhrén teaches international law, human rights and indigenous peoples' rights at universities around the world. He has written extensively on Sami and indigenous rights. His academic publications include *Indigenous Peoples' Status in the International Legal System* (Oxford University Press, 2016). Åhrén has also extensive experience working with indigenous peoples' and human rights within the UN system. Among other things, he played a key role in the deliberations which resulted in the UN General Assembly's adopting the UN Declaration on the Rights of Indigenous Peoples. Åhrén has also authored a number of UN expert reports, and has served as special advisor to both Presidents of the UN Permanent Forum on Indigenous Issues and the Special Rapporteur on the Rights of Indigenous Peoples. He has further acted as counsel to Sami indigenous reindeer herding communities in proceedings before both domestic courts and international judicial institutions, most recently in the Rönnbäcken Case before the UN Committee on the Elimination of Racial Discrimination. Åhrén has also on numerous occasions served as expert witness in domestic court proceedings on Sami land and resource rights. He has also appeared in the same capacity before national parliaments.

AFRICA



Dr Elifuraha Laltaika

(via zoom)

Dr. Elifuraha Laltaika is a Senior Law Lecturer and the Director of Research and Consultancy at Tumaini University Makumira-Arusha, Tanzania. A Fulbright alumnus, he served as a Visiting Researcher at Harvard Law School to examine the intersection of community rights and extractive industry in international and comparative law perspectives. In 2016, the President of the UN Economic and Social Council (ECOSOC) appointed Dr. Laltaika to serve as an expert member of the UN Permanent Forum on Indigenous Issues (2017-2019). Previously he worked as a Senior Fellow at the Office of the High Commissioner for Human Rights in Geneva. He holds a Doctorate in Law (S.J.D) from the University of Arizona, A Master of Laws (LL.M) from the University of Oregon, LL.M from the University of Kwazulu Natal, and a Bachelor of Laws (LL. B) from the University of Dar-Es-Salaam. He has guest-lectured in several Universities abroad, including the University of California Berkeley, the University of Denver, the University of Colorado Boulder, Willamette University, University of Oregon, Roma Tree University, the University of Pretoria, and the University of Philippines. Dr. Laltaika is the 2022 recipient of the Sivtlana Kravchenko Environmental Rights Award (Oregon, USA), in recognition of "impact in the law while working to support local communities." Dr. Laltaika's research interests cover Human Rights Law and Policy, Indigenous Peoples Rights, Public International Law, and Natural Resources Law. He has published numerous academic works and co-authored international reports on those areas. His recent independent expert report on indigenous peoples' rights under international law was acknowledge by the African Court on Human and Peoples Rights in the case of *African Commission on Human and Peoples Rights V. Republic of Kenya* (the Ogiek Peoples case).

Mai te Kore ki te Ao Maarama: Strategies for Constitutional Transformation 2022 – 2040

Our panellists in our final two sessions are national and international trailblazers on whānau/hapu and iwi rights and claims to Indigenous peoples' self-determination. More particularly, in their individual ways, they are all thought-leaders driving constitutional transformation. The final two panels will focus on the need for fundamental change to New Zealand's governance foundations and structures drawing together threads from the previous sessions. In our final session, Professor Margaret Mutu, one of the two main authors of Matike Mai, and Kerensa Johnston will close us off with their concluding reflections.



Annette Te Imaima Sykes

Ngati Pikiiao and Ngati Makino

Annette Te Imaima Sykes is Māori from the confederation of tribes of Te Arawa in New Zealand and belongs to the sub-tribes of Ngāti Makino and Ngāti Pikiiao. She is a graduate of the University of Auckland and has been practising as a lawyer since 1984. She is principal of her own law firm Annette Sykes & Co Ltd and has practised in all the courts of New Zealand, but practises particularly in the jurisdiction of the Waitangi Tribunal which is funded by Legal Aid Services under the Ministry of Justice.

Annette has practised extensively in the Family and Criminal jurisdictional Courts of New Zealand. She is a member of the Māori Law Commission which seeks to reestablish the operation of Māori systems of law and custom in Aotearoa. She is a popular guest speaker on issues of Māori sovereignty, the Treaty of Waitangi and Māori justice at various conferences throughout New Zealand and internationally. She has attended numerous International seminars promoting the rights of indigenous peoples and gave evidence in the Women's Court against Racism in Durban, South Africa in 2001.

Annette has been a Director of a number of companies that were established as a consequence of litigation initiated against the New Zealand Government to uphold Māori customary fishing rights. She was a founding member of the Māori Broadcasting Agency, Te Māngai Pāhō which was established as a consequence of claims by Maori to protect Māori language for present and future generations. She has been a long-standing advocate of Māori land rights and appears regularly before the New Zealand Courts and in the special jurisdiction of the Waitangi Tribunal for the return of lands wrongfully taken by Crown policies and practices over the last 160 years. Annette has recently been appointed to the Kāhui Wai Māori Advisory Group, which is one of two advisory groups providing advice to the government on the freshwater reform programme, in particular, Māori customary rights in freshwater.

Annette is also a strong advocate for Māori independence and a nuclear free, genetic engineering free independent Pacific as part of this focus. She has attended seminars in Kanaky speaking against globalisation and new forms of colonisation that beset the Pacific. Annette has also written

many articles and publications 'Te Tiriti o Waitangi (Our Bill of Rights)', 'Te Tiriti o Waitangi; A Women's Perspective', 'The Politics of the Brown Table' and 'The "Te Reo Maori Claim" and its ramifications for the New Zealand Broadcasting arena' being three of such articles.



Dayle Takitimu

Porourangi

Dayle Takitimu is of Ngāti Porou, Te Whānau a Apanui and Te Aitanga a Hauiti and is the Head of School at Toihoukura, School of Māori Arts here in Gisborne. She is also an indigenous rights and environmental lawyer who has presented on environment and indigenous people's issues at forums both locally and internationally.

She is well known for having taken on oil giant Petrobras on behalf of Te Whānau a Apanui and won – after a 40 day protest flotilla successfully dissuaded the oil giant from continuing with its planned exploration of Te Whānau a Apanui deep sea territories for oil extraction.

She is a graduate of the University of Auckland and holds a Masters of Environmental Protection, also graduated from the United Nations World Intellectual Property Academy in Geneva, presented at the Maori Legal Forum, Environmental Law Forum, the International Indian Treaty Council and at the United Nations Treaty Expert Seminar hosted by the Cree Nation.

She is also a trustee of the Aotearoa Indigenous Rights Trust and champions the Declaration of the Rights of Indigenous Peoples and the draft Declaration of the Rights of Mother Earth.



Dr Veronica Tāwhai

Ngati Porou; Ngati Uepohatu

Dr. Tawhai is a mother of three from Ngāti Porou, Ngāti Uepohatu living on the lands of Rangitāne, Ngāti Kauwhata in the Manawatū. She currently works part-time as Associate Professor of Te Tiriti capability at Massey University in Palmerston North and part-time as a Te Ata Kura Educator delivering Te Tiriti o Waitangi workshops nationwide. She is a past recipient of the Fulbright-Ngā Pae o te Māramatanga scholar award and the Te Mata o Te Tau Academy for Māori research and scholarship award, which assisted with her PhD research in Turtle Island (USA and Canada), Hawai'i, Australia and Aotearoa examining best evidence-based practices in teaching and learning about Indigeneity, including constitutional matters, and the implications of this for citizenship education in settler colonial societies. She is a founding member of Te Ata Kura (Society for Conscientisation), and between 2012-2017 coordinated the *Matike Mai Aotearoa* Rangatahi project for the Independent Working Group on Constitutional Transformation led by Moana Jackson and Professor Margaret Mutu. Her community, research and academic work focuses on Kaupapa Māori (critical, decolonising, Indigenous) political and constitutional education and engagement.

KEYNOTE SPEAKERS



Professor Te Maire Tau

Ngāi Tahu

Professor Te Maire Tau is the Pou Whakarae of the Ngāi Tahu Centre, Office of Treaty Partnership at the University of Canterbury. He took up the Director position of the Ngāi Tahu Research Centre in 2011, having previously been a Senior Lecturer in History at the University. Te Maire belongs to Ngāi Tahu, the principal tribe of the South Island, and lives in Tuahiwi, the largest village of that tribe. Te Maire is the Ūpoko (Director) of Ngāi Tūāhuriri (the tribal group of the Tuahiwi region in Canterbury). During his years as an undergraduate and later as a postgraduate student at Canterbury, Te Maire helped iwi leaders with their land claim to the Waitangi Tribunal, with a particular emphasis on traditional food-gathering practices. As a specialist historian on oral traditions, tribal genealogies and indigenous knowledge systems, Te Maire was used as an expert witness and historian for the settlement of the Ngāi Tahu Claim - the largest settlement in its day between Māori and the Crown for lands wrongfully taken. Since then he has had a number of publications dealing with oral traditions and the relationship between indigenous knowledge systems and how they intersect with western science. Te Maire's research interests include the philosophy of knowledge, oral traditions, myth, indigenous development and history.

Notes

Closing Ceremony / Discussion

In our final session, Professor Margaret Mutu, one of the two main authors of Matike Mai, and Kerensa Johnston will close us off with their concluding reflections.



Professor Margaret Mutu

Ngāti Kahu, Te Rarawa, Ngāti Whātua

Professor Margaret Mutu (Ngāti Kahu, Te Rarawa and Ngāti Whātua) is the Professor of Māori Studies at the University of Auckland. She specializes in Māori language and society, Tiriti o Waitangi claims against the British Crown, and Māori rights, particularly as they relate to constitutional matters, fisheries, conservation and resource management. Her publications include two books on the histories, traditions and Tiriti o Waitangi claims of her hapū and iwi and one on Māori rights. For the past two decades Margaret has chaired her iwi (nation's) parliament, Te Rūnanga-ā-Iwi o Ngāti Kahu. In that role, she represents Ngāti Kahu on National Iwi Chairs Forum where she chairs Te Pou Tikanga (dealing with Treaty issues), the Aotearoa Independent Monitoring Mechanism (which monitors New Zealand's compliance with the United Nations Declaration on the Rights of Indigenous Peoples) and, with Dr Moana Jackson, *Matike Mai Aotearoa* – the Independent Working Group on Constitutional Transformation.



Kerensa Johnston

Ngāti Tama, Ngāruahine, Te Ātiawa, Ngāti Whāwhakia

Kerensa is the Chief Executive of Wakatū Incorporation, a hapū-owned organisation based in Nelson, which owns Kono NZ LP, an export food and beverage business; AuOra, focused on science and nutrition and Whenua, its land and property business. Committed to its 500 year intergenerational plan, Te Pae Tawhiti, Wakatū has an active social and cultural development arm which is committed to building whānau capability and innovation as well as achieving the Te Tau Ihu intergenerational strategy for the region, which includes constitutional reform.

Kerensa has a legal background and has worked as a solicitor in the private sector, as a Barrister, and as a legal academic at the Faculty of Law, University of Auckland, where she specialised in Māori legal development, public law, land law and international law. Kerensa joined Wakatū as General Counsel in December 2012, and was appointed Chief Executive in 2016.

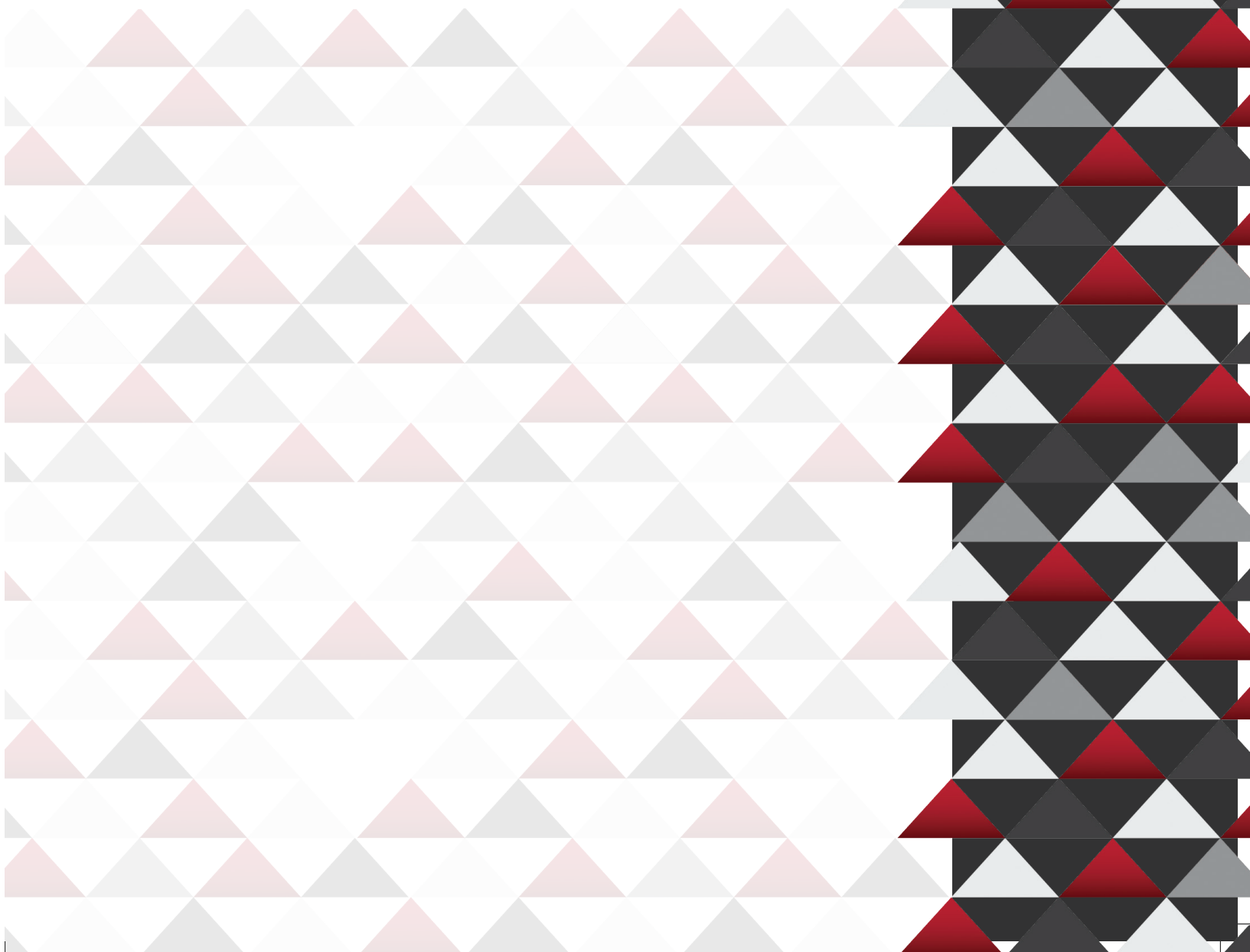
Kerensa is the Chair of Ngā Pae o te Māramatanga, the Māori Centre of Research Excellence and the Chair of Ngāti Tama ki te Tau Ihu Charitable Trust. She is a member of the International Association of Corporate Counsel, Corporate Lawyers' New Zealand and Te Hunga Roia. Her iwi are Ngāti Tama, Ngāruahine and Ngāti Whāwhakia.

Final comment

It is such a wonderful privilege to have you all participate in, and contribute to, the Constitutional Kōrero. We at the Te Puna Rangahau o te Wai Ariki|Aotearoa Centre for Indigenous Peoples and the Law will be drawing on all the incredible insights you collectively bring to think about and ultimately make recommendations for constitutional design that realises the aspirations set out in the Matike Mai report as well as those of our tupuna reflected in Te Tiriti o Waitangi and He Whakaputanga. We only hope we can do them some justice.

Thank you.

No reira, tēnā koutou, tēnā koutou, tēnā koutou katoa





CONSTITUTIONAL
KŌRERO
2022

