

CONFERENCE

# HUMAN RIGHTS LAW TRANS-TASMAN CONFERENCE

*August 2024*

*"This conference marks an important development in Trans-Tasman legal relations and the sharing of insights and experiences between the legal systems in both Australia and New Zealand."*

*Andrew Butler KC*

*"This conference will offer a fantastic opportunity for lawyers practising in the area of human rights and members of the legal profession with an interest in human rights issues."*

*Kylie Evans SC*



# HUMAN RIGHTS LAW TRANS-TASMAN CONFERENCE

## FROM THE CHAIRS



### COME AND JOIN US

*Human rights litigation has grown significantly on both sides of the Tasman over the last 10 years or so. Yet, despite the many similarities in our economic, social and legal cultures, reference to case law on the other side of the Tasman is relatively sparse.*

*This two-day case law conference is designed to enable practitioners on both sides of the Tasman to learn more about each other's human rights systems and case law in order to enrich each other's jurisprudence. It will focus on the statutory rights charters (in New Zealand, the ACT, Victoria and Queensland) and on the role of the common law.*



*The conference will cover some of the big issues of the day on both sides of the Tasman, including the impact of human rights litigation on criminal law and procedure, climate change, indigenous rights, religion and personal liberty.*

*We have lined up respected judges and leading practitioners from all the principal human rights jurisdictions and from the common law jurisdictions. Confirmed speakers include the Chief Justice of New Zealand, the Chief Justice of the Federal Court of Australia, and senior judges from New South Wales, Victoria and the ACT.*

*We are delighted to be involved and confident that the conference will offer a fantastic opportunity for lawyers practising in the area of human rights and also members of the legal profession with an interest in human rights issues, to get together and hear from a range of excellent speakers addressing some of the most important issues in human rights and common law jurisdictions.*

*The conference format has been designed to allow for plenty of delegate mingling so that attendees have opportunities to network and exchange ideas and experiences outside of the conference hall.*

*We are excited to be able to bring to you this inaugural Human Rights Law Trans-Tasman Conference and look forward to seeing you in Queenstown or online on 12 & 13 August 2024.*

**Andrew Butler KC and Kylie Evans SC**

## CHAIRS

### *Andrew Butler KC, Thorndon Chambers, New Zealand*

Andrew is a leading human rights litigator and academic. He has appeared in many of the leading New Zealand human rights cases, particularly at appellate level. Andrew is co-author of the leading text, *The New Zealand Bill of Rights Act: A Commentary* (2<sup>nd</sup> ed, 2015), which is regularly cited by the New Zealand courts. He is admitted as a practitioner in the ACT and recently appeared as lead counsel in a human rights appeal before the ACT Court of Appeal. Andrew has taught a number of LLM courses on human rights at the University of Melbourne Law School.

### *Kylie Evans SC, Victorian Bar, Australia*

Kylie Evans SC is a leading expert in human rights law. She has significant litigation experience acting for non-government and government clients in public, administrative and human rights law matters in courts and tribunals across Australia. Kylie has co-published three leading texts on the Victorian Charter and Queensland Human Rights Act. Since 2020, she has been a member of the Human Rights Advisory Panel advising the Queensland Parliament. Kylie is also a Senior Fellow at Melbourne Law School where she teaches and researches in human rights law.

# PROGRAMME

DAY ONE	
8.30-9.00 NZST	<b>REGISTRATION</b>
9.00-9.10	<b>WELCOME AND OPENING</b>   Chairs: Andrew Butler KC and Kylie Evans SC
9.10-9.55	<b>KEYNOTE - RIGHTS DOWN UNDER: CHARTING THE COURSE OF HUMAN RIGHTS LAW IN AUSTRALIA AND NEW ZEALAND</b>
Presenter	<i>The Rt Hon Helen Winkelmann (GNZM), Chief Justice of New Zealand</i>
9.55-10.40	<b>KEYNOTE - HUMAN RIGHTS PROTECTION IN AUSTRALIA: SETTING THE SCENE</b>
Presenter	<i>The Hon Justice Kristen Walker, Court of Appeal, Supreme Court of Victoria</i>
10.40-11.15	<b>MORNING TEA</b>
11.15-12.15	<b>DIFFERENCES AND SIMILARITIES BETWEEN NEW ZEALAND AND AUSTRALIA: A PRACTITIONER'S PERSPECTIVE</b>
Presenters	<i>Joanna Davidson, Victorian Bar, Australia and Prof Jason Varuhas, Crown Law Office, New Zealand</i>
12.15-1.00	<b>COMPARING AND CONTRASTING COMMON LAW AND STATUTORY PROTECTION OF HUMAN RIGHTS</b>
Presenter	<i>The Hon Justice Kristina Stern, Court of Appeal, Supreme Court of New South Wales</i>
1.00-2.00	<b>LUNCH</b>
2.00-3.00	<b>CULTURAL RIGHTS AND HUMAN RIGHTS STATUTES</b>
Presenters	<i>Prof Claire Charters, University of Auckland, New Zealand and Tony McAvoy SC, New South Wales Bar, Australia</i>
3.00-3.45	<b>CRIMINAL PROCESS RIGHTS UNDER HUMAN RIGHTS STATUTES</b>
Presenters Moderator	<i>Nick Chisnall KC, Augusta Chambers, New Zealand and Saul Holt KC, Queensland Bar, Australia The Hon Justice Chrissa Loukas-Karlsson, Supreme Court of the Australian Capital Territory</i>
3.45-4.15	<b>AFTERNOON TEA</b>
4.15-5.00	<b>CHALLENGES FOR COURTS IN HUMAN RIGHTS LITIGATION ON BOTH SIDES OF THE TASMAN</b>
Presenters Moderator	<i>The Rt Hon Helen Winkelmann (GNZM), Chief Justice of New Zealand and The Hon Debra Mortimer, Chief Justice of the Federal Court of Australia The Hon Pamela Tate AM KC</i>
5.00-5.10	<b>WRAP UP</b>   Chairs: Andrew Butler KC and Kylie Evans SC
7.00-11.00	<b>CONFERENCE DINNER</b>   Dress code: business or formal dinner attire

## DAY TWO

9.00-9.05 NZST **WELCOME BACK** | Chairs: Andrew Butler KC and Kylie Evans SC

### 9.05-10.00 ADDRESSING CLIMATE CHANGE ISSUES THROUGH HUMAN RIGHTS STATUTES

Presenter *Andrew Butler KC, Thorndon Chambers, New Zealand*

### 10.00-10.40 FREEDOM OF THOUGHT, CONSCIENCE, AND RELIGION: THE CURRENT LANDSCAPE IN LEGISLATION AND CASE LAW

Presenter *Paul Rishworth KC, Britomart Chambers, New Zealand*

10.40-11.00 **MORNING TEA**

### 11.00-11.50 LITIGATING HUMAN RIGHTS: EVIDENCE AND REMEDIES

Presenters *Kylie Evans SC, Victorian Bar, Australia and a New Zealand Specialist*

### 11.50-12.30 THE HIGH COURT AND THE RIGHT TO LIBERTY: NZYQ

Presenter *Craig Lenehan SC, New South Wales Bar, Australia*

12.30-1.30 **LUNCH**

### 1.30-2.30 EMERGING ISSUES AND TRENDS

Presenters *Panel Discussion*

2.30-2.50 **CONFERENCE WRAP UP** | Chairs: Andrew Butler KC and Kylie Evans SC

#### LEARNING OBJECTIVES

By attending this conference you will:

- Be updated on topical issues, legislation and case law on both sides of the Tasman.
- Deepen your understanding of human rights issues and practice in Human Rights Acts and common law jurisdictions.
- Be able to apply this knowledge to your practice.

#### ACKNOWLEDGEMENT

NZLS CLE Ltd wishes to thank the committee members who have worked to shape this exciting legal conference: Mark Barrow (ACT), Simeon Beckett SC (NSW), Andrew Butler KC (NZ), Kylie Evans SC (Vic, Qld), Saul Holt KC (Qld), Robert Kirkness (NZ), Paul Rishworth KC (NZ), the Hon Pamela Tate AM KC (Vic), Peter Tierney (NSW, ACT) and Professor Jason Varuhas (NZ, Vic).

## KEYNOTE SPEAKERS



### *The Right Honourable Helen Winkelmann (GNZM), Chief Justice of New Zealand*

The Rt Hon Helen Winkelmann (GNZM) was sworn in as New Zealand's 13<sup>th</sup> Chief Justice on 14 March 2019. She is the second Chief Justice since introduction of the Supreme Court Act 2004 which ended appeals to the Privy Council.

A graduate from Auckland University, Justice Winkelmann began work as a law clerk with Auckland firm Nicholson Gribbin (later Phillips Fox, now DLA Piper). She was admitted to the bar in 1985. In 1988, she became the first female partner and one of the youngest ever in the firm's then 117-year history. Justice Winkelmann remained at the firm until 2001 when she began practice as a barrister sole specialising in insolvency, commercial litigation, and medical disciplinary litigation. In 2004 she was appointed as a High Court Judge followed by Chief High Court Judge in 2010, and was appointed to the Court of Appeal in 2015.

From November 2012 – November 2019 she was Chair of the Institute of Judicial Studies – the body responsible for providing continued education to judges. As Chief Justice she retains a keen interest in judicial education.



### *The Honourable Justice Kristen Walker, Court of Appeal, Supreme Court of Victoria*

Her Honour Justice Kristen Walker is a Judge of Appeal of the Supreme Court of Victoria. She was appointed on 3 May 2021. Prior to joining the Court, Justice Walker was the Solicitor-General for Victoria, having been appointed in 2017. Prior to that she practised at the Victorian Bar, specialising in public law, principally appearing in the High Court of Australia. Before being called to the Bar, Justice Walker was an Associate Professor at Melbourne Law School, where she remains a Principal Fellow and teaches in the Melbourne Law Masters program.

Justice Walker graduated from the University of Melbourne with an LLB (Hons) (taking the Supreme Court Prize) and a BSc. She was editor of the *Melbourne University Law Review* in 1991. Justice Walker has a Master of Laws from both the University of Melbourne and Columbia Law School. After completing her articles at Arthur Robinson & Hedderwicks she served as associate to Sir Anthony Mason, Chief Justice of Australia.

## JUDGES



### *The Honourable Debra Mortimer, Chief Justice of the Federal Court of Australia*

Her Honour Justice Debra Mortimer was appointed as the Chief Justice of the Federal Court of Australia in April 2023. Justice Mortimer is the fifth Chief Justice and the first female Chief Justice of the Federal Court. She was appointed as a judge of the Federal Court in 2013, and prior to her appointment, was a member of the Victorian Bar. Justice Mortimer was appointed Senior Counsel in 2003.



### *The Honourable Justice Kristina Stern, Court of Appeal, Supreme Court of New South Wales*

Her Honour Justice Kristina Stern was sworn in as a Judge of the New South Wales (NSW) Supreme Court and a Judge of Appeal of the NSW Court of Appeal on 8 June 2023. Justice Stern commenced practice as a solicitor in Victoria, before moving to England and appearing in the Court of Appeal and House of Lords in numerous cases under the Human Rights Act 1998 (UK).

In 2006, she moved to the Sydney Bar maintaining a wide practice in commercial, administrative and constitutional law. Justice Stern appeared in the High Court in *Momcilovic v The Queen*, *Hobart International Airport v Clarence City Council*, *Bywater v Federal Commissioner of Taxation* and *Mount Bruce Mining v Wright Prospecting* and was instructed on behalf of the Australian Human Rights Commission in *Comcare v Banerji* and *Smethurst v Commissioner of Police*.



## SPEAKERS



*Professor Claire Charters, (Ngāti Whakaue, Tūwharetoa, Ngā Puhi, Tainui), University of Auckland Waipapa Taumata Rau, New Zealand*

Claire is a professor at the University of Auckland Faculty of Law, specialising in indigenous peoples' rights in international and constitutional law. She has published and spoken widely on the United Nations Declaration on the Rights of Indigenous Peoples, comparative indigenous constitutional rights in New Zealand, Canada and the United States, and tino rangatiratanga and tikanga Māori in New Zealand. In March 2023, Claire was appointed to the Human Rights Commission as Rongomau Takekake to lead work on Indigenous Peoples' rights.



*Nick Chisnall KC, Augusta Chambers, New Zealand*

Nick specialises in criminal appellate litigation. He has appeared in many of New Zealand's leading and reported cases in the Supreme Court and Court of Appeal. Nick joined the independent bar in 2017. Before that, he was the Public Defence Service's (PDS) General Counsel and oversaw its appellate practice. Prior to joining the PDS, Nick was Crown Counsel at the Crown Law Office and took silk in 2022.



*Joanna Davidson, Victorian Bar, Australia*

Joanna's principal areas of practice are administrative law, human rights law and discrimination. In her previous role as Special Counsel in the Victorian Government Solicitor's Office, Joanna has appeared in a range of civil, criminal and administrative law proceedings in the High Court of Australia, the Federal Court, Court of Appeal, Supreme Court and the Victorian Civil and Administrative Tribunal.



*Saul Holt KC, Queensland Bar, Australia*

Saul was first admitted in New Zealand. He took silk in Victoria in 2012 while Chief Counsel at Victoria Legal Aid. Saul is now based in Queensland and practises in all States and Territories across all aspects of public law.



*Craig Lenehan SC, New South Wales Bar, Australia*

Craig came to the bar in May 2006 and was appointed Senior Counsel in 2019. He specialises in constitutional and administrative law matters and appellate work. Craig is a member of the Human Rights Committee of the New South Wales Bar Association and of the Ethics Committee of the Australian Bar Association. He has appeared in 44 appeals and original jurisdiction matters in the High Court involving questions arising under the Constitution or other significant public law issues.



*Tony McAvoy SC, New South Wales Bar, Australia*

Appointed Senior Counsel in 2015, Tony has developed a strong native title practice and has successfully appeared for claimants in several land claims. He has also acquired significant experience in the areas of environmental law, administrative law, human rights and discrimination law, coronial inquests and criminal law.

## SPEAKERS



*Paul Rishworth KC, Britomart Chambers, New Zealand*

Paul's practice comprises litigation and advice on matters of general public and constitutional law, with an emphasis on human rights and anti-discrimination law. He has represented and advised individuals, government, Crown entities and institutions on claims at all levels of the New Zealand court system as well as before the Human Rights Review Tribunal and Inquiries.



*Professor Jason Varuhas, Te Tari Ture o te Karauna Crown Law Office, New Zealand*

Jason is Senior Crown Counsel at the New Zealand Crown Law Office, Professor of Law at the University of Melbourne, the founder and co-convenor of the Public Law Conferences, a senior research fellow at the New Zealand Centre for Public Law at Victoria University of Wellington and was previously Director of the Centre for Comparative Constitutional Studies at Melbourne Law School. He has published widely in the fields of constitutional, administrative, human rights and private law, and is the author of leading treatises on administrative law, the law of torts, and the law of damages.

## MODERATORS



*The Honourable Justice Chrissa Loukas-Karlsson, Supreme Court of the Australian Capital Territory*

Justice Loukas-Karlsson was appointed to the ACT Supreme Court in 2018 and has a reputation for legal excellence and understanding social justice. As a barrister and Senior Counsel she was highly regarded as a leader of the profession. Justice Loukas-Karlsson began her career at the Aboriginal Legal Service and Legal Aid Commission, representing the marginalised and disempowered. She has also worked in International Criminal Law at the Hague.



*The Honourable Pamela Tate AM KC, Monash University, Australia*

The Honourable Pamela Tate AM KC is an Adjunct Professor of Law at Monash University and a former judge of the Victorian Court of Appeal. When Solicitor-General of Victoria, she was Special Counsel to the committee that recommended the enactment in 2006 of Victoria's Charter of Human Rights and Responsibilities.

# INFORMATION

## VENUE

### QUEENSTOWN, NEW ZEALAND

12-13 August 2024

### Rydges Lakeland Resort Queenstown

38-54 Lake Esplanade

Queenstown

+64 3 442 7600

### LIVE WEB STREAM

12-13 August 2024

### At your desk or device

**Please note:** Live Web Stream registrations close 3pm NZST Friday 9 August

## FEE

The registration fee includes all catering (including the conference dinner) and a Hard Copy or PDF book. Live Web Stream: international courier fee for Hard Copy books applies.

## BOOK

Books are available in Hard Copy, PDF or Both. Please indicate your choice over page.

### Live Web Stream: International courier fee for Hard Copy books applies – indicative cost \$100-\$150 NZD

- **Hard Copy**

Your book will be given to you when you register on the day (live web stream attendees, your book will be couriered to you - international courier fee applies - you will be contacted to arrange details).

- **PDF**

You will be emailed a PDF copy of the book 3 working days before the event.

- **Both Hard Copy & PDF**

You will be emailed a PDF copy of the book 3 working days before the event, and can collect the hard copy book when you register on the day.

## CONFERENCE DINNER

Dinner will take place in the Bazaar Restaurant and will be a great chance to connect and celebrate the conference. The conference registration fee includes your own attendance at the dinner. If you wish to bring a guest to the dinner the cost will be \$165 per person. Please register your guest/s on the registration form.

## ACCOMMODATION

### City Hotel Options

#### Rydges Lakeland Resort Queenstown or QT Hotel & Resort\*

1. Visit [www.rydges.com](http://www.rydges.com) or [www.qthotelsandresorts.com](http://www.qthotelsandresorts.com)
2. Select your chosen hotel, your required dates\*\* and number of guests staying then click “GO”
3. Click “I have a code”
4. In the “Corporate ID” field enter your booking code: **HUMANRIGHTS24**
5. Click “UPDATE”
6. Your special rates will appear on the rates screen

\*\*Rates are available for stays between **11.08.2024-15.08.2024**

\*To book accommodation at the special 2024 NZLS CLE Human Rights Law Trans-Tasman Conference rate, please use the links above. The room rate is valid for the **dates above only** and will be subject to availability and no rooms will be held. Guests are responsible for payment of the room directly to the hotel. For inquiries outside of these dates please contact the hotel directly using the information below.

## RESERVATION INQUIRIES

### Rydges Lakeland Resort

+64 3 442 7600

[reservations\\_rydgesqueenstown@evt.com](mailto:reservations_rydgesqueenstown@evt.com)

### QT Hotel & Resort

+64 3 450 3450

[reservations\\_qtqueenstown@evt.com](mailto:reservations_qtqueenstown@evt.com)



<b>First name, Last name</b>		<b>Lawyer ID Number (NZ)</b>
<b>Firm/Organisation (if applicable)</b>		
<b>Address</b>		
PO Box:	DX:	
Street Address:		
Suburb:	Postcode:	
Town/City:	Country:	
<b>Phone</b>		
<b>Email</b>		
<b>Dietary Requirements</b>		

**FEE** (Incl GST) all prices are in \$NZD – includes book, catering and dinner

**SPECIAL OFFER** – Register by 30 June 2024 to benefit from discounted prices

	Up to 30 June	From 1 July
New Zealand Law Society member or associate member In-Person	<input type="checkbox"/> \$1,625	<input type="checkbox"/> \$1,675
Non-member In-Person	<input type="checkbox"/> \$1,825	<input type="checkbox"/> \$2,177
New Zealand Law Society member or associate member Live Web Stream	<input type="checkbox"/> \$1,575	<input type="checkbox"/> \$1,625
Non-member Live Web Stream	<input type="checkbox"/> \$1,775	<input type="checkbox"/> \$2,112

**Live Web Stream Group Pricing Option** – see [www.lawyerseducation.co.nz](http://www.lawyerseducation.co.nz) for options & how to register.

**BOOK OPTIONS** – books are available in Hard Copy AND/OR PDF – you must indicate your choice.

*Please note the book charges below are for conference registrants only.*

**Live Stream: International courier fee for Hard Copy books applies – indicative cost \$100-\$150 NZD\***

<input type="checkbox"/> <b>Hard Copy OR</b>	\$ no extra charge*
<input type="checkbox"/> <b>PDF OR</b>	\$ no extra charge
<input type="checkbox"/> <b>Both Hard Copy and PDF</b>	+ \$30*

**ADDITIONAL DINNER GUESTS** \$165 / guest

Guest Name 1:		Guest Name 2:	
<b>CONFERENCE FEE</b>	<b>BOOK – BOTH HARD COPY AND PDF</b>	<b>DINNER GUEST/S</b>	<b>TOTAL DUE</b>
\$ _____ + \$ _____ + (\$165 X _____) \$ _____ = \$ _____			

## PAYMENT

☐ **PAY BY DIRECT CREDIT:** Acc. Name 'NZLS CLE Ltd' Acc. Number 12-3192-0049995-00  
**SWIFT Code:** ASBBNZ2A **Reference:** Include your last name & name of organisation as the reference

If you are registering from outside NZ and paying by direct credit, please add \$30 NZD bank fee.

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Name on Card:	<input type="radio"/> Visa <input type="radio"/> Mastercard <input type="radio"/> Amex	
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## REGISTER ME FOR

☐ **QUEENSTOWN, NZ**  
12-13 AUGUST 2024

☐ **LIVE WEB STREAM**  
12-13 AUGUST 2024

**Please note:** Live Web Stream registrations close 3pm NZST Friday 9 August

## REGISTER

### ONLINE

[www.lawyerseducation.co.nz](http://www.lawyerseducation.co.nz)

### EMAIL

[registrations@lawyerseducation.co.nz](mailto:registrations@lawyerseducation.co.nz)

### POST

NZLS CLE Ltd, PO Box 5041,  
Wellington 6140, DX SP20202

### INQUIRIES

0800 333 111 (within NZ)  
+64 4 463 2909 (international)  
[cle@lawyerseducation.co.nz](mailto:cle@lawyerseducation.co.nz)

**All fees are quoted in New Zealand Dollars and include GST (Goods and Services Tax) which is payable by both New Zealand residents and non-residents. GST is 15%.**

### CANCELLATION AND REFUND POLICY

You may cancel your registration **eight** working days in advance of an event, and you will receive a refund less a **25%** administration fee. If you cancel less than **eight** working days in advance of the event, no refund is payable. If you are unable to attend, you may transfer your registration to another person. If you wish to do so you must advise CLE in writing of the change. NZLS CLE Ltd reserves the right to close registrations, and, cancel or reschedule an event as necessary. Where an event is cancelled by CLE, a full refund is payable.

### PRIVACY ACT 2020

The information requested on this registration form is for NZLS CLE Ltd and the sponsors only.

☐ I do not wish the sponsors to receive my contact details.