The first wave of Bill of Rights activity, back in the 1990s, washed over the criminal bar. There were cases about search and seizure, right to counsel, unduly delayed trials, the right to silence, remedies, and more.

Now, after nearly 25 years, numerous developments have occurred across most fields of legal practice:

- Due process in regulatory investigations
- Bill of Rights consistency as a substantive ground of review in administrative law
- Human rights influencing the common law in private litigation, as in *Lange v Atkinson* and *Hosking v Runting*
- Human rights affecting statutory interpretation and the reading down of broad powers and concepts as in *R v Brooker* and *Police v Morse*
- Human rights invalidating delegated legislation
- A new procedure for litigating discrimination cases, the impact of which is seen in *Minister of Health v Atkinson* and *Minister of Health v Idea Services*
- Continuing private sector discrimination cases, in employment, goods and services, and accommodation, many pitching equality rights against freedoms.

This intensive will review and explain these developments, as well as discussing new areas of likely development. The day will include case scenarios that will be introduced throughout the programme and resolved at the final session.

This intensive is a must for lawyers whose clients engage with the state and (as we all must) the state’s laws. It aims to empower lawyers to know when human rights arguments are worth making, and how to make them effectively.

An eminent panel of knowledgeable presenters has been assembled. I am looking forward to the day immensely and encourage you to be there.

Professor Paul Rishworth
Auckland
Programme

8.30 – 9.00  **REGISTRATION**  – Tea and coffee will be available

9.00 – 9.20  **INTRODUCTION TO THE DAY AND CASE SCENARIOS**

*Chair: Professor Paul Rishworth*

9.20 – 10.20  **SESSION 1: THE BILL OF RIGHTS AND THE PRINCIPLE OF LEGALITY IN ADMINISTRATIVE LAW**

• How does BORA affect the standard of review?
• How does BORA influence statutory interpretation?
• BORA and the rise of the legality principle
• Constructing a BORA argument on the merits.

**Presenter**  *Grant Illingworth QC*

10.20 – 10.40  **MORNING TEA**

10.40 – 11.30  **SESSION 2: BILL OF RIGHTS IN THE BUSINESS AND REGULATORY ENVIRONMENTS**

This session will focus on when and how the Bill of Rights applies in these environments and discuss some of the potential substantive applications of the BORA in them. There will be a particular focus on the limits that the BORA can place on the exercise of regulatory powers, including under the Commerce Act, tax legislation, primary industries sector and the like.

**Presenters**  *Dr Andrew Butler and Joss Opie*

11.30 – 12.30  **SESSION 3: BORA, DELEGATED LEGISLATION AND THE ULTRA VIRES DOCTRINE**

• Specific references to BORA in s 155 of the Local Government Act on bylaw-making
• Specific references to BORA in other laws empowering bylaw-making
• *Drew* case on delegated legislation and consistency with BORA
• “Prescribed by law” rule of law problems with vague and uncertain delegated legislation
• Case studies.

**Presenter**  *Mai Chen*
### 1.30 – 3.00  
**SESSION 4: EQUALITY AND ANTI-DISCRIMINATION LAW**

- Public sector discrimination under Part 1A Human Rights Act 1993 (using the BORA standard)
- Defining discrimination: the questions of purpose, comparator groups, and justification

**Presenters**  
*Cheryl Gwyn, Frances Joychild QC and Professor Paul Rishworth*

### 3.00 – 3.20  
**AFTERNOON TEA**

### 3.20 – 4.30  
**SESSION 5: REMEDIES**

Remedies for breach of rights – the pot of gold at the end of the human rights rainbow? Including:
- BORA remedies
- Part 1A remedies
- International remedies.

**Presenters**  
*Dr Rodney Harrison QC and Peter Barnett*

### 4.30 – 4.55  
**CASE SCENARIOS DISCUSSION AND RESOLUTION**  
*Professor Paul Rishworth and Panel*

### 4.55 – 5.00  
**SUMMARY OF THE DAY** – Chair: Professor Paul Rishworth

### LEARNING OBJECTIVES

You will be:
- Updated on recent developments and best practice in human rights law.
- Able to apply this knowledge in your practice.
Peter Barnett, Russell McVeagh, Wellington

Peter is a senior solicitor at Russell McVeagh in Wellington, specialising in civil litigation and public law. He is a member of NZLS’s Human Rights and Privacy Committee and has appeared in a number of leading cases under Part 1A of the Human Rights Act.

Dr Andrew Butler, Russell McVeagh, Wellington

Andrew is a litigation partner at Russell McVeagh, Wellington. He has extensive trial and appellate advocacy experience in the New Zealand Bill of Rights, including as Crown Counsel prior to joining Russell McVeagh. He is co-author of The New Zealand Bill of Rights Act: A Commentary (2006).

Mai Chen, Chen Palmer, Wellington/Auckland

Mai is a partner in Chen Palmer – public and employment law specialists, an Adjunct Professor in commercial and public law at the University of Auckland Business School, the best-selling author of Public Law Toolbox (LexisNexis, March 2012), a former member of the Securities Commission, and the inaugural Chair of New Zealand Global Women and of NZ Asian Leaders.

Cheryl Gwyn, Deputy Solicitor-General, Crown Law Office, Wellington

Cheryl is Deputy Solicitor-General (Attorney-General’s Group). Before joining the Crown Law Office in December 2003 she was Deputy Secretary for Justice (Public Law). Cheryl began her legal practice at Chapman Tripp in Auckland, where she became a litigation partner and was later a partner at Russell McVeagh in Wellington.
WHO SHOULD ATTEND

Civil litigators, criminal lawyers, public law practitioners and government lawyers.

MATERIALS

A booklet of papers will be given to participants when they register on the morning of the intensive.

PRESENTERS

**DR RODNEY HARRISON QC, AUCKLAND**

Rodney took silk in 1994. He has taken many leading public law and human rights cases, including Treaty litigation; same-sex marriage rights; NZBORA remedies for police wrongdoing; free speech guarantees; the search and entry powers of the Police, SFO and NZSIS; refugee detentions post 9/11; the Ahmed Zaoui case; and criminal legal aid fixed fees.

**GRANT ILLINGWORTH QC, AUCKLAND**

Grant has an LLM (Hons) from Auckland University and became a QC in 2003. He specialises in judicial review and has expertise in constitutional & administrative law, professional ethics and civil litigation. Grant is a member of the NZLS Rule of Law Committee.

**FRANCES JOYCHILD QC, BARRISTER, AUCKLAND**

Frances is an Auckland Queens Counsel and former Law Commissioner. She specialises in civil litigation, human rights and public law. Frances was counsel for the plaintiff in several recent leading human rights cases.

**JOSS OPIE, BUDDLE FINDLAY, WELLINGTON**

Joss is a senior associate at Buddle Findlay and a member of the NZLS Human Rights and Privacy Committee. He has litigated in the Inter-American human rights system, and his LLM (University of Toronto) was focused on human rights.

Information about the day
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