



# Law

## LAWPUBL 468 : Special Topic: Mātauranga Māori and Taonga/Cultural Property and Indigenous Intellectual Property (15 POINTS)

2020 Semester Two

### Course Prescription

Cultural property topics include: the preservation of cultural heritage; the protection of cultural property during armed conflict; and the restitution and repatriation of cultural objects. Indigenous intellectual property topics include: Māori claims to mātauranga Māori and taonga, with a particular emphasis on Wai 262; and the interface between intellectual property norms and proposals for reform.

### Course Overview

Tēnā koutou katoa. In this course, we discuss cultural property and Indigenous intellectual property issues in Aotearoa New Zealand and around the world. The course is structured in four parts.

First, we discuss key topics in cultural property law, including: the conservation and management of cultural heritage; the protection of cultural property in the event of armed conflict; and the restitution and repatriation of cultural objects.

Secondly, we discuss Māori claims to mātauranga Māori (the body of knowledge originating from Māori ancestors) and taonga (tangible and intangible treasures), with a particular emphasis on the Wai 262 claim. The Wai 262 claimants sought recognition from the Waitangi Tribunal that Māori are entitled to exercise tino rangatiratanga (the unqualified exercise of our chieftainship) over Indigenous flora and fauna me o ratou taonga katoa (and all of our treasures). In the Wai 262 report, the Tribunal made findings and recommendations with respect to: taonga works (works that reflect the culture and identity of the work's traditional owners) and intellectual property; genetic and biological resources of taonga species (species the Wai 262 claimants listed as being of particular significance to them); the Māori relationship with the environment; taonga and the conservation estate; te reo Māori (the Māori language); when the Crown controls mātauranga Māori; rongoā Māori (traditional Māori healing); and the making of international instruments. The Tribunal released its report in 2011 and the Government made a formal public announcement on the report in 2019. Māori, the Government and other stakeholders are currently liaising to develop a strategy to address the issues arising in the claim. In this part, we discuss the claim, the report and the response so far.

Thirdly, we draw on leading scholars to critically evaluate the Wai 262 report, with a particular emphasis on ideas of “collective stewardship”, “pragmatic partnership” and “political authority”.

Finally, we consider what Māori can do under existing laws to protect mātauranga Māori and taonga, and evaluate selected proposals for reform, including: amendments to the existing intellectual property regime; potential sui generis regimes, including WIPO's draft articles; and constitutional transformation.

## Course Requirements

Prerequisite: LAW 211

### Capabilities Developed in this Course

- Capability 1: Disciplinary Knowledge and Practice
- Capability 2: Critical Thinking
- Capability 3: Solution Seeking
- Capability 4: Communication and Engagement
- Capability 5: Independence and Integrity
- Capability 6: Social and Environmental Responsibilities

Graduate Profile: [Bachelor of Laws](#)

### Learning Outcomes

1. Articulate and apply key legal principles and concepts that relate to the preservation of cultural heritage, the protection of cultural property during armed conflict, and the restitution and repatriation of cultural objects. (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 4.1, 6.1, 6.2 and 6.3)
2. Identify and articulate the legal, political, social and economic issues affecting Indigenous peoples' traditional knowledge and traditional cultural expressions, with a particular emphasis on the issues affecting mātauranga Māori and taonga. (Capability 1.1, 1.2, 2.1, 2.2, 3.1, 4.1, 6.1, 6.2 and 6.3)
3. Identify, explain and evaluate the events, processes and instruments central to the Wai 262 claim, inquiry and response so far. (Capability 1.1, 1.2, 2.1, 2.2, 3.1, 4.1, 6.1, 6.2 and 6.3)
4. Identify, explain and evaluate the ability of existing laws (including international intellectual property norms) and proposed reforms (including model laws and WIPO's draft articles) to protect mātauranga Maori and taonga, and draw on these critiques to make reasoned recommendations for reform. (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 6.1, 6.2 and 6.3)
5. Identify and critically evaluate New Zealand's legal and political approaches to mātauranga Maori and taonga issues in comparison with approaches in other jurisdictions. (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 4.1, 6.1, 6.2 and 6.3)
6. Explain and critically evaluate high-level scholarship on cultural property and Indigenous intellectual property. (Capability 1.1, 2.2, 2.3, 4.1, 6.1, 6.2 and 6.3)
7. Demonstrate intellectual curiosity by making sense of developing concepts and topics, distilling themes and formulating probing questions. (Capability 1.1, 1.3, 2.1, 2.3, 3.1, 3.3, 4.1, 5.2, 6.2 and 6.3)
8. Demonstrate an ability to help, challenge and influence other students in positive, constructive and collaborative ways. (Capability 3.3, 4.1, 4.2, 4.3, 5.1, 5.2 and 6.2)
9. Demonstrate effective written communication and referencing skills. (Capability 3.2, 4.1, 4.2 and 5.1)

### Assessments

Assessment Type	Percentage	Classification
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Learning Resource	10%	Individual Coursework
Discussion Board Contributions	15%	Group & Individual Coursework
In-Class Tests	20%	Individual Test
Essay	55%	Individual Coursework
4 types	100%	

Assessment Type	Learning Outcome Addressed								
	1	2	3	4	5	6	7	8	9
Learning Resource						✓		✓	✓
Discussion Board Contributions	✓	✓	✓	✓	✓		✓	✓	✓
In-Class Tests	✓	✓	✓						✓
Essay		✓	✓	✓	✓	✓	✓		✓

## Learning Resources

### Coursebook

A coursebook will be available for purchase.

### Canvas

Online resources will be available on Canvas.

## Workload Expectations

This is a standard 15-point course. There will be around 36 hours of lectures in this course. As a general guide, you should expect a workload of three hours outside of the classroom for each hour spent in class. The guideline for the total workload for this course is 150 hours.

## Digital Resources

Course materials are made available in a learning and collaboration tool called Canvas which also includes reading lists and lecture recordings (where available).

Please remember that the recording of any class on a personal device requires the permission of the instructor.

## Academic Integrity

The University of Auckland will not tolerate cheating, or assisting others to cheat, and views cheating in coursework as a serious academic offence. The work that a student submits for grading must be the student's own work, reflecting their learning. Where work from other sources is used, it must be properly acknowledged and referenced. This requirement also applies to sources on the internet. A student's assessed work may be reviewed against online source material using computerised detection mechanisms.

### Inclusive Learning

All students are asked to discuss any impairment related requirements privately, face to face and/or in written form with the course director, lecturer or tutor.

Student Disability Services also provides support for students with a wide range of impairments, both visible and invisible, to succeed and excel at the University. For more information and contact details, please visit the Student Disability Services' website at <http://disability.auckland.ac.nz>

### Special Circumstances

If your ability to complete assessed coursework is affected by illness or other personal circumstances outside of your control, contact a Student Academic and Support Adviser as soon as possible before the assessment is due.

If your personal circumstances significantly affect your performance, or preparation, for an exam or eligible written test, refer to the University's aegrotat or compassionate consideration page: <https://www.auckland.ac.nz/en/students/academic-information/exams-and-final-results/during-exams/aegrotat-and-compassionate-consideration.html>.

This should be done as soon as possible and no later than seven days after the affected test or exam date.

### Student Feedback

At the end of every semester students will be invited to give feedback on the course and teaching through a tool called SET or Qualtrics. The lecturers and course co-ordinators will consider all feedback and respond with summaries and actions.

Your feedback helps teachers to improve the course and its delivery for future students.

Class Representatives in each class can take feedback to the department and faculty staff-student consultative committees.

### Student Charter and Responsibilities

The Student Charter assumes and acknowledges that students are active participants in the learning process and that they have responsibilities to the institution and the international community of scholars. The University expects that students will act at all times in a way that demonstrates respect for the rights of other

students and staff so that the learning environment is both safe and productive. For further information visit Student Charter (<https://www.auckland.ac.nz/en/students/forms-policies-and-guidelines/student-policies-and-guidelines/student-charter.html>).

### Disclaimer

Elements of this outline may be subject to change. The latest information about the course will be available for enrolled students in Canvas.

In this course you may be asked to submit your coursework assessments digitally. The University reserves the right to conduct scheduled tests and examinations for this course online or through the use of computers or other electronic devices. Where tests or examinations are conducted online remote invigilation arrangements may be used. The final decision on the completion mode for a test or examination, and remote invigilation arrangements where applicable, will be advised to students at least 10 days prior to the scheduled date of the assessment, or in the case of an examination when the examination timetable is published.