



FACULTY OF HUMANITIES AND SOCIAL SCIENCES

VA'AOMANŪ PASIFIKA PACIFIC STUDIES PASI 402

**Special Topic: Pacific Jurisprudence: a study of custom and law in the Pacific
30 POINTS**

TRIMESTER 2 2014

Important dates

Trimester dates: 14 July to 16 November 2014

Teaching dates: 14 July to 17 October 2014

Mid-trimester break: 25 August to 7 September 2014

Withdrawal dates: Refer to www.victoria.ac.nz/students/study/withdrawals-refunds. If you cannot complete an assignment or sit a test or examination, refer to www.victoria.ac.nz/students/study/exams/aegrotats.

Class times and locations

Lectures:

Tuesday and Wednesday: 9am – 10.50am

6 Kelburn Parade, Seminar Room 102

Names and contact details

Coordinator: Dr Sailau Suaalii-Sauni	Administrator: Sylvietta Hanipale
Room 203, 6 Kelburn Parade	Room 101, 6 Kelburn Parade
Ph: 04 463-6867	Ph: 04 463-5830
E: Sailau.suaalii-sauni@vuw.ac.nz	E: sylvietta.hanipale@vuw.ac.nz
Office Hrs: Tues and Weds 11-12pm	Office Hrs: Mon to Fri 8.30am – 4.30pm

Communication of additional information

Any additional information or changes will be conveyed via class noticeboards located at 6 Kelburn Parade, Blackboard, and/or emails to students. You will automatically receive all Blackboard announcements as an email sent to your @myvuw.ac.nz email address. If you are not going to use

this Victoria email address set up for you, we strongly encourage you to set a forward from the Victoria email system to the email address you do use.

Prescription

This course explores theories and philosophies of custom and law in the Pacific. It analyses the cultural and historical nuances of Pacific customs (such as "bride price" and the "ifoga") and related case law to reflect on the question of whether there is such a thing as a 'Pacific jurisprudence'.

Course content

This is a lecture and seminar based course. This means that some topic areas will be taught in a lecture format while others expect students to be prepared to engage in open and respectful class discussion chaired either by the course convenor or the students themselves. The focus of the course is specialised and so entails the introduction of new material that may not have been covered by PASI undergraduate core courses. This course probes the following questions:

- What is law and how does it usually work in the Pacific?
- What is custom and how does it usually work in the Pacific?
- What is the relationship between law and custom in the Pacific?
- What is jurisprudence?
- Is there a common jurisprudence for the Pacific? If so, what does it look like? If not, why not?
- Why would a common jurisprudence for the Pacific be important?

To address these questions the course examines in class the law, custom and jurisprudence of four Pacific countries as case studies: (1) Aotearoa New Zealand, (2) Papua New Guinea, (3) Samoa, and (4) Palau – and reflects on the relationship between the three key concepts of law, custom and jurisprudence within and across each of these four country case studies, noting similarities and differences. To develop a critical awareness of the issues within and across the different jurisprudential situations of Pacific countries the course teaches students about postcolonial, feminist, Marxist, critical legal and Foucauldian theoretical tools and how they could help towards gaining an understanding of the complex relationship between law, custom and jurisprudence in the Pacific.

Course learning objectives (CLOs)

Students who pass this course should be able to:

1	Demonstrate sophisticated comprehension of key concepts, paradigms, goals and activities associated with the development of a Pacific jurisprudence.
2	Utilise advanced theoretical analyses to explain the relationship between custom and law in at least one Pacific nation state at different theoretical and practical levels.
3	Demonstrate technical sophistication in his or her understanding of the similarities and differences between the custom and introduced laws of at least four different Pacific nation states.
4	Participate effectively in group and individual work.
5	Demonstrate basic knowledge of key literatures and debates surrounding the pros and cons of developing a Pacific jurisprudence.

Teaching format

The teaching format for the course is based on a combined lecture and seminar approach. This means that students are strongly encouraged to actively participate in and, where necessary lead, class discussions but that there are topic areas that will require the lecture format. Students are

expected to read all the main readings. A recommended reading list is provided to help build student awareness of further thinking in key subject areas. The class hosting/chairing exercise is expected to offer students the ability to develop personal confidence and gain experience in leading intellectual group discussion on a key topic in this course. Guest lectures are designed to give students the opportunity to engage with an expert from the different country case studies.

A week by week schedule of topic areas for coverage in the course is provided in appendix 1, together with list of readings per day per week. PASI402 students have a heavier workload than PASI302 students in line with the requirements of a 30 point BA Hons course.

Mandatory course requirements

In addition to achieving an overall pass mark of 50%, students must:

1. Submit for assessment all written assignments, except when accompanied by a medical certificate or evidence of other exceptional circumstances.
2. Participate (by introducing or closing a guest lecture, by listening and asking questions where appropriate, by responding to questions if asked, by engaging in class discussions) in the hosting of a guest lecture, the chairing of a class country case study review session and in delivering an individual oral presentation in class.
3. Attend and participate (listening, asking questions where appropriate, responding to questions if asked and engage in later discussions in class) in field trips.
4. Attend at least 80% of lectures and scheduled office hour sessions. If a student is unable to make any lectures or scheduled office hour sessions they must send an email to the lecturer before or immediately after being absent from the lecture with the reason for their absence.

Please note that all your marked coursework for PASI402 will need to be presented in a portfolio at the end of your Honours degree, for assessment by an external examiner. We recommend you keep copies of all your assignments for this purpose. All grades received for courses taken as part of the Honours programme, cannot be assumed to predict the final grade for the degree. The external examiner will make the final recommendation for overall grades for the Honours degree, e.g. First Class Honours (1 or 2), Second Class Honours (1 or 2), etc. At Honours level we expect our students to be producing work at B+ standards and above.

Workload

The expectations are that students will work 10 hours per point, therefore a 30 point course equates to 300 hours over the trimester. This includes scheduled contact time, individual or group study, and work on assessment tasks.

1 st Key Concept & Questions Sheet (KCQ1)	Approximately 16 hours
2 nd Key Concept & Questions Sheet (KCQ2)	Approximately 16 hours
3 rd Key Concept & Questions Sheet (KCQ3)	Approximately 16 hours
4 th Key Concept & Questions Sheet (KCQ4)	Approximately 16 hours
5 th Key Concept & Questions Sheet (KCQ5)	Approximately 16 hours
Hosting of a Guest Lecture (Providing Closing Remarks)	Approximately 16 hours
Chairing a class discussion	Approximately 16 hours
Annotated Bibliography (1500 words maximum, references included)	Approximately 56 hours
Oral Presentation on Essay Topic (20 minutes minimum)	Approximately 48 hours
Essay (4000 words maximum, references included)	Approximately 72 hours
Participation in 2 field trips	Approximately 8 hours

These are approximations only, and will shift based on the specific tasks each week.

Assessment

This course is 100% internally assessed.

Assessment items and workload per item		%	CLO(s)	Due date
1	1 st KCQ – 900 words	5%	1	25 July, 4pm
2	2 nd KCQ – 900 words	5%	1,2	1 Aug, 4pm
3	3 rd KCQ – 900 words	5%	1,2,3	8 Aug, 4pm
4	4 th KCQ – 900 words	5%	1,2,3	19 Sept, 4pm
5	5 th KCQ – 900 words	5%	1,2,3	3 Oct, 4pm
6	Hosting a Guest Lecture (making closing summary remarks) - approx. 10 minutes (students to choose one of the four lecture days to host; all hosting sessions are during class time)	5%	1,2,3,4	Aug 6, Aug 13 Aug 20 Sept 10
7	Annotated Bibliography – 1500 words (including references)	10%	1,2,3,5	Aug 29, 4pm
8	Chairing a class review discussion on country case studies (students who choose to review Aotearoa NZ & PNG will chair first, followed by those reviewing Samoa & Palau; all chairing sessions are during class time)	5%	1,2,3,4,5	Sept 16 Sept 17
9	In class oral presentation on essay topic – between 20-30 minutes (all oral presentations are during class time)	15%	1-5	Oct 7 & 8
10	Written essay – 4000 words (including references)	40%	1,2,3,5	Oct 17, 4pm

To fulfil the annotated bibliography, in class oral presentation and essay requirements all students must schedule at least 6 office hour appointments with the course coordinator. The schedule will be organised with students during Week 1.

Brief description of each assignment types

1. Key Concept & Question (KCQ) Sheets

This assignment comprises answering one or two key questions about a key concept associated with a designated topic and/or set reading within the course. There are 5 KCQ sheets in total. They are worth 5% each. All KCQ sheets will be posted on Blackboard by end of Week 1. Marking schedule is provided within each KCQ sheet.

2. Hosting a Guest Lecture

This assignment involves preparing and delivering the summary comments that closes one of the four guest lectures. Summary comments involve not only thanking the guest lecturer for his/her lecture and presenting the class gift, but also drawing key summary points from the guest lecturer's lecture and connecting these to what the student has learnt in the course to date. Students are

encouraged to take into account Pacific cultural hospitality protocols where appropriate. Guidelines for hosting and the marking schedule will be posted on Blackboard.

3. Annotated Bibliography

This assignment requires compiling and writing brief annotations for 12 different academic sources relevant to the student's essay topic and a brief explanation of the search methodology employed to find the sources. The assignment must note the proposed essay topic and each annotation must note how the source may be of value to addressing that topic. All sources must be referenced fully using an accepted academic referencing style. A template with the format to be adopted for this assignment and the marking schedule will be posted on Blackboard.

4. Chairing a Class Review Session on Country Case Studies

This assignment involves preparing discussion activities and facilitating these activities in a way that generates full class discussion of key issues arising from the country case study in question. Students are to draw on course readings and information provided by the guest lecturer. Guidelines for chairing the review session and the marking schedule will be posted on Blackboard.

5. In Class Oral Presentation on Essay Topic

This assignment involves a brief explanation of the student's essay topic, including (but not limited to) an overview of the key issues to be explored within the proposed essay, key sources to be used and outline of information gathered thus far. Guidelines for the in class oral presentation and the marking schedule will be posted on Blackboard.

6. Essay

This assignment involves writing a 4000 word academic essay on a topic of relevance to the course and of interest to the student. Over the course of at least 6 scheduled office hour sessions the student will work together with the course coordinator to focus his or her essay topic and search methodology. The marking schedule for this assignment will be posted on Blackboard.

Submission and return of work

Written assignments are not to be submitted in hardcopy, but in electronic format only. Electronic assignments are submitted as a MS Word file through Blackboard. How to name your file and instructions for uploading your electronic assignment can be found on Blackboard in the "Assignments" section. Your mark and marked assignment with feedback will be found on Blackboard in the same section or through your course coordinator.

Your grade and feedback comments for hosting, chairing and oral presentation assessments will also be entered on Blackboard within two weeks of the hosting, chairing and presentation.

Extensions and penalties

No penalty will be given for written work that does not meet the maximum word count, but a penalty of 1 mark per 500 words over the word count will be deducted. Late submissions for student assignments in all Samoan Studies and Pacific Studies undergraduate courses are subject to a penalty, except when accompanied by a medical certificate or evidence of other exceptional circumstances. The exact deduction will be calculated on the basis of one half mark per day late.

Assignments submitted more than seven days after the due date or authorised extension will still be accepted in order to meet mandatory course requirements, but will not be marked. For more information about circumstances warranting extensions, refer to the section on extensions in the Victoria University Assessment Handbook.

Field trip arrangements

There are two field trips for this course: (1) to the New Zealand Parliament on Tuesday, 23 September 2014; and (2) to the Wellington District Court on Wednesday, 1 October 2014. There is no cost to attend these field-trips. Both fieldtrip sites are within Wellington City. Students are to meet in the entrance foyer of the New Zealand Parliament and the District Court. The New Zealand Parliament Building is located on Molesworth Street, Wellington Central. The Wellington District Court main entrance is on Ballance Street, Wellington Central.

Set texts

A Student Notes Book is required and is available for purchase at Vic Books on Kelburn Parade (see www.vicbooks.co.nz – PASI302/402 Student Notes). All videos screened in lectures are required texts. Any handouts or readings given out in lectures or tutorials will be posted on Blackboard or placed on course reserve in the library.

Recommended reading

Recommended readings will be posted on Blackboard.

Class representative

The class representative provides a useful way to communicate feedback to the teaching staff during the course. A class representative will be selected at the first lecture of the course. Students may like to write the Class Rep's name and details in this box:

Class Rep name and contact details:

Student feedback

Student feedback on University courses may be found at www.cad.vuw.ac.nz/feedback/feedback_display.php. You will have an opportunity to participate in the formal evaluation of this course. Formal and informal student feedback on PASI402 has resulted in improvements to the course, which will be discussed in class.

Other important information

The information above is specific to this course. There is other important information that students must familiarise themselves with, including:

- Academic Integrity and Plagiarism: www.victoria.ac.nz/students/study/exams/integrity-plagiarism
- Aegrotats: www.victoria.ac.nz/students/study/exams/aegrotats
- Academic Progress: www.victoria.ac.nz/students/study/progress/academic-progress (including restrictions and non-engagement)
- Dates and deadlines: www.victoria.ac.nz/students/study/dates
- FHSS Student and Academic Services Office: www.victoria.ac.nz/fhss/student-admin
- Grades: www.victoria.ac.nz/students/study/progress/grades
- Resolving academic issues: www.victoria.ac.nz/about/governance/dvc-academic/publications
- Special passes: www.victoria.ac.nz/about/governance/dvc-academic/publications
- Statutes and policies including the Student Conduct Statute: www.victoria.ac.nz/about/governance/strategy
- Student support: www.victoria.ac.nz/students/support
- Students with disabilities: www.victoria.ac.nz/st_services/disability
- Student Charter: www.victoria.ac.nz/learning-teaching/learning-partnerships/student-charter

- Student Contract: www.victoria.ac.nz/study/apply-enrol/terms-conditions/student-contract
- Subject Librarians: <http://library.victoria.ac.nz/library-v2/find-your-subject-librarian>
- Turnitin: www.cad.vuw.ac.nz/wiki/index.php/Turnitin
- University structure: www.victoria.ac.nz/about/governance/structure
- Victoria graduate profile: www.victoria.ac.nz/learning-teaching/learning-partnerships/graduate-profile
- VUWSA: www.vuwsa.org.nz
- Va'aomanu Pasifika: www.vuw.ac.nz/pasifika

Week by week timetable with allocated reading in Student Notes Book

Week/Day	Topic & Reading
Week One:	What is law and custom?
Day 1: Tues, July 15	<i>What is law? What is law in the Pacific?</i> 1). Harris, P. "Law and Society", in <i>An Introduction to Law</i> , 6 th edition, 2002, Halsbury House, London: Butterworths Tolley, LexisNexis Group. Chapter 1, pp. 1-27. 2). Harris, P. "The Making of Legal Rules", in <i>An Introduction to Law</i> , 6 th edition, 2002, Halsbury House, London: Butterworths Tolley, LexisNexis Group. Chapter 7, pp. 196-222.
Day 2: Wed, July 16	<i>What is custom? What is custom in the Pacific?</i> 3). New Zealand Law Commission, "Understanding Custom Law", in <i>Converging Currents: Custom and Human Rights in the Pacific</i> , Study Paper 17, 2006, Wellington: NZ Law Commission, Chapter 4, pp.41-59.
Week Two:	What is jurisprudence?
Day 3: Tues, July 22	<i>What does jurisprudence mean in theory?</i> 4). Simmonds, N.E., "Introduction", in <i>Central Issues in Jurisprudence</i> , 3 rd edition, 2008, London: Sweet & Maxwell, pp.1-8. 5). Narokobi, B., "The Black Islands – Melanesia: Melanesian Jurisprudence". In <i>Lo Bilong Yumi Yet: Law and Custom in Melanesia</i> . Crocombe, Ron and Roche, Paul (eds)., 1989, Suva, Fiji: The Melanesian Institute for Pastoral and Socio-Economic Service and the University of the South Pacific, Chapters 1&4, pp.3-16, 50-74. 6). Tui Atua, T.T. T.E., "Samoan Jurisprudence and the Samoan Lands and Titles Court: The perspective of a litigant", in <i>Su'esu'e Manogi: In search of fragrance: Tui Atua Tupua Tamasese Ta'isi and the Samoan Indigenous Reference</i> . Suaalii-Sauni, T et al (eds)., 2009, Apia: National University of Samoa, Chapter 14, pp.153-172. 7). Lealofi, E., "Samoan Jurisprudence: A Commentary", in <i>Su'esu'e Manogi: In search of fragrance: Tui Atua Tupua Tamasese Ta'isi and the Samoan Indigenous Reference</i> . Suaalii-Sauni, T et al (eds)., 2009, Apia: National University of Samoa, Chapter 29, pp.340-346.
Day 4: Wed, July 23	<i>What does jurisprudence look like in practice in the Pacific?</i> 8). New Zealand Law Commission, "A Pacific Jurisprudence", in <i>Converging Currents: Custom and Human Rights in the Pacific</i> , Study Paper 17, 2006, Wellington: NZ Law Commission, Part 3, pp.147-166.
Week Three	The tensions and synergies between law and custom
Day 5: Tues, July 29	<i>Examples of tensions and synergies between law and custom in the Pacific</i> Revisit Week 1 & 2 Readings

Day 6: Wed, July 30	How can a common jurisprudence for the Pacific cope, if at all, with the tensions? Revisit Week 1 & 2 readings
Week Four	Country Case-Studies: 1. Aotearoa/New Zealand
Day 7: Tues, Aug 5	What is Tikanga Maori (Maori custom or lore)? How does it sit within New Zealand law? 9). New Zealand Law Commission., “Māori custom law”, in <i>Māori Custom and Values in New Zealand Law</i> , 2001, Wellington: NZ Law Commission, Chapter 3, pp.15-59. 10). Mead, A.T.P., “Sacred Balance”. Unpublished paper for Global Biodiversity Assessment, Cultural and Spiritual Values of Biodiversity, United Nations Environment Programme (UNEP), Online at: http://www.ubcic.bc.ca/files/PDF/sacred.pdf . [Accessed 25 June 2013]. 11). Frame, A., “A few simple points about customary law and our legal system”. <i>Yearbook of New Zealand Jurisprudence</i> , Benton, R., (ed), 2010&2011, v13&14 (combined), Hamilton: University of Waikato, pp.20-28.
Day 8: Wed, Aug 6	Guest Lecture: Aroha Mead (TBC) (Student hosting) No set reading.
Week Five	Country Case-Studies: 2. PNG
Day 9: Tues, Aug 12	What is the relationship between PNG custom and PNG law? How is this relationship reflected in the jurisprudence of PNG today? 12). Revisit Narokobi reading (set for Week 2). 13). Muganaua, T., “Mambe Area, East Sepik Province”, in <i>Customary Law in Papua New Guinea: A Melanesian view</i> , Scaglione, R. (ed), 1983, PNG: Law Reform Commission of Papua New Guinea, Monograph No. 2, pp.24-35.
Day 10: Wed, Aug 13	Guest Lecture: Virgil Narokobi (Student hosting) No set readings.
Week Six	Country Case-Studies: 3. Samoa
Day 11: Tues, Aug 19	What is the relationship between Fa’asāmoa (Samoan custom or lore) and Samoa law? How is this relationship reflected in the jurisprudence of Samoa today? 14). Revisit Tui Atua reading (set for Week 2). 15). Suaalii-Sauni, T. “‘It’s in your bones!’: Samoan custom and discourses of certainty”, in <i>Yearbook of New Zealand Jurisprudence</i> . Benton, R. (ed), 2010&2011, v13&14 (combined), Hamilton: University of Waikato, pp.70-88. 16). Patu, F.S., et al. “Law and Custom”, in <i>Samoa’s Journey 1962-2012: Aspects of history</i> , Leasiolagi, M.M. et al (eds), 2012, Wellington: Victoria University Press, pp.18-43.
Day 12: Wed, Aug 20	Guest Lecture: TBC (Student hosting) No set readings.
Aug 25-Sept 7	MID-TRIMESTER BREAK
Week Seven	Country Case-Studies: 4. Palau
Day 13: Tues, Sept 9	What is the relationship between the customs or lore of Palau and Palau law? How is this relationship reflected in the jurisprudence of Palau today? 17). Yamase, Dennis K., “Organization of the Unified Judiciary of Palau”, in <i>Pacific Courts and Legal Systems</i> . Powles, Guy and Pulea, Mere (eds), 1988, Suva, Fiji: University of the South Pacific in association with the Faculty of Law, Monash University. 1988. Chapter 49, pp.255-261.

	18). Graham, T. and Idechong, N., “Reconciling customary and constitutional law: managing marine resources in Palau, Micronesia”, <i>Ocean and Coastal Management</i> , 1998, 40, pp.143-164.
Day 14: Wed, Sept 10	Guest Lecture: TBC (Student hosting) No set readings.
Week Eight	Reflective Class Discussion on Country Case Studies
Day 15: Tues, Sept 16	Reflecting on the New Zealand/Aotearoa and PNG cases: Student chaired sessions No set readings.
Day 16: Wed, Sept 17	Reflecting on the Samoa and Palau cases: Student hosted/chaired sessions No set readings.
Week Nine	Fieldtrip to Parliament & engaging with critical theoretical ideas
Day 17: Tues, Sept 23	Fieldtrip to Parliament No set readings.
Day 18: Wed, Sept 24	What can Feminism, Marxism and Mohanty's 'Postcolonial' readings tell us about the nature of and relationship between law and custom? 19). MacKinnon, C., “Feminism, Marxism, Method and the State: toward feminist jurisprudence”, In <i>Feminist Legal Theory: Readings in law and gender</i> . Bartlett, K and Kennedy, R (eds)., 1991, Boulder: Westview Press., pp.181-200. 20). Zorn, J.G., “Issues in contemporary customary law: women and the law”, in <i>Passage of Change: Law, Society and Governance in the Pacific</i> . Jowitt, Anita and Cain, Tess Newton (eds)., 2003, Canberra: Pandanus Books, Research School of Pacific and Asian Studies, The Australian National University, Chapter 6, pp.125-142. 21). Mohanty, C.T., “Under Western Eyes: Feminist Scholarship and Colonial Discourses”. <i>Feminist Review</i> , 1988, 30 (Autumn), pp.65-88.
Week Ten	Fieldtrip 2 to District Court & critical reflections
Day 19: Tues, Sept 30	What can Critical Legal Studies, and Foucault's governmentality tell us about the nature of and relationship between law and custom? 22). Matsuda, M.J., “Looking at the Bottom: Critical Legal Studies and Reparations”, <i>Harvard CR-CL LR</i> , 1987, 22, pp.323-399. 23). Foucault, M. “Governmentality”. In <i>The Foucault Effect: Studies in Governmentality, with two lectures by and an interview with Michel Foucault</i> . Burchell, G et al (eds)., 1991, London: Harvester Wheatsheaf, pp.87-104.
Day 20: Wed, Oct 1	Fieldtrip to District Court No set readings.
Week Eleven	Student Essay Topic-based Oral Presentations
Day 21: Tues, Oct 7	Student oral presentations on essay topic & class feedback
Day 22: Wed, Oct 8	Student oral presentations on essay topic & class feedback
Week Twelve	Course Summation & Shared Lunch

Day 23: Tues, Oct 14	Course Summation
Day 24: Wed, Oct 15	Shared Lunch
	Study week & exam period: Oct 20 - Nov 15 2014.