



Michael &
Suzanne
Borrin
Foundation

Inspiring National Indigenous Legal Education for Aotearoa New Zealand's Bachelor of Laws Degree

Phase Two: Consultation 2021
Part I – Survey Report





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Front cover and this spread: University of Otago LLB graduates, 2021.



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Issues Paper

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Nei rā te mihi ki ngā iwi ki ngā hapū maha, nā koutou i tū kaha, i tū māia ahakoa ngā whiunga mai o te wā. Nā koutou e ū tonu ana te iwi Māori ki āna tikanga, ki tōna rangatiratanga motuhake.

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Waiho mā ēnei kupu a Hēnare te Ōwai o Ngāti Porou, hei whakarāpopoto te wai o tēnei rangahau. Koinei katoa hei takoha hoki mā mātou ki ngā reanga whai mai. Tēnā koutou katoa.

*Mā wai rā
e taurima
te marae i waho nei?
Mā te tika
mā te pono
me te aroha e...*

It is right that we first lament those who have passed beyond the veil. May they rest among the illustrious, in the embrace of the most high. May there be life and vitality for we who have been left behind.

We recognise with pride the many peoples of the Māori world who stood firm and brave despite the suffering and challenges of the times. You have never yielded; Māori people remain firmly connected to their tikanga, their own distinct ways of being in this world.

We acknowledge warmly those who supported us, those who shared your deep knowledge with us. We were fortunate indeed, as your teaching and direction are reflected in this report and its recommendations.

Our sincere acknowledgments extend also to the Deans of this country's law schools, and to those people who supported our work from the broader legal community. Your support of us has enabled this stage to be completed well.

Of course, our warm greetings and thanks go also to the Borrin Foundation, by your support this work became possible. For this we are sincerely grateful.

We leave the last words to Hēnare te Ōwai of Ngāti Porou, to summarise the essence of this research. This research and the work yet to be done is our promise, and our gift to the generations to come. Tēnā koutou katoa.

*Mā wai rā
e taurima
te marae i waho nei?
Mā te tika
mā te pono
me te aroha e...*

*Who then,
will protect the marae here?
It will be truth,
justice,
and love.*

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The tohu used in this report

The artwork in this report was created by Tristan Marler (Te Rarawa)

We have used a tohu design in this report to conceptually support what we are advocating for. The design consists of two main parts; the chevron is made of Haehae/Pākati which represent Kupe's Law and the history of our people pre-European contact. The Niho taniwha design is enclosed by the Haehae/Pākati pattern and represents Cook's law. The arrangement of this design can also be interpreted as the pattern Aronui which symbolises the three baskets of knowledge. When repeated the design forms a Tukutuku panel and the pattern changes again. This pattern is Pātiki (flounder) which is about being able to provide for whanau or Iwi.

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I. Hei Whakarāpopoto | Executive Summary

Introduction

This report is part of a multiphase research project entitled “Inspiring New Indigenous Legal Education for Aotearoa New Zealand’s LLB Degree”, a nationwide collaboration of all Māori legal academics in Aotearoa New Zealand’s faculties/schools of law. This project has the potential to transform legal education and the legal profession in Aotearoa New Zealand, and in turn influence how law impacts the lives of New Zealanders.

In August 2020, we published our Phase One final report, *Strengthening the Ability for Māori Law to Become a Firm Foundational Component of a Legal Education in Aotearoa New Zealand*. In that report we made a call for university faculties/schools of law to move in a formal way towards becoming bijural, bicultural and bilingual. Such a call is both significant and sensitive, and we needed to find out how such a move might be perceived and, if supported, how it might be undertaken.

The Michael and Suzanne Borrin Foundation generously funded us in 2021 to test whether there is general support from mana whenua, the legal profession, law academics and law students for this bold call for change. We formulated the following research question to guide our inquiry:

Would moving towards a bijural, bicultural and bilingual legal education be a good move for the practice of law in Aotearoa New Zealand and what would be the associated opportunities and risks?

We designed Phase Two of the project to test whether our recommendations for change were acceptable in practice and to explore how such change might be implemented. This includes the extent of change, the time frame involved, and any practical matters in relation to that process of change. We expected some concerns to be voiced both by the general legal profession who may not see Māori law as relevant to their practice and by hapū about maintaining the integrity of tikanga Māori if Māori law was to be comprehensively taught in universities. We sought to engage with all these views in order to understand whether the change we see supported in the literature is broadly accepted by those impacted and, if it was, what the challenges may be to implementing such a change.

The outcome for Phase Two – Consultation is a report that is divided into two parts. This is Part I of that report, which outlines and discusses the findings from an online survey. The online survey was launched on 13 May 2021 and was open for three weeks. We invited participants from a contact list of university law and Māori studies academics and law student organisations, community law centres and law firms, government agencies, iwi and Māori organisations. The survey was completed by 201 people. We report on both the qualitative and quantitative survey results here.

We also undertook a number of interviews. The interviews were conducted by the research team between January and June 2021 with people who had some specialist knowledge in law, legal education, and/or iwi and hapū affairs. Most of the interviews were with individuals, but some were held with groups. We conducted 32 interviews involving a total of 83 people. We will report on these findings in an Interviews report (Part II of Phase Two), which will be published later in 2021.

Methods

Our research project is purposively Māori-led. We are a national Māori research academic team trained in Pākehā law. We prioritise and value kaupapa Māori research methodologies and Indigenous legal methods, which we see as sitting alongside Western legal analysis. We ground our research in a deep respect for Māori law, broader Indigenous legal traditions, He Whakaputanga Declaration of Independence (1835), Te Tiriti o Waitangi (1840) and the United Nations Declaration on the Rights of Indigenous Peoples (2007).

We developed a mixed-methods consultation programme consisting of both qualitative and quantitative research practices. We set out to:

- Run an online survey; and
- Conduct in-person or online interviews with individuals and groups.

There were five substantive parts to our online survey:

1. Te reo Māori in university legal education;
2. Māori law in university legal education;
3. Biculturalism in university legal education;
4. Bijural legal system; and
5. Respondents' experiences with tertiary education, te reo Māori, tikanga Māori and Māori law.

The key findings for each of these parts are summarised below.

Key Findings

Te Reo Māori in University Legal Education

- 71% of respondents supported law students being required to pass introductory te reo Māori papers as part of their law degree.
- But 54% of respondents did not support law students to be required to pass advanced te reo Māori 300-level papers.
- Making some level of te reo Māori mandatory gave symbolic importance to te reo Māori, created an "even playing field" for graduates, and would help ensure that legal professionals had better skills to practise law in Aotearoa New Zealand.
- But respondents also said learning a new language is difficult and may increase the educational burden on some law students or put off those who struggle with a new language. Some students may not see the relevance of learning te reo Māori as part of their law degree.
- Respondents strongly supported law schools providing significant professional development support for staff to learn or improve their te reo Māori (88%). Improved pronunciation of te reo Māori was also important, especially of student names.
- Only 15% disagreed that law students who are fluent in te reo Māori should be actively encouraged to submit their law course assessments in te reo Māori.

I. Hei Whakarāpopoto | Executive Summary CONT.

Māori Law in University Legal Education

- The vast majority of the respondents (83%) agreed that Māori law should be taught as a required part of an LLB degree and most (71%) felt that Māori law should be taught in *all* law papers.
- Respondents noted that Māori law is part of the legal system in Aotearoa New Zealand and therefore law students should understand the nature and history of that law if they are to practise law in a knowledgeable way.
- A number of respondents felt that learning more about Māori law would improve the just operation of the legal system. Māori access to justice within the legal system would improve if all lawyers understood Māori law.
- There was also strong support for Māori expertise from mana whenua in teaching Māori law to law students. Iwi-based tikanga would help protect the integrity of Māori law and protect against the risk of misinterpretation or misrepresentation of Māori legal principles and tikanga Māori.
- Quality of the teaching content and under-resourcing of teaching Māori law was a concern. Some expressed concern that the staff would not have the time for, or the access to, good quality professional development in teaching a new area of law.
- Some academic respondents were not sure how Māori law would relate to their area of expertise (e.g., the law of torts).
- Others were concerned that there would not be quality systems to protect Māori staff against racism, backlash or overwork. Some were concerned about how to protect the academic freedom to critique Māori law.

Biculturalism in University Legal Education

- More than 85% of the respondents agreed that law schools should have an action plan detailing commitments to a bicultural legal education; Māori leadership in law schools should be advanced and visible; the number of Māori law lecturers should increase; and Māori law lecturers should be involved in developing a bicultural curriculum.
- The majority of respondents supported bicultural legal education that implements structures, develops processes, and provides resources grounded in Te Tiriti o Waitangi, including the employment of Māori, and sharing of resources, and leadership and decision-making with Māori academic staff.
- 65% or more of respondents thought that budgets should prioritise law schools as bicultural; mana whenua should be involved in developing a bicultural curriculum; and law students should be taught some of their courses on marae and in accordance with Māori teaching methods.
- Respondents emphasised that breaking down racism and equipping graduates with bicultural skills would have positive impacts on law schools, including creating a safer place for Māori students. These skills would also be beneficial to graduates' future legal practice.
- Respondents recognised that committing to bicultural practices would help to create a more accessible law school that will lead to more bicultural competent and confident graduates. Respondents also expressed concern that Māori staff should not be overburdened with making bicultural structural changes, as this is a Pākehā responsibility as well.

- Respondents emphasised the risks common to creating structural and systemic change in an institution such as insufficient resources, poorly managed leadership to any resistance and pushback, and changes made in haste. Others raised concerns about the burden on the small number of current Māori academics and the impact of a racist backlash on Māori staff and students.
- Several respondents were concerned that a commitment to biculturalism would erode multicultural relationships, and commitments to bicultural practices might deviate faculties of law from their prime purpose of teaching law.

Bijural Legal System

- Over 90% of respondents believed the legal system would be moderately or very much improved by judges and lawyers having a greater understanding of tikanga Māori.
- Judges would have more tools with which to understand the Māori perspective and be more responsive to the different legal principles at play in a dispute. There may be more equitable and just outcomes if judges and lawyers understand and can apply tikanga Māori principles in an appropriate and relevant way.
- 86% of respondents thought that the legal system would be moderately or very much improved by judges and lawyers having a greater understanding of te reo Māori. These skills would help to improve the legal system overall to be more responsive to the changing nature of Aotearoa New Zealand society.
- Even where there was strong support for lawyers and judges to have more understanding of tikanga Māori, there was concern that over confidence in their knowledge could lead to distortions or misrepresentations of tikanga. This could cause problems if the codification of tikanga was inappropriate, in a Māori sense. If the judiciary does not understand tikanga differences between iwi or acknowledge the tikanga expertise of others, unnecessary and potentially harmful mistakes could be made.

Respondents' Experiences with Tertiary Education, te Reo Māori, Tikanga Māori and Māori Law

- Most respondents thought that having more knowledge about te reo Māori (94%), Māori law (89%) and tikanga Māori (94%) would be helpful for their work.
- Only 5% or less indicated it would not be helpful at all.
- Nearly two-thirds (64%) of the respondents had studied some level of te reo Māori. The most common places to study te reo Māori were at university (44%), high school (39%) or wānanga (19%).
- Students have the opportunity to submit their assessments in te reo, but many remain unclear about it.
- Respondents were generally supportive of the intent of this survey.

Conclusion

Phase Two is the central component of this multiphase national research project. As the outcome of Part I of this phase, this survey report provides us with a deeper appreciation of the extent of the support and the perceived opportunities and risks associated with our call for transformational legal education. In 2022, we will publish our Part II report, which will detail the findings from our interviews with a range of experts.

We look forward to having the opportunity to pursue Phase Three – Models. If we are successful in obtaining funding for Phase Three, we will develop researched ideas and models for how we as Māori law academics think Aotearoa New Zealand can successfully transition to teaching the LLB degree in a bicultural, bilingual and bijural manner, taking into account all the responses we received in Phase Two.



II. He Kupu Arataki | Introduction

Background

“In 1840 we had been here for a thousand years. We had a highly workable and adaptable system of law in operation, and Te Tiriti o Waitangi guaranteed that it would remain as the first law of Aotearoa.” — Ani Mikaere (Ngāti Raukawa, Ngāti Porou)¹

Māori law is the first law of Aotearoa. As we discussed in our Phase One – Issues report, the hapū and iwi of Aotearoa operated under complex systems of values and principles that recognised the importance of, and regulated, relationships between people, between people and their environment, and between the natural world and the spiritual world.² That system was deep, complex and constantly evolving.³ Common values were, and continue to be, understood across different hapū and iwi,⁴ just as iwi- and hapū-specific kawa⁵ was, and is, understood and practised. Through tikanga – a system of “practices, principles, processes and procedures, and traditional knowledge”⁶ – social, economic and familial relationships; disputes; transfers; and concerns were all managed. Trade, exchange values, access to environmental resources, inheritance, infringements, punishment, restitution, authority, governance and leadership were all part of this complex legal system. Māori law continues to be important to Māori.

We concluded in our Phase One – Issues report that to advance equity and decolonisation in the law, law students need to graduate with some knowledge of Māori laws and Māori language. The existing research strongly suggests that legal education in Aotearoa New Zealand should be structurally transformed to become bijural, bicultural and bilingual.

Ten Key Messages from Phase One

In our Phase One – Issues report, we presented ten key messages on the preliminary opportunities relevant for the teaching of Māori law as a foundation source of the Aotearoa New Zealand Bachelor of Laws (LLB) degree for the benefit of the legal profession and Aotearoa New Zealand society.

1. To realise the practice of Māori law as law in Aotearoa New Zealand’s modern legal system, systemic change in the legal profession needs to occur.
2. We call for a legal profession that is trained to work in a bijural, bicultural and bilingual Aotearoa New Zealand legal system.
3. Undergraduate legal education has an essential role in fulfilling this call for change.

1 Ani Mikaere “Tikanga as the First Law of Aotearoa” (2007) 10 Yearbook of New Zealand Jurisprudence 24 at 25.

2 Joseph Williams “Lex Aotearoa: An Heroic Attempt to Map the Māori Dimension in Modern New Zealand Law” (2013) 21 Waikato Law Review 1.

3 Hirini Moko Mead *Tikanga Māori: Living by Māori Values* (Huia Publishers, Wellington, 2003). See also Robert Joseph “Re-creating Space for the First Law of Aotearoa-New Zealand” (2009) 17 Waikato Law Review 74; Richard Benton, Alex Frame and Paul Meredith *Te Mātāpunenga: A Compendium of References to the Concepts and Institutions of Māori Customary Law* (Victoria University Press, Wellington, 2013) at 128; Ani Mikaere “Tikanga as the First Law of Aotearoa” above n 1; Valmaine Toki “Tikanga Māori – A Constitutional Right? A Case Study” (2014) 40 Commonwealth Law Bulletin 1 at 32–48.

4 See ET Durie “Will the Settlers Settle? Cultural Conciliation and Law” (1996) 8 Otago Law Review 449; Benton, Frame and Meredith above n 3, at 429.

5 Williams above n 2, at 6.

6 Carwyn Jones “A Māori Constitutional Tradition” (2014) 12 New Zealand Journal of Public and International Law 187 at 189–190.

II. He Kupu Arataki | Introduction CONT.

4. Aotearoa New Zealand's six law schools already have varying levels of competency in this area but should now move in a systemic formal manner towards preparing their graduates for a legal practice built on a bijural, bicultural and bilingual legal education.
5. A bijural legal education presupposes the existence of Māori law founded on kaupapa tuku iho and tikanga Māori, which is taught as a legitimate and continuing source and influence on the rights, obligations, rules and policy in Aotearoa New Zealand's legal system. Māori law can and should be taught as part of the multi-year core LLB curriculum in a manner that adheres to Māori transmission methods of knowledge.
 - i. quality, structural relationships with the mana whenua with the intent of building greater collaboration for the teaching of Māori law;
 - ii. the recruitment and retention of high numbers of Māori teaching staff;
 - iii. a structure for ensuring Māori-led quality content in the compulsory and optional courses offered across the study years;
 - iv. shared decision-making authority and equitable access to financial resources with Māori staff in the faculty;
 - v. financial support for the development of a bicultural curriculum and its quality delivery; and
 - vi. recognition of the Māori epistemologies for teaching and instruction, such as wananga, pūrākau, the use of te reo Māori and the legal knowledge held by kaumātua.
6. A bicultural legal education implements structures, develops processes and provides resources grounded in Te Tiriti o Waitangi | the Treaty of Waitangi, including the employment of Māori, and sharing of resources, leadership and decision-making with iwi, hapū and Māori academic staff. Specific steps include:
 - i. professional development support for learning te reo Māori for teaching staff;
 - ii. greater support for a law student's right to use te reo Māori in all forms of communication;
 - iii. the development of a bilingual curriculum and its quality delivery;
 - iv. access to teaching and assessment in law schools in te reo Māori;
 - v. ensuring graduates' fuller understanding of Māori legal and cultural concepts not limited by the use of English interpretations; and
 - vi. promoting every citizen's right to use te reo Māori in legal and parliamentary forums and documents.
7. A bilingual legal education would utilise te reo Māori broadly in general teaching and specifically in relation to Māori law concepts and principles such that all students have a working knowledge of Māori law in te reo Māori at the time of graduation. Where students are fluent in te reo Māori, they should be easily able to learn and be assessed in te reo Māori. Specific steps include:
 - i. professional development support for learning te reo Māori for teaching staff;
 - ii. greater support for a law student's right to use te reo Māori in all forms of communication;
 - iii. the development of a bilingual curriculum and its quality delivery;
 - iv. access to teaching and assessment in law schools in te reo Māori;
 - v. ensuring graduates' fuller understanding of Māori legal and cultural concepts not limited by the use of English interpretations; and
 - vi. promoting every citizen's right to use te reo Māori in legal and parliamentary forums and documents.
8. Strategically decolonising and indigenising legal education is already underway in Canada and in development in Australia. Such changes are possible. Aotearoa New Zealand is well placed to catch up to these countries and accelerate our existing practices if the commitment is made in a deliberate formal manner with long-term significant resources made available.
9. Care will be required to progress this aspirational systemic change, especially in regard to ensuring mana whenua are supportive of these moves. The change should be Māori led and Māori designed, with substantial allied support from Deans of law schools and the legal profession, including the judiciary, law practitioners, law academics and law students.

10. The next two phases of this research are essential to stress-test and model these key messages that have been reviewed in Phase One. In the meantime, to commence this journey for aspirational change we recommend we all (re)read and continue to upskill ourselves as much as possible on the extensive knowledge and research already shared by Māori scholars.⁷

Since the publication of our Phase One – Issues report in August 2020, several significant shifts have occurred, including:

- More cases have reaffirmed the importance of tikanga Māori in our legal system.⁸
- The Government has made a major investment in te reo Māori revitalisation, including making a call for 1 million te reo speakers by 2040.⁹
- In May 2021, the New Zealand Council for Legal Education (NZCLE) announced it will seek to make an amendment to the LLB regulations to require te ao Māori concepts, particularly tikanga Māori, to be taught in each of the core law subjects within the Bachelor of Laws and Bachelor of Laws with Honours degree.¹⁰ The NZCLE is consulting on this proposal at the time of writing.

In order to support these new shifts, we need to carefully think through and work out how Māori law ought to be taught as a compulsory part of the LLB degree. This multiphase project represents an important investment in Māori legal thought leadership and research to help guide these changes.

The Phase Two – Consultation reports are the result of seeking views on the ten key messages of our Phase One – Issues report, which were derived from a review of the literature. We designed Phase Two to test with hapū and iwi and the broad legal community whether our messages are acceptable in practice, and, if they are, how such a change might be implemented. This includes the extent of change, the time frame involved, and any practical matters in relation to that process of change.

We expected some concerns to be voiced both by the general legal profession who may not see Māori law as relevant to their practice and by hapū about maintaining the integrity of tikanga Māori if Māori law was to be comprehensively taught in universities. We sought to engage with all these views in order to understand whether the change we see supported in the literature is broadly accepted by those impacted and, if it was, what the challenges may be to implementing such a change.

7 For example, we recommend the ten books listed in Jacinta Ruru, Angela Wanhalla and Jeanette Wikaira “Read Our Words: An Anti-racist Reading List for New Zealanders” *The Spinoff* (15 June 2020), available at <https://thespinoff.co.nz/atea/15-06-2020/read-our-words-an-anti-racist-reading-list-for-new-zealanders>

8 See, for example, *Re Edwards (Te Whakatōhea) (No 2)* [2021] NZHC 1025; *Ngawaka v Ngāti Rehua-Ngātiwai Ki Aotea Trust Board* [2021] NZHC 291. Other earlier important cases include: *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Bod* [2020] NZCA 86; *Peter Hugh McGregor Ellis v The Queen* SC 49/2019 NZSC Tran 31; *Takamore v Clarke* [2012] NZSC 116.

9 Te Taura Whiri o te Reo Māori | The Māori Language Commission is undertaking a programme to grow 1 million te reo Māori speakers by 2040. To support that programme the New Zealand Government committed \$108 million to a 4-year program to upskill 40,000 teachers and school staff in te reo Māori. See Joel Maxwell “Government Launches \$108m te reo in Schools Plan, Calling for 40,000 Staff to Upskill” (8 Dec. 2020), available at <https://www.stuff.co.nz/national/politics/123628606/government-launches-108m-te-reo-in-schools-plan-calling-for-40000-staff-to-upskill>

10 For the NZCLE announcement, see <https://nzcle.org.nz/index.html>

II. He Kupu Arataki | Introduction CONT.

Research Team

This research is a nationwide collaboration of all Māori legal academics in Aotearoa New Zealand's faculties/schools of law. The lead Māori researchers are:

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- **Associate Professor Linda Te Aho** (Ngāti Koroki Kahukura, Waikato-Tainui), Te Whare Wānanga o Waikato | University of Waikato;
- **Associate Professor Claire Charters** (Ngāti Whakāue, Tūwharetoa, Ngāpuhi, Tainui), Te Whare Wānanga o Tāmaki Makaurau | University of Auckland;
- **Associate Professor Khylee Quince** (Te Roroa/ Ngāpuhi, Ngāti Porou), Te Wānanga Aronui o Tāmaki Makau Rau | Auckland University of Technology;
- **Associate Professor Andrew Erueti** (Ngā Ruahinerangi, Ngāti Ruanui, Ati Hau nui a Pāpārangī), Te Whare Wānanga o Tāmaki Makaurau | University of Auckland;
- **Jayden Houghton** (Rereahu Maniapoto), Te Whare Wānanga o Tāmaki Makaurau | University of Auckland;
- **Associate Professor Robert Joseph** (Tainui, Ngāti Tūwharetoa, Ngāti Ranginui, Ngāti Kahungunu, Rangitāne, Ngāi Tahu), Te Whare Wānanga o Waikato | University of Waikato;
- **Maureen Malcolm** (Te Arawa whānui and Ngāti Ruanui), Te Whare Wānanga o Tāmaki Makaurau | University of Auckland;
- **Adrienne Paul** (Ngāti Awa, Ngāi Tuhoe), Te Whare Wānanga o Waitaha | University of Canterbury;
- **Mihiata Pirini** (Ngāti Tūwharetoa/Whakatōhea), Te Whare Wānanga o Ōtākou | University of Otago;
- **Mylene Rakena** (Ngāti Hine/Ngāpuhi, Ngāti Kahungunu), Te Whare Wānanga o Waikato | University of Waikato;
- **Associate Professor Māmari Stephens** (Te Rarawa), Te Herenga Waka Victoria | University of Wellington;
- **Dr Fleur Te Aho** (Ngāti Mutunga), Te Whare Wānanga o Tāmaki Makaurau | University of Auckland;
- **Professor Valmaine Toki** (Ngāpuhi, Ngāti Wai, Ngāti Whātua), Te Whare Wānanga o Waikato | University of Waikato; and
- **Tracey Whare** (Raukawa, Te Whānau-ā-Apanui), Te Whare Wānanga o Tāmaki Makaurau | University of Auckland.

We have greatly benefited from the expertise of **Dr Megan Gollop**. Dr Gollop is Deputy Director of the Children's Issues Centre | Manawa Rangahau Tamariki in the Faculty of Law, University of Otago. Dr Gollop contributed significant qualitative and quantitative research skills to this project as a Senior Research Fellow.

We also had the privilege of enabling some young Māori tertiary students and graduates to work with us. Our research assistants were:

- **Destiny Katene** (Ngāti Tūwharetoa, Ngāti Kahungunu);
- **Rahera Douglas** (Ngāti Maniapoto); and
- **Hinemoana Markham-Nicklin** (Ngāti Kahungunu ki te Wairoa and Ngāti Pāhauwera).

Due to securing a Ngā Pae o te Māramatanga New Zealand Māori Centre of Research Excellence internship, we were thrilled to be able to work with **Grace Mohi** (Ngāti Kahungunu) in this role.



University of Otago LLB graduate, 2021.



III. Ngā Huarahi Rangahau | Research Methods

Kaupapa Māori Approach

Our research project is purposively Māori-led. We are a national Māori research academic team, trained in Pākehā law. We prioritise and value kaupapa Māori research methodologies and Indigenous legal methods, and see them as sitting alongside Western legal analysis. We ground our research in a deep respect for Māori law, broader Indigenous legal traditions, He Whakaputanga Declaration of Independence (1835), Te Tiriti o Waitangi (1840) and the United Nations Declaration on the Rights of Indigenous Peoples (2007). Our work is a testament to this commitment, where we specifically highlight Indigenous-authored work where possible. We value the time spent together and being able to collectively share and present our existing experiences and strategic visions for change.

Consultation Design

We developed a mixed-methods consultation programme consisting of both qualitative and quantitative research practices. We set out to:

- Run an online survey; and
- Conduct in person or online interviews with individuals and groups.

Our aim was to test our ideas from Phase One with targeted persons, namely, hapū and iwi members and the broad legal community. We designed the consultation programme such that all interviews could be conducted online as a precaution against future restrictions as a result of the ongoing COVID-19 pandemic.

No member of the research team was interviewed for this research. The online survey was not completed by any member of the research team. Phase Three will include the research team considering our own responses to the questions posed in Phase Two, and to respond to and analyse the results of this part of the project.

Ethics Approval

The University of Otago Human Ethics Committee granted approval for the research project on 22 October 2020 (Reference number: D 20/100). We also received a positive response from the University of Otago Ngāi Tahu Research Consultation Committee, who noted that they are particularly interested in this research (letter dated 19 October 2020). We were not successful in obtaining permission from the New Zealand Judicial Research Committee to interview judges. Therefore, no judges have been interviewed in this phase of the project.

Online Survey

An online survey administered by Qualtrics survey software captured both quantitative and qualitative data (see Appendix C for the full survey). The survey was launched on 13 May 2021 and was open for three weeks. A contact list, derived from public sources, was created that included email contacts sourced from:

1. Te Kahui Māngai – online directory of iwi and Māori organisations;
2. New Zealand Law Society – online public register of firms and lawyers specialising in Treaty/Māori legal issues;
3. University and wānanga – online staff contacts;
4. Community law centres;
5. University student organisations; and
6. National Māori bodies.

Emails inviting participation were sent to 468 individual contacts, including 15 law student representative organisations, 136 iwi organisations, 89 law firms and community law centres (see Appendix A). The email also attached the Information Sheet about the study (see Appendix B) and a Summary Paper (Appendix D, see also <https://www.otago.ac.nz/law/research/otago742806.html>) about the research. Recipients were encouraged to distribute the email to others who they thought might wish to participate.

A total of 224 people completed some or all of the survey questions. Of those, 199 fully completed the survey, with an additional two respondents omitting all but a few final demographic questions. The incomplete

data from the remaining 23 participants was not included, resulting in a final total of 201 respondents. Table 1 presents the demographic profile of the survey respondents.

Table 1. Survey respondent profile

	<i>n</i>	%
Age		
Under 20 years	9	4.5%
20–29 years	60	29.9%
30–39 years	32	15.9%
40–49 years	33	16.4%
50–59 years	28	13.9%
60–69 years	18	9.0%
70–79 years	4	2.0%
Prefer not to answer/missing	17	8.5%
Ethnicity [multiple selection possible]		
NZ European/Pākehā	149	74.1%
Māori	56	27.9%
Pacific peoples ¹	11	5.5%
Asian ²	9	4.5%
Another ethnicity	22	10.9%
Missing	5	2.5%
Region of residence		
Northland	3	1.5%
Auckland	41	20.4%
Waikato	8	4.0%
Bay of Plenty	1	0.5%
Gisborne	2	1.0%
Taranaki	5	2.5%
Hawke's Bay	1	0.5%
Manawatū-Whanganui	5	2.5%
Wellington	66	32.8%
Tasman	1	0.5%
Nelson	1	0.5%
Marlborough	0	-
West Coast	0	-
Canterbury	26	12.9%
Otago	35	17.4%
Southland	0	-
I don't live in Aotearoa New Zealand	4	2.0%
Missing	2	1.0%

III. Ngā Huarahi Rangahau | Research Methods CONT.

	<i>n</i>	%
Studied at a New Zealand tertiary education institute		
Yes	185	92.0%
No	16	8.0%
Study at a New Zealand tertiary education institute included law papers		
Yes	163	88.1%
No	22	11.9%
Current involvement with legal professional and/or system [multiple selection possible]		
University law student	62	30.8%
University law academic/lecturer/teacher	82	40.8%
Lawyer	46	22.9%
Courts officer	3	1.5%
Iwi representative	8	4.0%
Hapū representative	9	4.5%
Government official	10	5.0%
Policy developer	10	5.0%
Other	18	9.0%
Don't currently work in, or with, the legal profession and/or system	2	1.0%
Experience with... [multiple selection possible]		
Treaty settlements	46	22.9%
Iwi or hapū legal issues	48	23.9%
Resource management	46	22.9%
Māori land court	29	14.4%
Business legal issues	44	21.9%
Whānau legal issues	37	18.4%
Waitangi Tribunal	4	2.0%
Other	37	18.4%
None of the above	79	39.3%

1 The "Pacific peoples" grouping includes Samoan, Cook Island Māori, Tongan, Niuean and other Pacific ethnic identities listed under "Other".

2 The "Asian" grouping includes Chinese and Indian and other Asian identities listed under "Other".

As Table 1 shows, just over three-quarters (76%) of the respondents were aged between 20 and 59 years, with the largest proportion of these, nearly a third (30%), aged 20–29 years. The majority (74%) of the respondents were NZ European/Pākehā, 28% were Māori, 6% were Pacific peoples and 5% Asian. The respondents resided in most regions of New Zealand, but none lived in Marlborough, the West Coast or Southland. Not surprisingly, the greatest proportions came from regions with universities: Wellington (33%), Auckland (20%), Otago (17%) and Canterbury (13%).

Most of the respondents (92%) had studied at a New Zealand tertiary education institute and of those, most 88% had studied some law papers. Almost all (99%) of the respondents were currently involved with the legal profession and/or system in some capacity, most commonly as a university law academic/lecturer/teacher (41%), a university law student (31%), or a lawyer (23%). Nearly a quarter of the respondents had experience with Treaty settlements (23%), iwi or hapū legal issues (24%), resource management (23%), and/or business legal issues (22%). Eighteen per cent had experience with whānau legal issues and 14% with the Māori land court. Four participants (2%) had been involved with the Waitangi Tribunal. Participants were given an opportunity to detail any other legal experience in an open text question. Around 15% of participants described experience such as criminal legal practice, law school experience, or details of their current circumstances.

Interviews

We conducted individual and group interviews. Individual interviews were conducted by a single person from our research team, and group interviews were usually conducted by two people from our research team. The interviews were either in person or, in order to maintain a COVID-19-safe interview practice, online utilising the Zoom video conferencing platform.

We sought to interview 80 individuals. We compiled a list of relevant legal, academic, government and Māori organisations, and invited them to be interviewed. We also invited them to participate in the survey if they preferred to be involved in that way.

We ultimately spoke with 83 individuals through 32 separate interviews that included 2 staff academic wānanga (at the University of Auckland and University of Canterbury) and 3 wānanga organised by law students. All interviews were recorded and transcribed. Interviewees were advised that any identifying information disclosed in their comments would remain confidential. Our analysis of the interviews will be presented in the second part of the Phase Two – Consultation report, due to be publicly released in early 2022.

Table 2 shows the interviewees' regions of residence and a broad description of their involvement in the legal profession.

III. Ngā Huarahi Rangahau | Research Methods CONT.

Table 2. Interview participant profile

	<i>n</i>
Region of residence	
Auckland	25
Waikato	7
Rotorua	2
Wellington	20
Canterbury	13
Otago	16
Current involvement with legal professional and/or system	
University law student	31
Academic/lecturer/teacher	35
Lawyer	3
Mana whenua	9
Community	2
Government official	3

Presentation of Data

We now present the substantive results from our online survey. There were five main parts to our online survey.

- Te reo Māori in university legal education;
- Māori law in university legal education;
- Biculturalism in university legal education;
- Bijural legal system; and
- Respondents' experiences with tertiary education, te reo Māori, tikanga Māori and Māori law.

Descriptive statistics are reported for the quantitative data collected by the survey. Throughout the report the figures relating to rating scales exclude data from those who said they did not know or were not sure. The percentages reported are therefore the proportions of those who expressed a view. The figures also use "net scores", which combine the top and bottom two ratings within the 5-point scale – "strongly agree" and "agree" categories are merged, as are "strongly disagree" and "disagree". Due to rounding, percentages may not always add exactly to 100%. Responses to open text questions were qualitatively coded by four members of our research team. We conducted a content analysis of the written responses, identifying common themes emerging in the responses to each question and classifying responses into these categories. Each theme is described and illustrated by selected responses as examples of common responses. Quotes have been edited for consistency and ease of reading. We endeavoured to include no more than three comments from the same person so as to be representative as possible. We have only included the comments from those who fully completed the survey, except in rare circumstances where the comments provide a unique or detailed response. A copy of the survey questionnaire can be found in Appendix C.



University of Otago LLB graduate, 2021.

IV. Ko Te Reo Māori i Ngā Whakaakoranga Ture | Te Reo Māori in University Legal Education

In this section of the survey, we were interested in how te reo Māori might become a bigger part of the LLB degree. In the Phase One – Issues report we recommended that the six law schools should commit to developing a bilingual legal education that utilises te reo Māori broadly in general teaching and specifically in relation to Māori law concepts and principles such that all students have a working knowledge of Māori law in te reo Māori at the time of graduation. Such commitment would prioritise:

- Professional development support for learning te reo Māori for teaching staff;
- Greater support for a law student's right to use te reo Māori in all forms of communication;
- The development of a bilingual curriculum and its quality delivery;
- Access to teaching and assessment in law schools in te reo Māori;
- Ensuring graduates fuller understanding of Māori legal and cultural concepts not limited by the use of English interpretations; and
- Promoting every citizen's right to use te reo Māori in legal and parliamentary forums and documents.

We therefore asked a series of questions in our survey to test whether or not there is general support for this initial recommendation.

Quantitative Results

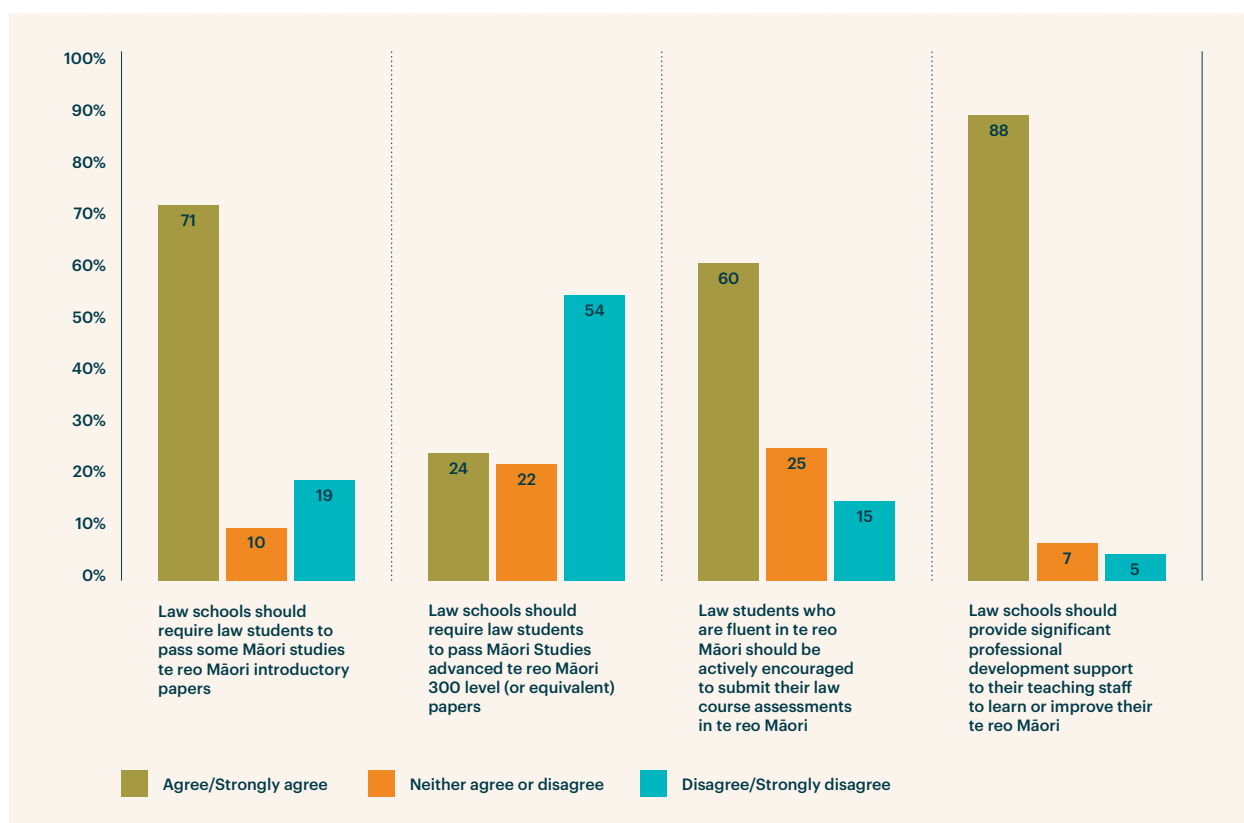
The survey asked respondents how strongly they agreed or disagreed with a series of statements about how te reo Māori could become part of the LLB degree (see Table 3).

Figure 1 presents the above data in graphical form. As shown in Figure 1, the majority of participants supported law students being required to pass some introductory te reo Māori papers (71%) and being actively encouraged to submit their law course work in te reo Māori if they were fluent in te reo Māori (60%). Eighty-eight per cent supported law schools providing significant professional development support for staff to learn or improve their te reo Māori. However, only just under a quarter (24%) agreed with law students being required to pass advanced (300-level or equivalent) te reo Māori papers, with over half (54%) of the respondents disagreeing with this statement.

Table 3. Agreement with statements about te reo Māori in university legal education

Statement	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know/not sure
Law schools should require law students to pass some Māori studies te reo Māori introductory papers.	43.8%	26.9%	10.4%	10.9%	8.0%	0.0%
Law schools should require law students to pass Māori Studies advanced te reo Māori 300 level (or equivalent) papers.	7.5%	15.9%	20.9%	30.3%	21.9%	3.5%
Law students who are fluent in te reo Māori should be actively encouraged to submit their law course assessments in te reo Māori.	30.3%	27.4%	24.4%	10.4%	4.5%	3.0%
Law schools should provide significant professional development support to their teaching staff to learn or improve their te reo Māori.	73.1%	13.9%	7.0%	2.0%	3.0%	1.0%

Figure 1. Agreement with statements about te reo Māori in university legal education



IV. Ko Te Reo Māori i Ngā Whakaakoranga Ture | Te Reo Māori in University Legal Education CONT.

Qualitative Results

Respondents had the option of answering three open text questions which asked them to detail the opportunities and benefits, the challenges and risks, and any general comments relating to how te reo Māori could become part of the LLB degree. We received far more responses to these open text questions than others, probably because they appeared first in the survey. The responses to these questions are presented individually below.

Opportunities and Benefits

The first open text question asked: *What are some opportunities or benefits of te reo Māori becoming a required part of a university legal education (if any)?*

The respondents identified a range of opportunities and/or benefits to students, the legal profession and society of te reo Māori becoming a required element of a law degree. We categorised the responses into the following eight themes:

- a. Language reflects culture;
- b. Improvements to Legal Practice and the Legal System;
- c. Recognition that te reo Māori is an official language of Aotearoa New Zealand;
- d. Strengthening, preservation and revitalisation of te reo Māori;
- e. Improvement in pronunciation of te reo Māori;
- f. Honouring Te Tiriti o Waitangi;
- g. Making law schools more inclusive and equitable; and
- h. The benefits to individuals of learning another language or being bilingual.

a. Language Reflects Culture

The most common response was that te reo Māori is a gateway to learning about te ao Māori and that through learning a language students learn about culture.

Culture lives through language – if one wants to really understand a culture language competency is required, i.e., to implement tikanga Māori successfully language competency is needed. (13, Law Academic)

The best way to understand Tikanga Māori is to study te reo. A culture's core ideas are embedded in its language. (36, Law Academic, Lawyer)

Learning language also teaches much about the culture and perspective underlying it. (240, Law Academic)

Encouraging use of te reo is not just about the language, it encourages us to learn and understand the culture also. (147, Law Student)

b. Improvements to Legal Practice and the Legal System

Respondents argued that having te reo Māori as a required part of a university legal education would increase understanding of te ao Māori. This would then produce more well-rounded graduates and responsive and culturally competent legal professionals. They would be better able to communicate and work appropriately with Māori clients, understand and work on Māori legal issues, and represent a range of clients.

Assist in dealing with Māori clients. (122, Lawyer)

To ensure new lawyers joining the profession have a better understanding of Te Aō Māori. (8, Lawyer)

Huge benefit to the wider legal sphere and Aotearoa. It is crucial te reo Māori becomes a required part of the LLB degree because then our future lawyers can be more competent in dealing with Māori as a people, and more generally dealing with Māori concepts in the workplace. (101, Law Student)

Having lawyers who are cognizant. More than one worldview is beneficial. (116, Hapū Representative, Policy Developer)

As well as producing more culturally competent lawyers, the respondents suggested teaching te reo Māori could lead to improvements to Aotearoa New Zealand's legal system – one that recognises and includes te reo Māori, tikanga and Māori law in legislation, the courts and the law.

Language is the gateway to culture. If we don't engage with te reo Māori how can we properly engage with tikanga, Te Tiriti, with Māori communities and people? How can we understand section 6 of the Resource Management Act 1991? How can we operate appropriately in the Rangatahi courts, in the Te Ao Maarama courts? Understand and incorporate s 27 cultural reports into sentencing practice? But more than these few examples (and there are many) of the current practice of law, how can we improve the legal landscape and better serve Māori communities, and our community as a whole, without doing this? Because if we don't improve our understanding of Te Reo, then we miss out on knowledge from Tikanga Māori which could improve, change or replace the many parts of our legal system that could be much better. Not only that, but the lawyers in the system would be better for it, and their clients, witnesses, fellow lawyers would all benefit too. (226, Lawyer)

Better understanding of the role of tikanga in the development (and reform) of NZ law generally. Recognition of the distinct legal environment in NZ. (148, Lawyer)

Law students felt that such improvements to the legal system and legal practice would make the legal system more respectful and inclusive of Māori and improve access to justice for Māori.

It will ensure that Māori who engage with the legal system as it currently exists will be supported to engage with it on their terms, through their culture. (178, Law Student)

It also has practical advantages, breaking down barriers to justice by increasing the number of available lawyers for people more comfortable speaking Te Reo. (169, Law Student)

Finally Māori can have a greater voice in law and justice. For too long Māori have been sidelined. By making te Reo Māori apart of our legal education Māori perspectives in our justice system will be better understood. (54, Law Student)

c. Recognition That te Reo Māori Is an Official Language of Aotearoa New Zealand

Respondents also noted that te reo Māori is one of Aotearoa New Zealand's three official languages and that making te reo Māori part of a legal education would give recognition to its official status and importance.

Te Reo Māori is an official language of New Zealand, it is also the language of our indigenous peoples. Our law practices need to be reflective of the people we serve and the land we work in. (92, Law Student)

It is ridiculous that an official language of Aotearoa New Zealand gets so little consideration/attention/deference. English privilege is real and has to end. (127, Law Academic)

IV. Ko Te Reo Māori i Ngā Whakaakoranga Ture | Te Reo Māori in University Legal Education CONT.

d. Strengthening, Preservation, and Revitalisation of Te Reo Māori

Another benefit of making te reo Māori part of a tertiary legal education identified was that it would “mainstream” it and, in doing so, help to preserve, revitalise and strengthen the language.

Ensuring that all law students in Aotearoa New Zealand know te reo Māori will help ensure the survival of the language and greater appreciation of te Ao Māori. I see this as an attempt to generate more equality and equity in University legal education. (161, Law Academic)

Embracing one of the national languages of the country at a law school level will encourage its use in fora such as courts, normalising its use and improving the number of fluent speakers. (132, Law Academic)

If te reo Māori is part of a legal education then this will help to emphasise the importance of te reo as one of our official languages. It will also contribute to the survival of the language in the longer term. (232, Law Academic)

In short, the lack of te reo Māori requirements literally and figuratively sends the message that te reo Māori (and by extension te ao Māori) is not a core part of the law degree. ‘Opening up’ the law degree to this requirement presents a major opportunity to bring in the language and culture in a thoughtful, considered and useful manner. (217, Law Academic, Lawyer)

e. Improvement in Pronunciation of Te Reo Māori

Teaching te reo Māori to law students was also seen as a way to improve staff and students’ pronunciation.

Research shows that bad pronunciation, especially of names, can be off-putting and potentially damaging for Māori, so at least having adequate pronunciation skills is vital. (221, Māori Studies Lecturer)

Learning the geographical locations of all the main iwi. Simple pronunciation of any Māori word or name is vital. (140, Does not work in the legal system)

It would create a generation of lawyers who can communicate eloquently about the country they live in. I have had lecturers who take umbrage at people’s pronunciation of Latin, then go on to butcher Māori words. (177, Law Student)

I guess the opportunity is that it strengthens non-te reo Māori speakers or non-Māori people to pronounce any Māori names properly (which is such a massive first gesture if your lecturers, people in power at the university can pronounce Māori names correctly). (128, Law Student)

f. Honouring Te Tiriti o Waitangi

Respondents also thought that making te reo Māori part of a university legal education would honour Te Tiriti o Waitangi obligations and increase students’ understanding of Te Tiriti.

It presents one of the most effective methods for realising the Treaty of Waitangi in actual practice. (5, Anthropologist)

Both the Crown and Māori will be more able to discharge their obligations under Te Tiriti. (76, Law Student)

Te Reo must be a compulsory component of law education because lawyers co-create the power structures in Aotearoa. Unless law students are actively engaged in decolonising through actualising dual language comprehension, we are not compliant with Te Tiriti. As lawyers, at the very least we must comply with the law. (90, Law Academic, Lawyer, Hapū Representative)

g. Making Law Schools More Inclusive and Equitable

Law schools becoming more inclusive, equitable and welcoming for Māori students was another opportunity/benefit of making te reo Māori a required part of a law degree. This in turn could encourage more Māori to study law.

An opportunity to remove the imbalance that exists in the system which is designed to promote the success of only a small group of people. (238, Law Student)

Ensuring that all law students in Aotearoa New Zealand know te reo Māori will help ensure the survival of the language and greater appreciation of te Ao Māori. I see this as an attempt to generate more equality and equity in university legal education. (161, Law Academic)

Not alienating some students from their own language. (105, Law Student, Graduate)

h. Benefits of Learning Another Language or Bilingualism

More generally, some respondents identified the benefits to individuals of being bilingual or learning another language. It was seen as helping critical and analytical thinking, cognitive development, and oral communication skills.

Learning a language is excellent for brain development for a profession that sells thinking! (3, Law Academic, Lawyer)

The advantages of being able to think and converse in more than one language are well known. (116, Hapū Representative, Policy Developer)

The distinct benefits that come with anyone who takes on the learning of multiple languages and developing more well-rounded graduates. (238, Law Student)



Professor Jacinta Ruru with Jacobi Kohu-Morris and Nerys Udy, University of Otago, 2021

IV. Ko Te Reo Māori i Ngā Whakaakoranga Ture | Te Reo Māori in University Legal Education CONT.

Challenges and Risks

The second open text question asked: *What are some challenges or risks with te reo Māori becoming a required part of a university legal education (if any)?*

We categorised the responses into three themes:

- a. Opposition or resistance;
- b. Impact on staff and students;
- c. Threats to the integrity of te reo Māori.

a. **Opposition or Resistance**

Resistance or opposition from students and the legal profession was seen as a potential risk of te reo Māori becoming a required part of a university legal education. Some respondents were concerned about “a counter-productive backlash” and “racism” or pushback from students and the legal profession.

There is a risk of concerted backlash against ‘political correctness’. (73, Research Fellow)

Pushback from certain factions of the legal fraternity. (178, Law Student)

I think that you’re always going to get racists scaremongering about compulsory language requirements. (165, Law Student)

There are some practicing lawyers/firms who will likely push back against it, same with students and even lecturers. But this goes to show that they are approaching redundancy and need to recognise that this is such an integral part of legal practice and education. (139, Courts Officer, Law Student)

There was also concern that some students may not see the relevance of learning te reo Māori as part of their law degree, leading to resentment or a lack of motivation, particularly if it was compulsory.

Mandating something risks engendering feelings of discontent/reluctance. (64, Law Academic)

Don’t want other students to resent the language or Māori culture itself because it is forced on them. (80, Law Student)

For me as a young Māori taura, the inclusion of te reo Māori within my legal education is something that I hold very close, however I am currently in second year and I think the most challenging part about making this a requirement is that some students just don’t want to learn. I have sat at the back of many lectures where we have talked through the treaty and through tikanga and its importance and people around me are disengaged, talking, not taking any notes and or playing games on their laptops. I fear that making this a requirement will not help change the minds of those who do not wish to learn. (285, No details)

A challenge going forward would therefore be changing the attitudes of those who were reluctant or opposed to te reo Māori becoming a required part of a law degree.

The challenge is convincing non-Māori of why it should become part of university legal education, especially when they can’t even make the language a compulsory language at schools growing up or even a compulsory option to at least register the idea of learning te reo Māori. (27, Lawyer)

I can imagine some students might push back or resent this, if they do not understand the broader strategic vision that is at play. We would need to be really clear as to why we value te reo Māori so much as to make it compulsory, so that students are on board with that broader strategy. (70, Law Academic)

b. Impact on Staff and Students

Another risk or challenge identified by respondents was the impact of making te reo Māori a required element of an LLB was the potential for it to negatively impact on students. Many detailed how difficult it was to learn a new language and the commitment and challenges involved, which many tertiary students might struggle with, increasing their already heavy workload and stress and impacting negatively on their studies.

My main concern would be workload. Learning a language requires consistent work which could be hard to fit alongside an LLB. This may also contribute to more years in undergraduate study. (169, Law Student)

The volume of compulsory papers, timetabling complexity and reduced ability to pursue other languages or specialties. Language courses tend to require more face-to-face time, and for papers to be taken in sequential order or concurrently. This makes timetabling double degrees harder and may limit part-time study options with impacts on accessibility for people with care obligations or disabilities. It is also currently really difficult to study for two languages at university. (9, Law Academic)

The only risk is that te reo is such a journey. I have had little to no te reo exposure and incorporation into my life until my choice to purposely seek it out 3 years ago when I started my LLB. If I was to be assessed on my understanding of reo or tikanga 3 years ago I would have failed. (42, Law Student)

Learning Te reo is extremely challenging, and even more so when studying alongside law, an already challenging degree. I took some te reo courses in first year and failed as I wasn't able to dedicate the time needed to learn Māori alongside law, and I have several friends who also took Māori and dropped it. (89, Law Student)

Some thought that learning a new language as an adult in a tertiary context was particularly difficult and that learning te reo Māori needed to start earlier than at tertiary level so that students arrived at university already proficient or with some knowledge of the language.

I have been studying Māori as my fourth language. I know that some people take to foreign languages more than others. I tend to excel, but I see other very intelligent people who just struggle mightily. Language instruction needs to begin very early – ideally preschool – for them. They will never cope well with compulsory te reo beginning at university. (127, Law Academic)

It should be taught all through school! Language is easier learned when young. To be fluent in Māori will take a considerable commitment from an 18 year old. Ideally students would arrive at university being more or less fluent and Law School only needs to ensure that students keep it up! That also would allow different and less formal ways of interaction in Māori. (13, Law Academic)

It will have a seriously detrimental impact on those young lawyers and law students who did not study Māori studies and are entering a system where it is then required... Setting an example at tertiary level is good but it will need to be coordinated with high schools. Students coming into or considering law should be given the opportunity to know in advance so that they can study Te Reo at secondary as well. (46, Law Student, Government Official, Policy Developer)

IV. Ko Te Reo Māori i Ngā Whakaakoranga Ture | Te Reo Māori in University Legal Education CONT.

There was concern that making learning te reo Māori compulsory could be a barrier to students – particularly those who were not “good at languages” – to successfully completing their LLB or even wishing to study law. It was also thought it could disadvantage or deter those from lower socioeconomic backgrounds or from particular ethnicities.

Many New Zealanders, including myself, are monolingual and have extreme difficulty with language papers. Adding language papers, which would be difficult for many students, could inadvertently act as a further barrier to legal education. This could also affect Māori students, especially if they have come from a whanau where te Reo was not spoken. (12, Law Academic)

The main challenge is limited capacity: limited capacity to teach, but also limited capacity to learn – by staff and by students. Achieving fluency in a language does not happen overnight, particularly not if it needs to be at a standard where complex discussions about law can be held. It would add at least a year of full-time study to the LLB degree. This might raise a further barrier to students accessing the degree and might make it even more out of reach for students from lower socio-economic backgrounds. (133, Law Academic)

Several logistical challenges for universities and law schools were identified, the most common being a lack of resources and lack of capacity to deliver.

Lack of resources, knowledge and proficient speakers to introduce it on a larger scale. (41, Law Academic)

With only a small number of fluent te reo speakers in a law faculty/school, some respondents thought that the burden of teaching could fall unfairly on Māori law academics or those with knowledge.

There won't be enough resources in the law school to properly teach te reo and the burden will lie on those few who do have knowledge of te reo. (75, Law Student)

I'm also conscious that we need to improve significantly Māori (and Pasifika) faculty membership. I'm conscious that even with significant improvements on that front, we'd still want to avoid that kind of work simply being foisted onto a minority portion of te Reo fluent faculty, many of whom are likely to be Māori faculty who already carry a disproportionate load of invisible or under-recognised labour supporting Māori students. I wonder if a phased in approach is more achievable? (but also wonder if I'm being too conservative in suggesting that ...) (38, Law Academic)

There was an acknowledgement that staff would also have to upskill and learn te reo Māori, and would need “significant assistance”, support and time to do this as it would add to already stressful workloads. Some respondents were concerned that faculty staff would not have sufficient time available.

It will inevitably divert resources away from something else and we are all very short on resources right now. Academic staff will have to upskill in te reo and we are already facing unsustainable workload pressures so it is not clear how people will be able to find the time to do this. We would need to ensure that we had the resourcing to ensure that any teaching was done well and to a high standard. (88, Law Academic)

Many legal academics – particularly those early in career or with whānau responsibilities – are already overburdened, as are many students, especially the many with heavy part-time work commitments. The quality of a lot of coursework and of faculty research is quite poor and many graduates struggle to secure any useable degree. There is a need for te reo but it must be paralleled by a recommitment to quality teaching and support and realistic workloads. (11, Lawyer)

Most law academics I know have a very basic knowledge of Māori (some words or phrases) only. Am I going to lose my job because I can't speak it? I already work 70 hours a week as an academic. I don't have time to study this. I see the value of teaching tikanga aspects, but really struggle with requiring students to be fluent in Māori. (224, No details)

There was particular concern about students submitting assessments in te reo Māori and there not being sufficient staff fluent in te reo to mark them, further burdening Māori staff who may need take on this task or additional translations.

The only challenges/risks would be if lecturers were not also competent in understanding reo and if this resulted in poor resourcing and unfairly burdened Māori academics. E.g., if we encourage students to submit assignments in te reo Māori and the specific lecturer is not fluent, it may result in marking being redirected to fluent Māori academics (of which there are only a handful currently). (98, Government Official, Law Academic, Law Student)

Translation costs will need to be factored in somewhere if non te reo speakers are involved in assessment. This may be several thousand dollars. (130, Law Academic)

The legal system, as well as how it is understood and practiced in New Zealand is predominantly western in nature. While many of our kura kaupapa kids are now entering legal studies, the legal concepts translated into te reo Māori are still foreign (from an epistemological point of view). Requiring, even encouraging students to complete their assessments in te reo Māori, places undue pressures on the student. Until the system is perfected, with appropriate support, the lecturers are competent, the legal system itself is reflective of tikanga Māori, we should not place pressure on students to complete assessments in te reo Māori. However, students and staff alike should be encouraged to pursue te reo Māori as part of their legal education and provision ought to be made for this to occur. (220, University Staff)

It was also noted that there could be problems with translation and missing the nuances of specialist legal language if te reo was translated by a non-legal academic, which could disadvantage students.

I have had several students submit their exam papers in Te Reo Māori and they all failed. They were not able to get across the subtle nuances required by the test in that language. (150, Law Academic)

My biggest concern is probably marking assignments written entirely in te reo. In the short term at least, many staff do not currently have knowledge of te reo and it may be detrimental to students to encourage them to hand in assignments in te reo, only to have their work translated and potentially some meaning or nuance lost. Only once lecturers are confident themselves in the reo should we be fully encouraging students to submit assignments in the reo. (85, Law Student)

IV. Ko Te Reo Māori i Ngā Whakaakoranga Ture | Te Reo Māori in University Legal Education CONT.

The transitional period will be a difficult one, and there will be logistical difficulties with (for example) translating assignments from te reo to English, and if those difficulties are significant, it could end up discouraging those from using te reo or penalising them from doing so. (132, Law Academic)

Those who thought teaching te reo Māori to law students would be undertaken by Māori Studies departments were concerned about their capacity to teach the large increase in numbers and whether law students would take places from others (particularly Māori students) wishing to learn te reo Māori.

This is an extra risk if Māori Studies departments would bear most of the burden in offering these courses – i.e., not seen as part of the ‘real. business of law schools. (217, Law Academic, Lawyer)

If 300 level te reo is required, it will likely change the shape of te reo Māori courses and in particular impact on Māori students studying te reo if more Pākehā are required to take higher level te reo. Consideration needs to be taken for how to ensure Māori students who are not doing the LLB still remain as the central focus of the course. (114, University Māori Studies Academic)

Some thought that the way te reo Māori was taught in tertiary settings might not be the best way to deliver it to law students in particular.

Existing Māori Studies te reo papers may not be especially well-suited to set up law students (compared to a hypothetical ‘te reo for law students’ paper). (233, No details)

I am not sure that the current way te reo is taught at university would be able to handle this large quantity of students. Also, there is a massive difference between the reo we use at the Marae (conversationally) and the reo we would use as a Lawyer. I believe that the current university papers are focused on conversational Māori, so some change would need to be made or there will need to be specific papers for the Te Reo in law. (92, Law Student)

If te reo Māori became a required part of the degree, it would need to be done for clearly articulated purposes and incorporated into the curriculum accordingly in a well-designed manner, ideally with obvious practical benefits to encourage buy-in (e.g., use of te reo a normal part of courtroom etiquette; knowledge of te reo important in order to avail oneself of the full range of legal arguments etc.). If not, increasing te reo requirements risks being resented and seen as an unwanted ‘bolt-on’, and box-checking exercise. (217, Law Academic, Lawyer)

Some respondents thought requirements for students to learn te reo Māori had implications for the structure of an LLB and its curriculum, either reducing content in the LLB or increasing the length of the degree itself.

Other parts of the LLB curriculum may have to contract to make room. Increasing the compulsory part of the LLB reduces choice, which students like. (117, Law Academic)

A risk is that law degrees will become significantly longer if lawyers are required to be experts in 2 substantially different languages and be able to practise in both. (46, Law Student, Government Official, Policy Developer)

Participants also thought that it could also potentially limit paper choice for students and options for double degrees, and draw students away from other papers and departments.

The volume of compulsory papers, timetabling complexity and reduced ability to pursue other languages or specialties. Language courses tend to require more face-to-face time, and for papers to be taken in sequential order or concurrently. This makes timetabling double degrees harder and may limit part-time study options with impacts on accessibility for people with care obligations or disabilities. It is also currently really difficult to study for two languages at university. Students seeking international/diplomatic opportunities may struggle to timetable in a second or third language. I think it is a good idea but delivery and timetabling logistics need careful considerations. (9, Law Academic)

Students will be drawn away from some other university paper that they would otherwise study, affecting other departments' student numbers, perhaps leading to resistance. Other language papers may be particularly affected. Students' degree structures may be affected. (36, Law Academic, Lawyer)

Lessens time for students to do other studies, potentially making them less knowledgeable about other areas of the law, or other areas of knowledge/ disciplines, which would be a long-term loss to the profession and legal work more generally (e.g., a bunch of lawyers who know te reo which is great, but don't know history or literature or psychology or politics which is not so great). (20, Law Academic)

c. Threats to the Integrity of te Reo Māori

Several respondents commented that te reo Māori was a taonga that needed protection and risked being devalued, degraded, disrespected or weaponised by non-Māori students. There was also concern that "forcing" law students to learn te reo Māori could lead to them resenting the language and Māori culture.

The majority of law students are Pākehā or non-Māori. They will weaponise te reo against us Māori people if taken to formal levels. (119, Law Academic, Lawyer)

Disrespect and resentment from non-Māori student[s]. Devaluation of valuable taonga. (104, Lawyer)

Risk to some Māori of Minglish – where people switch between English and Reo Māori as might be seen to degrade taonga – personal preference of individual Māori. (102, Lawyer)

Incorporating te reo Māori (and te Ao Māori) into university legal education will likely alter te reo (and te Ao). That's not necessarily a bad thing. Te reo Māori has and will continue to influence New Zealand's legal practice. And New Zealand's legal practice will also influence te reo Māori and Aotearoa. (161, Law Academic)

As detailed earlier, many participants noted that in learning te reo Māori people come to learn about tikanga and te ao Māori. However, some thought that there was also the risk that teaching law students te reo Māori could become a tokenistic "checkbox" exercise, divorced from tikanga, or that it could be taught inaccurately.

The over "academic-isation" of te reo me ona tikanga. Learning "about" te reo me ona tikanga, rather than learning "it". Disassociation from "the Pa", and perhaps homogenisation, and so loss of localisms. (72, Lawyer)

It is important to ensure it is not delivered in a tokenist, or forced way. Performative te reo will diminish the entire purpose of including it in legal education in the first place. (139, Courts Officer, Law Student)

It will become a dead dogma and simply a tick the box requirement rather than a voluntary living process. (21, Lawyer)

Some respondents cautioned that issues could arise with differences in dialects and interpretations. Non-Māori translating Māori concepts into legal contexts (or vice versa) without a deeper understanding of the Māori worldview was also seen as problematic.

Currently still a disproportionate number of Māori studying law. A risk with te reo Māori becoming a required part of a university legal education is that there will be more non-Māori who will determine legal interpretation of Māori concepts. (215, Lawyer, Iwi Representative)

Teaching the language should also involve teaching the worldview, so that we don't have tauivi trying to tell us what our words mean, or the law defining them for us. (116, Hapū Representative, Policy Developer)

My main challenge and kind of worry with anything to do with tikanga or te reo Māori is who protects it? And does that mean that tikanga and te reo Māori are then removed from the hands of Māori and becomes 'everyone's' identity and culture as a country? (128, Law Student)

IV. Ko Te Reo Māori i Ngā Whakaakoranga Ture | Te Reo Māori in University Legal Education CONT.

General Comments

The third and final open-text question in this section was phrased: *Please feel free to make any comments about te reo Māori being an encouraged or required part of a university legal education.*

Respondents made a number of positive comments supporting the learning and teaching of at least some te reo Māori, including “This needs to happen”, “This is an absolutely essential part of learning law in Aotearoa” and “Overdue since 1840.”

Three themes arose amongst respondents:

- a. The teaching delivery of Te Reo Māori;
- b. The need for broadening the initiative beyond law schools; and
- c. Whether making te reo Māori part of an LLB should be compulsory.

a. *The Teaching Delivery of te Reo Māori*

Several participants noted that teaching and learning te reo Māori was a process that not everyone would be comfortable with and that law students would enter law school with different levels of knowledge and proficiency. Care was therefore needed to make learning a safe space, with support for students and staff alike.

Māori is often taught slowly. It's a big ask for students to sit through a lot of hours for a little language gain. People learn languages at different speeds. There need to be seriously differentiated learning options so it's enjoyable and a good use of time and not something people have to drag themselves through. Done right great. Done badly a disservice to everyone. Got to be really smart about it. (94, Law Academic)

I think a lot of non-speakers of te reo (like me) may be discouraged from trying because of their essentially 'zero' baseline of knowledge. People need to feel safe and welcomed to try things that may be new to them (especially in areas with a lot of inertia like the legal system). Even basic things like trying to improve pronunciation of place names can be a bit of a barrier. (148, Lawyer)

How the classes will be taught safely for all students involved, including navigating the tensions that might arise between Māori and non-Māori students (such as approaches to learning, cultural understandings and also the relationships that students might have to te reo and the *mamae* [pain] some might feel in learning) particularly as there might be large numbers of non-Māori in these classes. Therefore, structuring the classes I imagine will be a challenge. Historical, cultural and political education is needed too. (82, Researcher)

Several respondents thought sensitivity needed to be shown to Māori law students and staff who might feel embarrassment or shame for not knowing te reo, particularly if it was taught by Pākehā. The potential for the process of learning te reo Māori to be painful for Māori due to the history and impact of colonisation also needed to be acknowledged and managed carefully.

I think requiring compulsory te reo will need to be approached carefully for Māori students in particular. Personally, I have really struggled with *whakamā* as someone who is Māori and doesn't speak te reo. This has made learning te reo challenging at times and I have dropped out of a couple of reo courses as a result. This needs to be handled safely and in a *tika* way. For me that is something that Pākehā learners of te reo don't always understand, so perhaps some separate spaces for Pākehā and Māori learners might help. I don't know, I just feel like this needs to be approached carefully. (162, Law Student, Law Academic)

It would be horrible if Māori who don't already speak te reo would be made to feel inadequate/ashamed. Legal education needs to be accessible to all – not just those who have the resources to learn te reo. (113, Law Academic)

Sensitivity is needed in the *mamae* that might be experienced by Māori students towards learning and knowing the history of their ancestors who were ripped of this right. Thinking about how this might be acknowledged alongside the need of *tauwiwi* students needing to also learn. Recognising their privileged to learn but the right of their Māori peers to learn. How can we recognise the difference in how we teach? (180, No details)

Some participants argued that Māori students needed to be given priority.

Learning te reo for Māori comes with all sorts of legacies of colonisation, and can be a painful and sad process. It's not like learning French because you love croissants. It is your own language but – it can be the case that you are reminded painfully every day that you should speak it but don't. Going to learn it can be embarrassing. Māori students need to continue to have prioritisation for being taught and learning te reo in a safe environment – not trying to compete alongside 900 non-Māori. Māori academic staff also need to be able to prioritise Māori students in teaching te reo. Another danger could be that Māori academic staff aren't prioritised to be grown to teach te reo. Pākehā can play a significant and helpful role in supporting Māori academic staff to teach te reo, including to other Pākehā – but this needs to be carefully managed and they require careful training to be cautious and aware of the pain that may be caused by Māori staff and students being taught their own language by Pākehā. (144, Law Academic, Hapū Representative)

b. The Need for Broadening the Initiative beyond Law Schools

Several participants thought that for this initiative to work, university and law faculty leadership and teachers need to lead by example.

This has to be done right at the top. The classes and law schools are as good as their faculty and staff allow them to be. If staff don't understand te ao Māori or cannot speak or pronounce basic te reo, this won't work. (34, Law Student)

There would need to be a commitment from the existing faculty and leadership – the VC of my uni can't even pronounce the Māori name. It is really jarring to hear senior staff and university leadership consistently mispronounce te reo Māori and if that doesn't change it would be pretty disheartening for students. We can't tell students how important te reo is and then have staff appear to make no effort whatsoever. (162, Law Student, Law Academic)

I wish that it would be undertaken by all staff and students at tertiary level – te reo is a fundamental knowledge to have as a citizen of this country. I wish the Uni would try to promote te reo more and change the attitude a lot of students have to learning the language. However, it is extremely important for Lawyers to have a strong basis of te reo, more than a basic understanding in order to represent more people and uphold the identity of the country we represent. (159, Law Student)

IV. Ko Te Reo Māori i Ngā Whakaakoranga Ture | Te Reo Māori in University Legal Education CONT.

Others saw the need for te reo Māori skills being expanded beyond law schools and/or tertiary institutions.

While te reo Māori skills are important, the most important aspect of the New Zealand law school renaissance will be embedding te ao Māori across all aspects of the legal curriculum and communicating the dynamic capability of a fused te ao Māori/common law jurisdiction both within New Zealand legal communities and across legal communities in the Commonwealth and internationally. (126, Law Academic, Lawyer)

I think it's fantastic in general, but requires effort across the board and results cannot be expected too quickly. The changes to law school to more accurately reflect Aotearoa's biculturalism have been a long time coming, but I worry that if the changes are not implemented purposefully and correctly, detracting voices could capitalize on mistakes made. I think incorporating te reo into law school (and NZ society) is necessary and fantastic, however I am loathe to give excuses and ammunition to racists if done poorly. Hell of an onus to put on Māori, I hope those leading the way are remunerated significantly and correctly for their mahi. (85, Law Student)

c. **Whether Making Te Reo Māori Part of an LLB Should Be Compulsory**

The most common general comments related to whether te reo Māori becoming part of a university legal education should be either encouraged or required. Those supporting making it mandatory or compulsory thought doing so gave symbolic importance to te reo Māori, created an "even playing field" for graduates, and ensured that legal professionals had the necessary skills.

It should be required for all taura, but especially law students who will at some point come across Māori issues in their practise of one sort or another. (25, Government Official, Lecturer in Māori Studies)

I would be incredibly appreciative of te reo being made compulsory. As someone who has not grown up in New Zealand, yet is of Māori descent, I have found it incredibly hard to find time in my degree to learn te reo. (84, Law Student)

Others were supportive of learning te reo Māori being encouraged and facilitated, but thought making it compulsory would be counterproductive or unnecessary.

I think there are benefits to encouraging and incentivising learning te reo – but I think requiring it could be counter-productive at this stage. (115, Law Academic)

Strongly encouraged and facilitated to the point of being the norm but not compelled. (10, Law Academic, Lawyer)

I prefer encouragement rather than compulsion. Particularly "encouragement with benefits" – i.e., it becomes easier to satisfy some course requirements if the student has undertaken te reo. (137, Lawyer)

There was some confusion about whether *fluency* in te reo Māori was being proposed.

It takes a lot of work to learn a language. Some clarification on being either fluent with Te Reo Māori or only if you need to know specific terms and their meanings would be appreciated. (54, Law Student)

There was only one explicitly negative comment:

This is the worst idea. Do not do this. It is absolutely ridiculous to suggest this... Most Māori don't even speak Māori. It is ridiculous to expect law students to learn another language which won't help them in any way... We live in a society that barely speaks English. Stick with one language. (108, Law Student)

Key Findings

The majority of respondents (71%) supported introductory te reo Māori being taught to law students as part of their law degree.

- Those supporting making some level of te reo Māori mandatory thought doing so gave symbolic importance to te reo Māori, created an “even playing field” for graduates, and would help ensure that legal professionals had better skills to practise law in Aotearoa New Zealand. Learning te reo may also help with critical and analytical thinking, cognitive development and oral communication skills in the practice of law. Many also considered that having te reo Māori would increase students’ understanding of te ao Māori. Graduates would be well-rounded, responsive and culturally competent legal professionals, able to communicate and work appropriately with Māori clients and understand Māori legal issues. As well as producing more culturally competent lawyers, teaching te reo Māori could lead to improvements to Aotearoa New Zealand’s legal system such that it recognises and includes te reo Māori, tikanga and Māori law in legislation, the courts and the law.
- More than half of the respondents did not support law students being required to pass advanced te reo Māori 300-level papers.
- Respondents identified a number of risks. There was concern that learning a new language can be difficult and that this would increase the educational burden on some law students or put off those who struggle with a new language. There was also concern that some students may not see the relevance of learning te reo Māori as part of their law degree, leading to resentment or lack of motivation, particularly if it was a compulsory requirement. Some felt there may be a risk to the integrity of te reo Māori itself. Several respondents thought sensitivity needed to be shown to Māori law students and staff who might feel embarrassment or shame for not knowing te reo. The history and impact of colonisation also needed to be acknowledged and managed carefully as learning te reo Māori can be painful for Māori and challenging for Pākehā.
- Respondents strongly supported law schools providing significant professional development support for staff to learn or improve their te reo Māori (88%). Not only would improve use of te reo Māori by staff help to strengthen te reo Māori as an official language, it would also improve pronunciation of te reo Māori, especially the pronunciation of student names. It was also acknowledged by participants that the importance of te reo needed to be demonstrated by university institutions, at the highest level. The requirement should not lie only with teaching staff but be supported and prioritised throughout the institution.



Moana Jackson with Te Kooanga Awatere-Reedy,
Te Herenga Waka, Victoria University of Wellington

v. Ngā Ture Māori i ngā Whakaakoranga Ture | Māori Law in University Legal Education

In this section of the survey, we were interested in what respondents thought about our recommendation in the Phase One – Issues report that Aotearoa New Zealand move towards a bijural legal education that would teach law students about Māori law (the systems and decision-making processes that maintain tikanga Māori) alongside the teaching of New Zealand state law.

As we set out in our Phase One – Issues report, a bijural legal system is one where there is the “coexistence of two legal traditions within a single state”.¹¹ While the term is more commonly used to describe a state with both common law and civil law traditions, it can also apply to a state operating with the Western legal tradition and Indigenous law. In this research project, we use the term “bijural” to describe the *equitable* treatment of both Māori law and Aotearoa New Zealand’s Western legal tradition, in recognition of Durie’s view that “our law comes from two streams”,¹² whether in legal education or law in general, and whether in the development of Williams’s specific “Lex Aotearoa”¹³ or a pluralistic system. A bijural legal education therefore would engage with Māori law as a *source of legitimate legal rights and obligations*. Māori law would be the subject of legal education in Aotearoa New Zealand, recognised as a legal order on its own terms, not merely as a fixed cultural artefact that is only relevant when viewed through the prism of a common law-based system.

We therefore asked in our survey a series of questions to test whether or not there is general support for this initial recommendation.



Justice Sir Joseph Williams and Nopera Jackson,
Te Herenga Waka, Victoria University of Wellington

¹¹ C Lloyd Brown-John and Howard Pawley “When Legal Systems Meet: Bijuralism in the Canadian Federal System” (Working Paper 234, Institut de Ciències Polítiques i Socials, 2004).

¹² Durie above n 4, at 461.

¹³ Williams above n 2.

V. Ngā Ture Māori i ngā Whakaakoranga Ture | Māori Law in University Legal Education CONT.

Table 4. Agreement with statements about Māori law in university legal education

Statement	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know/not sure
Law students should be taught Māori law as a requirement for earning their law degree.	60.2%	22.9%	7.0%	5.0%	4.0%	1.0%
Law schools should teach relevant Māori law in all law papers.	42.8%	27.9%	8.5%	9.5%	8.0%	3.5%
Law schools should teach Māori law only in the first-year law papers.	0.5%	4.0%	9.0%	40.3%	44.8%	1.5%
Law schools should teach Māori law only in specific Māori issues papers, like Māori land law or Treaty settlements law.	1.5%	4.5%	10.4%	40.3%	42.8%	0.5%
Law schools should provide significant professional development support to their teaching staff to learn or improve their knowledge about Māori law.	74.6%	15.9%	6.0%	2.5%	1.0%	0.0%
Māori legal expertise from mana whenua (local iwi and hapū) should be involved in teaching Māori law to law students.	49.8%	29.4%	10.9%	3.5%	4.5%	2.0%

Quantitative Results

The survey asked respondents to consider their views on a bijural legal education in which law students were taught about Māori law (the systems and decision-making processes that maintain tikanga Māori) alongside the teaching of New Zealand state law (see Table 4).

The vast majority of the respondents had a view about teaching Māori law as part of a university legal education. Several (7 or fewer) selected “Don’t know/not sure” for each statement, and no more than 11% indicated that they neither agreed nor disagreed with each statement.

Figure 2 shows the levels of agreement with the above statements, excluding the data from those who did not know or were not sure of their position.

As Figure 2 shows, the vast majority (84%) of the respondents agreed or strongly agreed that law students should be taught Māori law as a requirement for earning their law degree. In relation to in which papers Māori law should be taught in law schools, a clear preference emerged. Nearly three-quarters (73%) of the respondents thought Māori law should be taught in *all* law papers, with little support for it only being taught in first-year papers (5%) or only in specific Māori issues papers (6%). There was very strong support for teaching staff being supported to learn or improve their knowledge about Māori law, with 91% agreeing or strongly agreeing that law schools should provide significant professional development support for this to occur. There was also strong support for Māori legal expertise from mana whenua being involved in teaching Māori law to law students, with 81% agreeing or strongly agreeing this should happen.

The survey next asked who should teach Māori law to law students if it was a comprehensive and required part of a law degree (see Table 5).

Figure 2. Agreement with statements about Māori law in university legal education

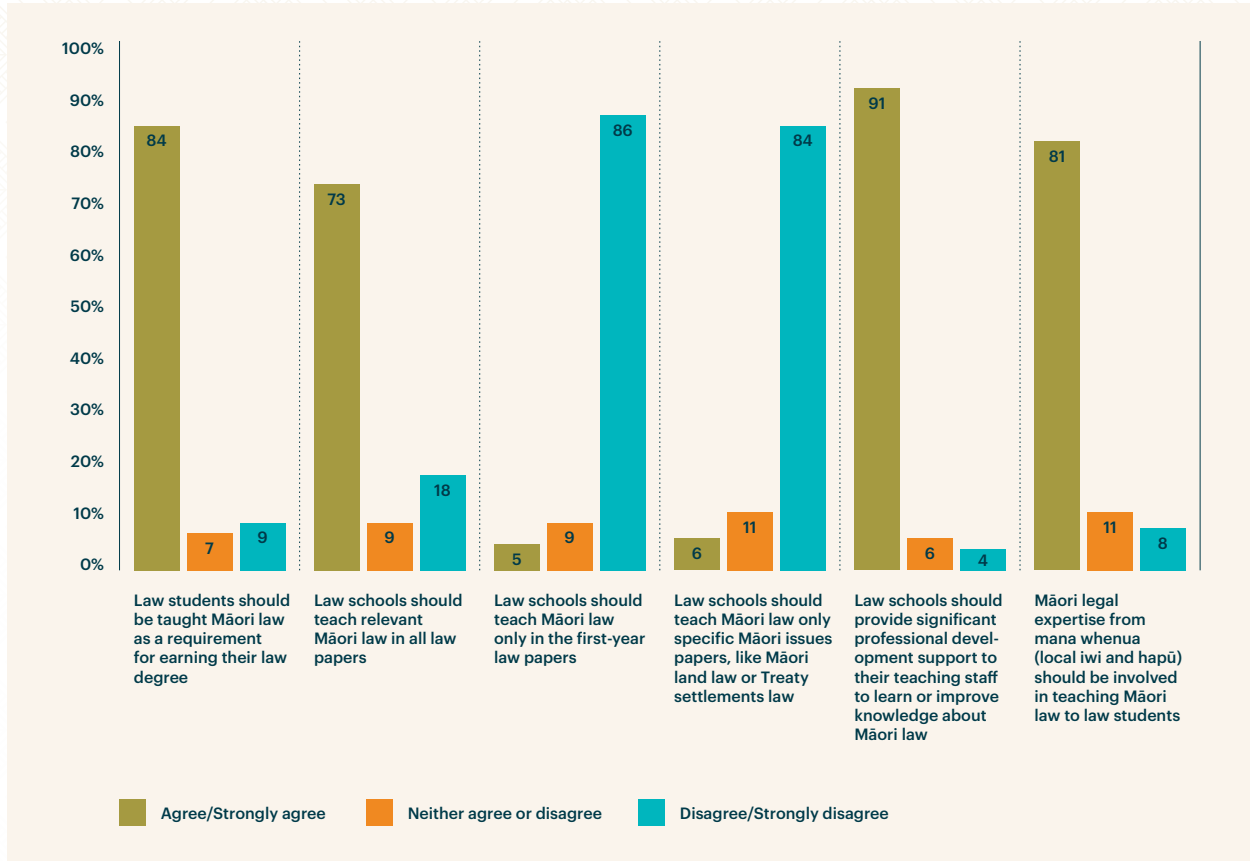


Table 5. If Māori law was a comprehensive and required part of a law degree, who should teach it to law students?

	n	%
Māori staff from law schools	127	63.2%
All staff from law schools	122	60.7%
Mana whenua	122	60.7%
Staff from university Māori departments	110	54.7%
Other	37	18.4%
Don't know/not sure	11	5.5%
None of the above	1	0.5%

NOTE: Multiple selection was possible.

Less than 6% of the respondents did not know or were not sure who they thought should teach Māori law to law students, and one person did not think anyone should as they did not believe it should be taught at all. There was no clear preference for who should teach law

students Māori law, with similar proportions (just over 60%) selecting Māori staff from law schools (63%), all staff from law schools (61%), and mana whenua (61%). A slightly lower proportion (55%) thought staff from university Māori departments should teach Māori law.

V. Ngā Ture Māori i ngā Whakaakoranga Ture | Māori Law in University Legal Education CONT.

Qualitative Results

Respondents had the option of answering three open text questions in this section of the survey, which asked them to detail the opportunities and benefits, the challenges and risks, and any general comments relating to the teaching of Māori law in university legal education. The responses to these questions are presented individually below.

Opportunities and Benefits

The first open text question asked: *What are some opportunities or benefits of teaching Māori law to law students (if any)?*

Respondents identified a range of opportunities and/or benefits to students, the legal profession and society of teaching Māori law (the systems and decision-making processes that maintain tikanga Māori) as part of a bijural legal education. We categorised the responses into four themes:

- a. New Zealand lawyers will have a legal education that supports nation building;
- b. Recognising Te Tiriti o Waitangi and the increasing impact of tikanga Māori both in society and in the law;
- c. Teaching Māori law will improve the practice of law, thereby improving access to justice; and
- d. Lawyers will have a better knowledge base with which to engage with and understand Māori legal issues.

a. *New Zealand Lawyers Will Have a Legal Education That Supports Nation Building and Identity*

Respondents considered Māori law to be part of the legal system in Aotearoa New Zealand, and so law students should understand the nature and history of that law.

Students gain opportunities to see themselves from different perspectives, have the opportunity to analyse the privilege they live within. By using experts in the field too, the students have a chance to delve further into the dynamics of society and their place within. (97, Iwi representative, Hapū Representative)

Many layers of benefits, including ideally make them more compassionate and passionate about Māori law and addressing injustices facing Māori in general; and making them competent law graduates/lawyers/scholars/policy makers/politicians/business leaders with a knowledge of Aotearoa's history, legal system and society as a whole. (124, Law Academic)

It is good to have an understanding of all things that relate to NZ law. (63, Lawyer)

As with previous responses, this would equip law students to be more critical thinkers by bringing to bear more than one world view to their study of the law. It of course has inherent substantive relevance to understanding the legal history and law of New Zealand, including New Zealand's constitution. (213, Lawyer, Government Official)

Some law students commented that knowing Māori law would make them better lawyers.

As a current law student I feel like there's a huge part of the law that is missing from what we learn. I think this is an opportunity to create a legal system that is uniquely Aotearoa's and can help be nation building. I think it will help students go out into the world equipped with the knowledge needed for Aotearoa today, as I think Te Ao Māori and working in partnership is only going to be more important going into the future. (165, Law Student)

I think teaching about Māori law is one of the most important things to be taught at law school. With Te Tiriti as such an important document in Aotearoa, I know of very few people who actually seem to appreciate the differences in values between Māori and the crown at the time, and therefore can't appreciate and help to resolve the issues that has created that continue today. (173, Law Student)

I think by increasing teaching about Tikanga Māori, people are better equipped to deal with these issues, as opposed to the straw manning and surface level engagement that discussions and debate in this area tend to have. I think this is just one example of an area that would be improved if teaching on this subject is more widespread. (173, Law Student)

b. *Recognising Te Tiriti o Waitangi and the Impact of Tikanga Māori in Legal Practice*

Some participants understood the concept of Māori law as a necessary component of Te Tiriti jurisprudence.

Accepting, as I do, that Te Ture Māori is its own strand of law in Aotearoa it is obviously necessary to teach it to law students. Under Treaty jurisprudence, a failure to teach it at state tertiary institutions may be a breach. (160, Law Student)

Better understanding of Te Tiriti and its contra proferentem understanding; acknowledgement of structural racism present in imposition of western legal systems on Māori; opportunity for New Zealand law to better reflect and incorporate Māori interpretations of law and legality and justice in the future. (102, Lawyer)

Influence greater constitutional changes and understanding of how Te Tiriti can be upheld throughout society (114, Other – Māori Studies Academic)

c. *Teaching Māori Law Will Improve the Practice of Law, Thereby Improving Access to Justice*

Access to justice for Māori was important to a number of participants, and they believed that learning more about Māori law would improve the just operation of the legal system, including legal representation of Māori clients.

Tikanga and Māori law can be relevant to your client or could be to opposing counsel. Therefore, it is important for all to learn, because even if you don't intend practising in that area it doesn't mean opposing counsel won't. (105, Law Graduate)

Increased empathy, awareness of worldview so better lawyers. (116, Iwi and Hapū Representative)

To enable them to practice law in a more inclusive way. (8, Lawyer)

I strongly support the inclusion of Māori law in the curriculum. Quite apart from the discharge of our Treaty obligations, and the intrinsic benefits, Māori legal concepts are increasingly becoming a part of state law both through statute law and common law. This is going to increase quickly and law schools need to get ahead of the curve. (241, Law Academic, Lawyer)

d. *Lawyers Will Have a Better Knowledge Base with Which to Engage with and Understand Māori Legal Issues*

Respondents believed that having better knowledge of the two founding systems of law in Aotearoa New Zealand would improve lawyers responsiveness to Māori clients.

All lawyers and law students need to understand Māori law to enable them to have a full appreciation of all laws and governance rules of this country not just those created by Pākehā. (134, Lawyer)

It's a comparative law opportunity within the same jurisdiction – that's a sophisticated concept that would deepen students' understanding of both systems of law. It also helps to illustrate the concept that sometimes takes students a while to get their heads around that any legal system is not written in stone – even if we are used to it, and it strikes us as "standard" or even "good", it could be otherwise. (38, Law Academic)

Better understanding of te reo me ona tikanga as students makes for much better engagement with Tangata Whenua as professionals. (16, Iwi and Hapū Representative)

V. Ngā Ture Māori i ngā Whakaakoranga Ture | Māori Law in University Legal Education CONT.

Challenges and Risks

The second open text question was: *What are some challenges or risks with teaching Māori law to law students (if any)?*

More than half of those who commented were concerned with the quality of the teaching content and under-resourcing of the teaching. There were concerns that the staff would not have the time for or access to good quality professional development, especially where they have no existing experience of teaching Māori law. Many were concerned that there would not be quality systems to protect Māori staff against racism, backlash or overwork. And others were concerned to ensure that there would be quality systems to upskill and build confidence in Pākehā teaching staff. A few were concerned about how to protect the academic freedom to critique Māori law. We categorised the responses into the following four themes:

- a. Slowing the process of implementation to ensure adequate resources and teaching quality;
- b. Concern about protecting staff, especially Pākehā staff teaching Māori law;
- c. Integrity of Tikanga Māori;
- d. Politicisation of legal education.

a. *Slowing the Process of Implementation to Ensure Adequate Resources and Teaching Quality*

Respondents who were supportive on the teaching of Māori law were also realistic about the challenge of upskilling the academics to teach this new content. Caution was urged to make sure the teaching was well resourced and of high quality.

Again, although I strongly support the direction of travel, I urge caution and careful sequencing. We need to be attentive to resource limitations, by which I mean not only financial, but human resources and accessible intellectual resources. My own view is that all students ought early in the degree to complete a compulsory course in tikanga. I do not suggest that should be the end of the matter, but it seems to me that we need to be careful of blanket compulsion across all legal subjects until we are convinced that there are adequate intellectual resources available... So my view is “required” – yes – “comprehensive” – yes but let’s work towards that goal rather than rushing at it. (241 Law Academic, Lawyer)

The framework of teaching, and the teaching itself, will have to be carefully analysed and decisions must be made ONLY after consultation and agreement from mana whenua. Mana whenua must be involved in the entire process – essentially from this point onward. There is a risk of tokenising and undermining tikanga and te ao Māori if inadequate resources and funding are provided to this project. This cannot be a ‘tick-box’ exercise – there must be a significant increase in Māori legal academics and a strengthening of relationships between law and Māori studies faculties + mana whenua, in order to design a program which properly teaches tikanga. (43, Lawyer, Courts Officer, Government Official)

I see three principal risks that need to be managed. The first is the lack of capacity to teach tikanga in a tuturu [real or true] way in all courses. To do so requires a combination of knowledges, which will take years to build. An incremental process starting with core subjects and those in which there is capacity is far preferable than requiring content in all courses that can't be delivered. (91, Law Academic)

Again I'm conscious of the time and resources (for students and tohunga) available to actually implement it comprehensively. Perhaps it may need to be a staggered process. (169, Law Student)

b. Concern about Protecting Staff, Especially Pākehā Staff Teaching Māori Law

Respondents were aware of the complexity and detail of Māori law and were concerned that academics who were not experienced in the nuances of Māori law and tikanga Māori, have cultural support if they are to teach it.

Ensuring Māori law legal materials are available for all relevant law courses. Ensuring that Faculties and Universities provide time for the development of knowledge of Māori law for those academics who do not know much about it and will be teaching it. Interaction between mana whenua and academics may not be easy if there are no existing relationships. (153, Law Academic)

I am also worried about the risk of Pākehā lecturers who are not grounded in te ao Māori teaching these parts of the courses out of necessity due to a lack of Māori staff, I know our Māori academics are already so overstretched with their commitments to their communities and important mahi. (87, Law Student)

Just as we teach statutes and case law, if tikanga is relevant then it should be taught. But not if it's the same tikanga in lots of courses. So, we'd need to see what was needed. It would need to be done well – the last thing we want is mistakes to fuel a backlash. (155, Law Academic, Lawyer)

Similar comments as made in te reo section about cultural safety. But also thinking about the future of these students and how tikanga and te reo might be weaponized or used inappropriately/co-opted by the legal system or lawyers. Also, how will those teaching these subjects to law students be supported? (35, Law Academic)

c. Integrity of Tikanga Māori

About a quarter of respondents who made comments were concerned about maintaining the integrity of tikanga Māori and the risks to Māori of the abuse or misuse of this knowledge.

It becomes a token. (21, Lawyer)

Same response: white privilege and white appropriation of cultural knowledge that has positive social exclusions; meaning that tikanga Māori that underpins Māori law is determined by Māori people. It is not for Pākehā who study Māori law at university degree level to whitesplain to us about our law or make out they are the authority on things that do not belong to them. (5, Other – Anthropologist)

That Māori law is being taken out of the communities and contexts which it is derived from and taught within a Western system with little understanding of it to this point. We need to be careful that tikanga is not distorted, cemented, or disrespected in this regard. (78, Law Student)

V. Ngā Ture Māori i ngā Whakaakoranga Ture | Māori Law in University Legal Education CONT.

d. *Politicisation of Legal Education*

There were fewer than 20 comments that were concerned about the politicisation of legal education. These ranged from concerns that Māori law was inherently political to concerns that the use of Māori law would become a political tool used against Māori. These were all primarily concerns about whether New Zealand society is ready for a deeper engagement with Māori issues as an equitable law without an unacceptable impact on Māori or Pākehā.

Pākehā will weaponise Māori law against us Māori. (119, Law Academic, Lawyer).

1. Bias. Teaching Māori law needs to be separate from Māori history and Māori policy. Those concepts need to be taught and understood but separately in the same way that policy arguments and history are expressly kept distinct with the common law.
2. Fairness. Staff and students need to be given a fair opportunity to learn and it shouldn't advantage one group because of their heritage.
3. Apolitical. The law casts a lens on a society. It will need to not become a political football as the NCEA and primary school had become at the ministry of education. (46, Law Student, Government Official, Policy Developer)

Feelings of being uncomfortable and alienated. I am Māori but I found the experience uncomfortable and unsettling. I felt that the lecturer lectured from the point of view of the Māori World and not from a neutral stance. I felt pressured to disown my own Pākehā history and to be what I have never been. Another concern is that if outside sources were to teach; they would come from personal perspectives and not from a law-based and therefore neutral perspective. (225, Law Student)

General Comments

Respondents made a number of positive general comments supporting the teaching of Māori law, including "It's a no brainer." "This is essential." "Can't believe it doesn't happen now." "Should be in all law courses, not just the core." and "I would really enjoy it!"

Others were concerned that Māori law should only be taught where relevant. Academic freedom was also raised by some academics concerned that they would be unable to critique Māori law. And some remained concerned that the clash of two different legal systems would cause social problems.

Three themes arose from respondents' comments:

- a. Relevancy of Māori Law
- b. Academic freedom; and
- c. A clash of two legal systems.

a. Relevancy of Māori Law

Some respondents felt that Māori law may be appropriately taught in some papers but not all. There was concern that Māori law is not relevant for some areas of law, such as international law or torts law. Others felt that Māori law is relevant and should be taught across all papers. One respondent felt that Māori law was entirely irrelevant for them.

I didn't know how to answer the question – can't quite recall how it was put – that relevant Māori law should be taught in all law courses... Surely there are some courses where it is completely irrelevant? International Law courses for example? It seems to me the option should be relevant Māori law in relevant 300 level courses. (17, Law Academic)

There is a need to ensure that Māori law is taught in a way which informs study in all areas where it has relevance (there are some areas where any relevance is doubtful such as some aspects of international law and international commercial law, extradition) but it must not be segregated off into an "add on" subject or group of subjects. Where it is relevant, it should be taught as part of a holistic approach to the particular subject. That may cause some angst when negotiating curricula through the CLE [Council for Legal Education]! (26, Other – Retired Academic)

First year, yes! Definitely require this to understand New Zealand, incorporating into Criminal Law and Public Law makes sense, but referring to contract or torts or other non-Māori-related papers is going too far and is just not logical. The treaty is not incorporated into domestic legislation, although a founding document, it is not binding per se such as any other international treaty that is not incorporated into domestic law. If you really want to teach Māori law as a compulsory subject, get the legislature to incorporate it and make it a binding document. But the Crown is wary of that. (106, Law Student)

b. Academic Freedom

A number of academics expressed concern that they would be hindered in critiquing Māori law, and that implicitly or explicitly, the teaching would impinge on their academic freedom and role in critiquing law.

If it is included in the law school curriculum, Māori law must be taught critically and, at times, unfavourably. Law schools are not seminaries, and teachers should not hold Māori law in any higher regard or esteem than state law or judicial decisions. To prescribe otherwise would mean a grave violation of academic freedom. (118, Law Academic)

I'm not sure we're at a stage where tikanga can be subject to critique, evaluation, etc. Law courses are not, or should not be, didactic – they are laboratories for ideas, and all ideas need to be contestable. Law teaching is a constant process of evaluation and testing of ideas. Maybe one day we'll get to a point when tikanga itself is "contestable" in the same way – but we're a long way from that, often for very good reason. Without critique, there is a risk that law teaching becomes "training" – ironically teaching tikanga in that environment risks undermining universities, and law schools, rendering them servants of a neoliberal agenda – the end of "x in, x out" approach to education, which is the opposite of real learning. (166, Law Academic)

Much law is taught from a critical perspective. I am unclear whether you are able to criticise Māori law. My impression is that it cannot be criticised. I think this is a significant problem in terms of university teaching. (206, Law Academic)

Again, your questions are too vague to be fair. Māori law should definitely be taught, where relevant. How much of the total course content should be Māori law will depend on the subject matter and the appropriateness? Academic freedom is fundamental to NZ universities. (31, Law Academic)

V. Ngā Ture Māori i ngā Whakaakoranga Ture | Māori Law in University Legal Education CONT.

One thing I am really uncertain about is the extent to which we will be able to critique Māori law. Currently, my approach to teaching usually involves unpacking what the law is, looking at the law in action (i.e. how the law is working on the ground) and then critiquing the law (what are the weaknesses of the law and what might be future areas of reform or development?). Will we have academic freedom to critique Māori law? How can I do that legitimately and authentically as a Pākehā academic? Or will critique of Māori law be something that can only be done by Māori academic staff and/or mana whenua? If so, how would that work in practice? (232, Law Academic)

c. **Clash of Two Legal Systems**

Some respondents questioned whether there would be a “clash of law”, that the differences between Māori law and state law might be too difficult to resolve or cause social or political problems.

It must be accompanied by constitutional change to ensure that it cannot be used to entrench colonial inequities and injustices through the legal system. Māori must continue to be able to regulate and control how tikanga is defined and used. (144, Law Academic, Hapū Representative)

In *Ngati Maru Ki Hauraki Inc v Kruithof* [2005] NZRMA 1 at [48], Justice Baragwanath stated: “It is time to recognise that the Treaty did not contemplate a society divided on race lines between two groups of ordinary citizens – Māori and non-Māori – set one against the other in opposing camps.” I agree. (188, Law Academic, Lawyer)

However, more respondents felt that learning about the differences and similarities in legal systems would benefit their legal education.

I believe it should be comprehensive learning taught alongside the Westminster system. There are commonalities in both systems and definite benefits, especially in the restorative justice and land/environmental law. The students of today, become the influential leaders of tomorrow. (167, Policy Developer)

It is an essential core of any especially legal, education, given the impact of the law on Māori and the role Māori law and custom should have played since 1840. (138, Lawyer)

Comprehensive and compulsory education in Māori law should be taken up as an express and acknowledged challenge to the outdated statist/monolegal culture of legal education. Practice has already moved/is moving. Education (and theory) need to catch up. (35, Law Academic)

Law students should be expected to understand the law from multiple perspectives. This should absolutely include Māori law because that is the native law of our country. Lawyers cannot expect themselves to properly administer the law to Māori or to the Crown if they do not have a good understanding of Māori law and Te Tiriti. (51, Law Student, Policy)

Key Findings

There was overwhelming support (84%) for Māori law to be taught as a requirement for completing the LLB degree.

- Most respondents (73%) felt that Māori law should be taught in *all* law papers. Only 5% of the respondents thought Māori law should only be taught in first-year law papers.
 - Respondents noted that Māori law is part of the legal system in Aotearoa New Zealand and therefore law students should understand the nature and history of that law if they are to practise law in a knowledgeable way.
 - A number of respondents felt that learning more about Māori law would improve the just operation of the legal system, including improved legal representation of Māori clients. Māori access to justice within the legal system would improve if lawyers understood Māori law.
 - Some understood the concept of Māori law as a necessary component of Te Tiriti jurisprudence and acknowledged recent judgments that have made more explicit references to tikanga Māori.
 - There was also strong support for Māori expertise from mana whenua being involved in teaching Māori law to law students. This would include iwi-based tikanga to help to protect the integrity of Māori law and to ensure there was less risk of misinterpretation or misrepresentation of Māori legal principles and tikanga Māori.
- However, even where the participants supported the teaching of Māori law, more than half of the respondents were concerned with the quality of the teaching content and under-resourcing of the teaching of Māori law. They expressed concern that the staff would not have the time for, or access to, good quality professional development in teaching a new area of law.
 - Some academic respondents were not sure how Māori law would relate to their area of expertise (e.g., the law of torts), especially where they had no existing experience of teaching Māori law.
 - Others were concerned that there would not be quality systems to protect Māori staff against racism, backlash or overwork. And others were concerned to ensure that there would be quality systems to upskill and build confidence in Pākehā teaching staff who may find this more challenging than Māori legal academic staff. Some were concerned about how to protect their academic freedom to critique Māori law.
 - A very small proportion (6%) believed Māori law was relevant to law students but should not be taught in all papers.

VI. Te Tikanga-a-Rua i ngā whakaakoranga Ture | Biculturalism in University Legal Education

Our Phase One – Issues report identifies some structural changes to law schools that would be required to further ensure they are all bicultural in order to deliver a decolonised bijural curriculum grounded in Te Tiriti o Waitangi.

We recommended that the six law schools should commit to developing a bicultural legal education that implements structures, develops processes and provides resources grounded in Te Tiriti o Waitangi, including the employment of Māori, and sharing of resources, leadership and decision-making with iwi, hapū and Māori academic staff. Such commitment would prioritise:

- Quality, structural relationships with the mana whenua with the intent of building greater collaboration for the teaching of Māori law;
- The recruitment and retention of high numbers of Māori teaching staff;

- A structure for ensuring Māori-led quality content in the compulsory and optional courses offered across the study years;
- Shared decision-making authority and equitable access to financial resources with Māori staff in the faculty;
- Financial support for the development of a bicultural curriculum and its quality delivery; and
- Recognition of the Māori epistemologies for teaching and instruction, such as wananga, pūrākau (story), the use of te reo Māori and the legal knowledge held by kaumātua.

We therefore asked in this section of the survey a series of questions to test whether or not there is general support for this initial recommendation.

Table 6. Agreement with statements about biculturalism in university legal education

Statement	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know/not sure
Law schools should have an action plan detailing commitments to a bicultural legal education.	56.2%	29.9%	8.0%	3.5%	2.5%	0%
Māori leadership in law schools should be advanced and visible.	54.2%	31.8%	8.0%	4.5%	1.0%	0.5%
The number of law lecturers in NZ universities who are Māori should be increased. (Currently, less than 6% of law lecturers in NZ are Māori).	58.7%	26.4%	10.9%	1.5%	1.0%	1.5%
Ensuring law schools are bicultural should be a priority in their budgets.	48.3%	26.9%	11.9%	4.5%	5.5%	3.0%
Māori legal academics should be involved in developing a bicultural curriculum.	58.7%	25.9%	9.5%	3.5%	1.0%	1.5%
Mana whenua should be involved in developing a bicultural curriculum.	41.3%	25.4%	16.4%	6.0%	6.5%	4.5%
Law students should be taught some of their course on marae.	36.8%	24.9%	21.9%	6.0%	5.5%	5.0%
Law students should be taught some of their course using Māori teaching methods.	41.3%	26.4%	19.9%	1.5%	4.5%	6.5%

Quantitative Results

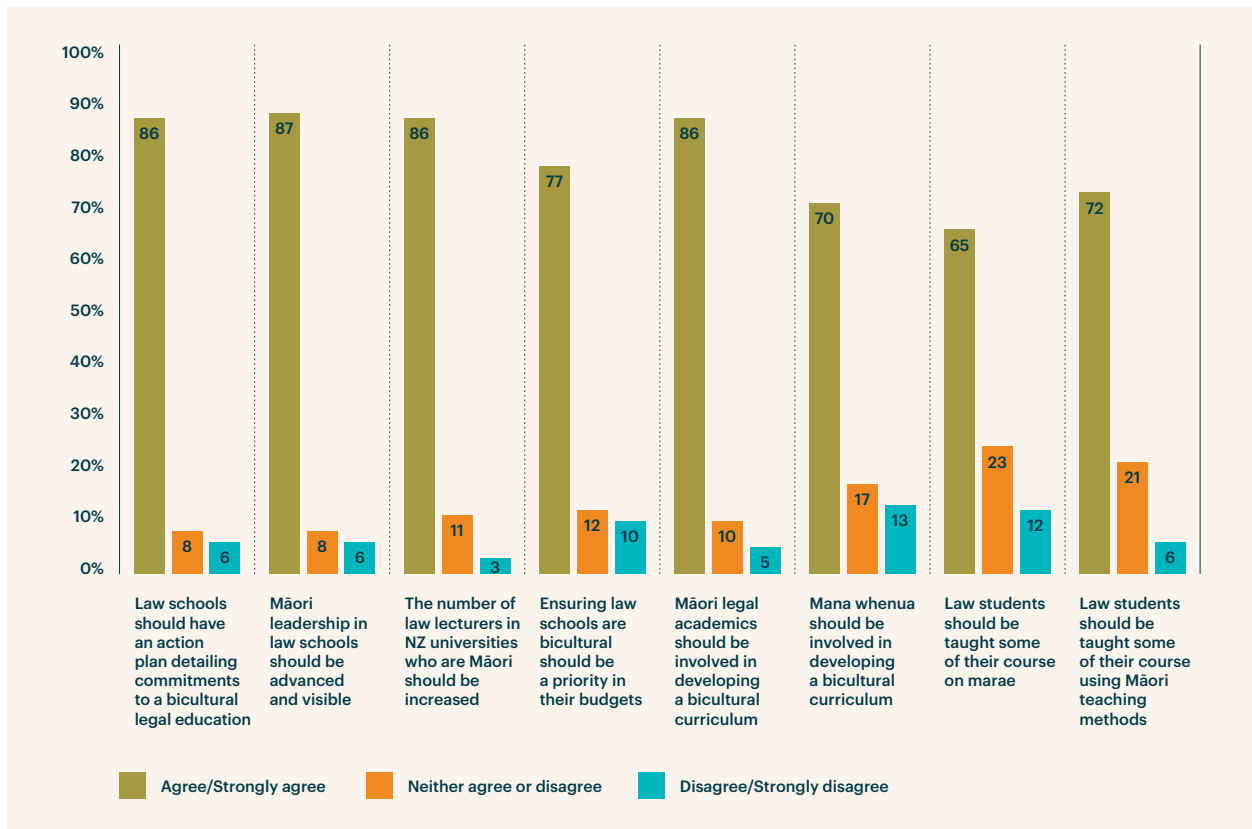
The survey presented respondents with a series of statements relating to structural changes to law schools that would ensure they are bicultural and able to deliver a decolonised bijural curriculum grounded in Te Tiriti o Waitangi. Respondents were asked how much they agreed or disagreed with the statements (see Table 6).

Overall, the majority of respondents agreed or strongly agreed with each statement. Support for the biculturalism was strong, with the proportions of those strongly agreeing with each statement being consistently greater than the proportion agreeing with each statement. Respondents were less sure of their views about whether mana whenua should be involved

in developing a bicultural curriculum, whether law students should be taught some of their course on marae, and whether Māori teaching methods should be used in some of their course. More respondents indicated they didn't know or weren't sure how much they agreed or disagreed with these statements and around a fifth neither agreed nor disagreed with them.

Figure 3 presents the proportions of those agreeing or disagreeing with each statement, excluding those who selected "Don't know/not sure". Very high proportions (70% or more) agreed with most statements. Comparatively, respondents were less supportive of law students being taught some of their course on marae, with just under two-thirds (65%) agreeing or strongly agreeing with this statement.

Figure 3. Agreement with statements about biculturalism in university legal education



VI. Te Tikanga-a-Rua i ngā whakaakoranga Ture | Biculturalism in University Legal Education CONT.

Qualitative Results

Respondents had the option of answering three open text questions which asked them to detail the opportunities and benefits, the challenges and risks, and any general comments about biculturalism in university legal education. The responses to these questions are presented individually below.

Opportunities and Benefits

The first open text question asked: *What are some opportunities or benefits of law schools committing to bicultural practices (if any)?*

The responses emphasised the positive flow-on consequences for law school culture, the legal profession and society by breaking down racism and equipping graduates with the skills necessary to work in a changing Aotearoa New Zealand. We categorised the responses into the following themes:

- a. Positive flow-on consequences;
- b. Change law school culture;
- c. Help break down racism; and
- d. New knowledge, new practices.

a. **Positive Flow-on Consequences**

Respondents noted several benefits to committing to bicultural practices.

Better understanding of bicultural relationships, leading to increased understanding of multicultural communities. (26, Retired Academic)

It grows your mind, teaches you to think differently and not just accept one single school of thought. Representation of indigenous people is also important for any country that aims to be just. (53, Law Academic)

The very least we can do to account for how the law is an ongoing tool of colonisation. (65, Lawyer)

Benefits to tauira, who will hear and see law and teachers who reflect their experience. Benefits to Pākehā teachers, who will understand our legal system better and learn how to engage better with our students. (71, Law Academic)

b. **Change Law School Culture**

Respondents identified that a commitment to bicultural practices would help change law school culture and values.

If done well, a much-needed shift in the values of law schools, which benefits all staff. A less elitist, bourgeoisie, male, adversarial culture. Staff with broader understandings of Māori law, culture and pedagogy, and also better understanding of the values, culture and decisions at the heart of the common law legal system. (10, Law Academic, Lawyer)

I think there are HUGE benefits and opportunities in thinking broadly about ways to shake up and change law school culture. I'm conscious of how alienating it can feel for Māori students, but also for students from other minorities, from lower decile schools, first in family university attenders, students with disabilities or learning disabilities. Sometimes, faculty seem to think that law school culture is something that is out of our control, or something that just happens. But I think that's a cop out. We talk about, say, Socratic method like it's the one true great way, but I just don't think that's true. And I don't think it's equally accessible to all students. I'm no expert on tikanga, but as a Pākehā novice, I have noticed that a lot of key concepts (that we love to at least namecheck in university values statements) such as manākitanga are pretty anathema to what I think of as entrenched law school culture. Integrating those kinds of concepts and values in a genuine, holistic way can only be a good thing for legal education, and the legal profession going forward. (38, Law Academic)

c. Help Break Down Racism

In addition to recognising that new commitments to bicultural practices would shift law school culture and values, many respondents specifically identified the benefit these commitments would have to breaking down racism and creating a safer place for Māori students.

To begin to meet our obligations under the Treaty. To teach our students the things they need to succeed. To teach students how to engage with people with different lived experiences from their own. To be more respectful to Māori in general. To encourage our students (and ourselves) to play their part in reducing the systemic racism currently present in our society. (155, Law Academic, Lawyer)

It will help diversify & helps Māori thrive in their own environment. Gives Māori the same opportunity as their more articulate classmates. (86, Law Student)

It will hopefully also form a safer space for Māori, who will hopefully be more drawn to law and the legal profession, creating even more change. The opportunity to learn from mana whenua and on the marae would be especially invaluable for many including myself. (87, Law Student)

d. New Knowledge, New Practices

Respondents also recognised that committing to bicultural practices would help to create a more accessible place for everyone, which would lead to more biculturally competent and confident graduates.

Helps immerse people into the Māori culture and feel, understand it first hand; classroom teaching fails to do this. (152, Law Academic, Law Student)

It will help to ensure that law schools produce biculturally competent and confident graduates. These will be essential for a strong future for Aotearoa New Zealand. One of the best experiences I had as an undergraduate was spending a weekend on a marae as part of a postgraduate geography course. I remember aspects of that experience to this day and am grateful that I had such an opportunity while at university. (205, No details)

One respondent articulated a strong critique of biculturalism. We include it here because it is a detailed and thought-out comment. It is not representative of other comments for this specific open text question, but it is still useful for us to consider.

The problem with the questions that are posed immediately above, is that they are full of “shoulds” – that is, the value of courses is to be measured by some externally-imposed top-down set of measurements. A better approach, I think, would be to provide the appropriate encouragements so that this happens – but happens in an organic and holistic way. It is extraordinarily dangerous – whatever the motivations – when people start telling university academics what they should or should not do in their courses. Naturally, some of this needs to happen, but the tenor of these questions is that universities and individual law school classes are a means to a particular social policy end (albeit, in my view, a very desirable one). Instead, university syllabi need to reflect the conscience and expertise of academics, working individually or collectively. Dictating the content of syllabi is a very dangerous route to go down. CLE [Council for Legal Education] does this to some extent, but it is very light handed, and appropriately so. (166, Law Academic)

VI. Te Tikanga-a-Rua i ngā whakaakoranga Ture | Biculturalism in University Legal Education CONT.

Challenges and Risks

The second open text question was: *What are some challenges or risks with law schools committing to bicultural practices (if any)?*

The responses emphasised important risks common to creating structural and systemic change: not enough resourcing, resistance and pushback being poorly managed by leadership, making changes too fast, the burden on Māori academics, and racist backlash. Some were concerned about the bicultural vs multicultural dynamic and deviating from the prime purpose of a legal education. We emphasise just some of these general themes here but all of them will continue to be considered closely by the research team.

- a. Leadership, structures and resourcing;
- b. Biculturalism vs multiculturalism;
- c. Deviate from prime purpose of legal education;
- d. Burden on Māori;
- e. Role for Pākehā academics; and
- f. Quality processes are important.

a. Leadership, Structures and Resourcing

Several respondents made comments about the internal challenges facing faculties of law in establishing commitments to bicultural practices.

Resistance and pushback being poorly managed by leadership. Unclear performance expectations on staff. Conflict with other expectations e.g. internationally focused research, PBRF criteria etc. Increased workload and lack of support or resources for staff (Māori and non-Māori). (9, Law Academic)

Also, I think there needs to be a major dismantling of current university structures and models, that will need to see Pākehā and non-Māori senior leadership be removed, demoted or required to share power which will take a lot of political and societal pressure. (124, Law Academic)

If staff members refused to integrate or did so in bad faith it could undercut the effectiveness of the programme. There is a risk of diluting culture to fit in within the existing mechanisms of law school. The risk is that we ask te ao Māori to bend and mould into fit with our existing law school structures instead of examining the law schools and how they might adapt to be more consistent with bicultural practices. (238, Law Student)

b. Biculturalism vs Multiculturalism

Several respondents were concerned that a commitment to biculturalism would erode multicultural relationships.

As noted previously, there will be another racist backlash that needs to be anticipated and strategies developed to deal with it. A formal commitment from law schools provides leverage to require the university to address those matters in an appropriate way, and reinforce the sense of legitimacy of Māori students and content and tauwiwi who support that. However, this needs to be pursued in the constitutional context of He Whakaputanga and Te Tiriti, otherwise we end up in an endless biculturalism/multiculturalism argument that completely misses the point about the relationship between them. (91, Law Academic)

My question is this: if bicultural practices are to become the norm then what about other cultural practices and nationalities? Does their cultural practices and law knowledge count for nothing as important. If you are going to insist on a bicultural approach then other non-Māori cultures are just as valuable. It seems that one culture dominates every other never mind Pākehā (non-Māori/immigrants etc.) their culture is not worth knowing or valuing!! (225, Law Student)

c. Deviate from Prime Purpose of Legal Education

Similar to concerns raised by some respondents earlier in the survey about academic freedom and the politicisation of legal education, some respondents to this open text question were concerned that commitments to bicultural practices might see faculties of law deviate from their prime purpose of teaching law.

Social engineering overburdening and taking over the prime purpose... i.e. getting a law degree. (22, No details)

How will it equip grads for international practice? Will the trade-offs involved under-equip them? Should students have quite a lot of choices (both ways) as to how bicultural their individual degree is? (94, Law Academic)

We come to law school to learn law not to play around with pretending like we care about a different system entirely. (108, Law Student)

I would strongly oppose the involvement of elements from outside the university (beyond professional bodies) in determining the law school's curriculum and content. (118, Law Academic)

d. Burden on Māori

We saw this theme in earlier open text question responses, and it was also noted in this context, with risks to Māori staff and Māori students being noted.

Excessive workload/stress/burnout for Māori staff. Additional Māori staff will be required to make this happen. (19, Researcher)

Disrespect and resentment. Increased mental load for Māori students if confronted with racist and colonial attitudes in every course. (104, Lawyer)

e. Role for Pākehā Academics

Some of the respondents expressed strong views about the important role of Pākehā academics if faculties of law move towards being more bicultural.

Māori academics should not have to be the cultural Sherpa for Pākehā colleagues. Pākehā teachers need to step up and educate ourselves, following the kaupapa laid down for us by mana whenua and Māori academic colleagues. (71, Law Academic)

All teaching staff will need to be equipped to practice them. This cannot become the exclusive domain of Māori staff. From a practical perspective this will overburden them, but as a matter of principle a truly inclusive environment goes both ways and recognises that all staff can participate. The temptation to exclude is understandable after the exclusion perpetrated by colonisers, but should be resisted. Exclusion is never a good strategy in my books. (133, Law Academic)

f. Quality Processes Are Important

Respondents reiterated earlier warnings about the need for quality processes if advancing bicultural practices. The warnings varied, as the below quotes indicate.

There is a risk I think in taking things too far, too soon. I prefer an incremental approach (but noting the first increment needs to be significant). (137, Lawyer)

Making teaching fit for purpose, e.g. don't just teach on Marae for the sake of it. Utilise it, if it adds a specific value to what is being taught. Or allow as options e.g. visits or understanding the mana of a marae. (105, Law Student, Graduate)

Assumptions – that there are two cultures – most people hate the current justice system – not just Māori. The current system is broken. Making it bicultural does what? (121, Lawyer)

VI. Te Tikanga-a-Rua i ngā whakaakoranga Ture | Biculturalism in University Legal Education CONT.

General Comments

Less than 50 people made use of this open text question: *Please feel free to make any comments about biculturalism as part of a university legal education.*

Many comments were short and simply stated “Leshgooooo” and “Do it!” Some reiterated concerns about the bicultural/multicultural dynamic and cautions like “don’t go too far too fast” and “Don’t let it be tokenism.” We highlight just a few comments here, some of which re-emphasise above themes. We categorised the responses into the following themes:

- a. Hope;
- b. The University of Waikato is already bicultural;
- c. Concerns about dismissing multiculturalism; and
- d. Other concerns.

a. Hope

Some respondents felt real hope that a bicultural shift in law schools would make for better structural change and better lawyers.

Absolutely necessary. If we want to commit to a bijural system there should be 2 x Deans. This is how we demonstrate proper power sharing. (64, Law Academic)

Very very keen for it. Bit gutted I will have graduated before I can see and experience it but the next generation of law students will have such an asset taught to them. Quite jealous honestly. (85, Law Student)

I am in favour of biculturalism but it cannot be seen to be simply cultural window-dressing – some guidance as to the place in the legal system of Māori law from the courts is necessary for those students who will resist this to recognise the necessity for working to overcome their own prejudice. (17, Law Academic)

b. The University of Waikato Is Already Bicultural

Te Piringa remains the only law school founded on a bicultural basis.

It’s what Te Piringa was founded to do, and is always a work in progress, but it’s been a big plus for our graduates, and it has impacted those firms/

institutions they went on to and are moving up through, to positions of serious responsibility, so they are already activating change in the legal profession. We are very proud of them. (55, Law Academic)

c. Concerns about Dismissing Multiculturalism

Respecting all cultures is important in a legal education.

All cultures have a role to enriching education, Māoridom is as important as the Chinese or Indian legal systems. The obsession with advancing Māori elements over everything else concerns me, it is something I am interested in learning about but not in affirmative action. While these comments are not consistent with the so called spirit of ToW [Treaty of Waitangi] as advanced by certain elements, it is my view and while others would hold that it means I am not worthy of participating in society and should be run out of town, it is my view. Prioritising one race or culture over another is wrong. Is it no longer ok to have a value system which is not based on prioritising one culture over another. (47, No details)

d. Other Concerns

Respondents had a range of other concerns that they wanted noted.

There will need to be significant further explanation of what “Māori law” is; and not made at the expense of general pluralism, multiculturalism. (112, Law Student)

The burden should just sit with the small amount of Māori legal academics. This adds a further kaupapa to their already busy schedules. It’s an important one, but they also need to be supported in a way that doesn’t box them into just being part of the biculturalism kaupapa. (215, Lawyer, Iwi Representative)

One respondent expressed strong disapproval of our survey questions, which we share here:

These questions are unfair. there is no way I can legitimately say I disagree with statements, because then I am seen as close-minded. But I can’t really agree with them either, because they are so vague that I can’t picture what a course would actually look like. Please be fair if you genuinely want feedback. (31, Law Academic)

Key Findings

More than 85% of the respondents agreed that law schools should have an action plan detailing commitments to a bicultural legal education; that Māori leadership in law schools should be advanced and visible; that the number of Māori law lecturers should increase; and that Māori law lecturers should be involved in developing a bicultural curriculum.

- The majority of respondents supported a bicultural legal education that implements structures, develops processes, and provides resources grounded in Te Tiriti o Waitangi, including the employment of Māori, sharing of resources, and leadership and decision-making with Māori academic staff.
- Sixty-five per cent or more of respondents thought budgets should prioritise law schools as bicultural, that mana whenua should be involved in developing a bicultural curriculum, and that law students should be taught some of their courses on marae and in accordance with Māori teaching methods.
- The respondents emphasised that breaking down racism and equipping graduates with bicultural skills would have positive impacts on law schools, including creating a safer place for Māori students. These skills would also be beneficial to graduates' future legal practice.
- Respondents recognised that committing to bicultural practices would help to create a more accessible law school that would lead to more biculturally competent and confident graduates. While respondents supported this change and supported the involvement of Māori legal academic staff, some also expressed concern that those staff should not be overburdened with making bicultural structural changes, as this is a Pākehā responsibility as well.
- The respondents emphasised risks common to creating structural and systemic change in an institution. These risks include insufficient resources and poorly managed leadership to any resistance and pushback. There was also concern that if structural changes are made in haste, they would not be as well supported or enacted as they should be. Others raised concerns about the burden on the small number of current Māori academics and the impact of racist backlash on Māori staff and students.
- Several respondents were concerned that a commitment to biculturalism would erode multicultural relationships, and commitments to bicultural practices might deviate faculties of law from their prime purpose of teaching law.

VII. Te Nohotahi o ngā Pūnaha Ture e Rua | Bijural Legal System

Our Phase One – Issues report recommends a bijural legal education to assist in the development of a bijural legal system where tikanga Māori is understood, practised and applied in law. Therefore, in this section of the survey we asked a series of questions to test whether or not there is general support for the broader development of a bijural legal system in Aotearoa New Zealand.

Quantitative Results

Respondents were surveyed about their views about a bijural legal system where tikanga Māori is understood, practised and applied in the law. Table 7 presents respondents' views on whether and how much New Zealand's legal system could be improved by judges and lawyers having a better understanding of tikanga Māori and te reo Māori.

Figure 4 presents the above data excluding those who did not know or weren't sure.

As Figure 4 shows, the majority of respondents thought that New Zealand's legal system could be improved to some degree if judges and lawyers had a better understanding of tikanga Māori and te reo Māori. Less than 5% thought this would not improve the legal system at all. Similar views on judges and lawyers having a better understanding of tikanga Māori were seen, with over 90% believing the legal system would be moderately or very much improved by each professional group having a greater understanding.

More respondents thought the legal system would be very much improved if these legal professionals had an increased understanding of tikanga Māori (72% for judges and 70% for lawyers) than if they had a better understanding of te reo Māori (61%). Overall, 86% of respondents thought that the legal system would be moderately or very much improved by these professionals having a greater understanding of te reo Māori.

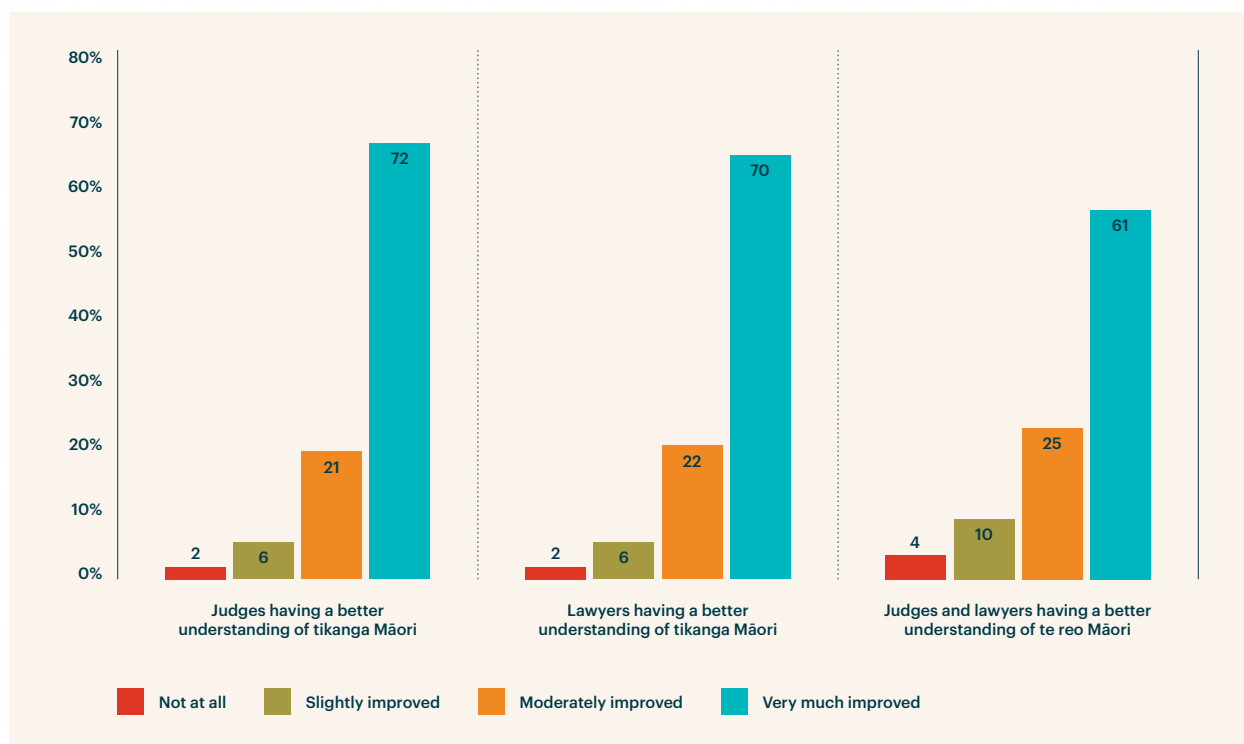
*Te Roopū Whai Pūtake,
University of Otago, 2021*



Table 7. How much New Zealand’s legal system could be improved by judges and lawyers having a better understanding of tikanga Māori and te reo Māori

Thinking about New Zealand’s legal system, how much could it be improved by...	Not at all	Slightly improved	Moderately improved	Very much improved	Don’t know/ not sure
Judges having a better understanding of tikanga Māori.	1.5%	6.0%	20.4%	70.1%	2.0%
Lawyers having a better understanding of tikanga Māori.	2.0%	5.5%	21.9%	68.7%	2.0%
Judges and lawyers having a better understanding of te reo Māori.	4.0%	9.5%	23.4%	58.2%	5.0%

Figure 4. How much New Zealand’s legal system could be improved by judges and lawyers having a better understanding of tikanga Māori and te reo Māori



VII. Te Nohotahi o ngā Pūnaha Ture e Rua | Bijural Legal System CONT.

Qualitative Results

Respondents had the option of answering three open text questions which asked them to detail the opportunities and benefits, the challenges and risks, and any general comments about a bijural legal system where tikanga Māori is understood, practised and applied in the law. The responses to these questions are presented individually below.

Opportunities and Benefits

The first open text question asked: *What are some opportunities or benefits of judges and lawyers applying tikanga Māori in their work (if any)?*

We have grouped the responses into the following four themes:

- a. There are benefits to Aotearoa New Zealand society overall;
- b. Improves equitable outcomes for Māori in the legal system;
- c. Tikanga will be seen to be an equal part of New Zealand's legal system; and
- d. The legal system will be more culturally appropriate and able to deal with cultural legal complexities better.

a. **There Are Benefits to Aotearoa New Zealand Society Overall**

Respondents felt that tikanga Māori was as important part of Aotearoa New Zealand's legal and political culture.

Tikanga Māori contains principles that help people navigate life in NZ including its environment and culture. Understanding those principles widens the toolbox of solutions for legal problems. (3, Law Academic, Lawyer)

Better understanding of society and connection to place. Fair and inclusive practice. (19, Researcher)

b. **Improves Equitable Outcomes for Māori in the Legal System**

If lawyers and judges understand tikanga Māori better, Māori would not suffer disproportionately from inequities in the legal system.

Māori will not be disproportionately represented in the criminal justice system if tikanga Māori is applied. (27, Lawyer)

Tikanga will begin to be reflected in our legal systems. This is important because it helps bring the legal system more in line with the treaty, and because it allows Māori to have access to justice that better reflects their own tikanga, not an imposed Pākehā law. (89 Law Student)

Given Māori are disproportionately represented in prisons, applying tikanga Māori into work (e.g., court hearings) would greatly benefit Māori. It would be a more familiar system and more likely to achieve better results. (101, Law Student)

It's got to add value to an already broken system for Māori. (15, Lawyer, Iwi Representative)

Respondents felt that judges will be better able to apply tikanga appropriately and justly.

We are already seeing this in recent judgments of the court (like the Ellis decision). Applying tikanga produces outcomes that are better tailored to the country we live in – rather than England way across the ocean. This seems obvious to me. It also helps judges to be more in touch with the real people, Māori and Pākehā, involved in their cases. (18, Law Academic)

For judges to be able to advance positive tikanga Māori-based decisions in the law, they rely on capable lawyers putting forth those arguments to the Court and engaging with them. Outside of rare occasions, it will be difficult for a Judge currently to bring up tikanga Māori where it has not been discussed in submissions. Therefore, it is essential that lawyers are skilled enough to a) understand WHEN to make a tikanga Māori argument and b) understand HOW to make a tikanga Māori argument. The flip side of this is that even if the lawyer makes this argument, the judge obviously must have sufficient capacity and understanding of tikanga and te ao Māori themselves in order to accept or analyse the argument. Therefore, you can't have one without the other. BOTH judges and lawyers must increase their understanding. (43, Lawyer, Courts Officer, Government Official)

It was felt that the courts would be able to respond better to Māori people, their needs and culture.

Better knowledge of tikanga brings clearer understanding of Mana Whenua perspectives. (16, Iwi Representative, Hapū representative)

Māori are overrepresented in the criminal justice system so judges and lawyers need to understand tikanga if we want to start making the legal system fairer and more representative. (52, Law Student)

In the criminal justice system Māori are over-represented, tikanga Māori could be a factor in ensuring that processes and outcomes are meaningful. (61, Law Academic)

Tikanga Māori has to be an essential part of the justice system. It needs to be respected and it needs to be pleaded by lawyers, it needs to be properly evaluated and, when it is persuasive it needs to be accepted by judges and other decision-makers. (77, Law Academic, Lawyer)

c. *Tikanga Will Be Seen to Be an Equal Part of New Zealand's Legal System*

Benefit is seeing Tikanga being treated as equal law as the Western law. (128, Law Student)

If lawyers and judges apply tikanga Māori in their work not just in a legal sense but also in a social sense this will encourage the merging of the two legal systems. (79, Law Student)

Tikanga would be in law (80, Law Student)

d. *The Legal System Will Be More Culturally Appropriate and Able to Deal with Cultural Legal Complexities Better*

A more appropriate and contextual approach to the cases that come before them – the tricky part will be when there are litigants from different world views, which world view applies/why/how? But that issue is in play right now with no attempt to address it, so at least addressing it has to be a better approach to achieving a fair outcome. Maybe it will force the system to harmonise some principles, which is better than just ignoring that there are two world views in issue. (55, Law Academic)

Broadens the possibilities for our legal system to address problems in unique and innovative ways. (78, Law Student)

Legal outcomes having a different philosophical basis that may relate to those who it is being applied to better than current legal jurisprudence. This could also help to change the structures and systems on which our society currently works in. (82, Researcher)

VII. Te Nohotahi o ngā Pūnaha Ture e Rua | Bijural Legal System CONT.

Challenges and Risks

The second open text question was: *What are some challenges or risks with judges and lawyers applying tikanga Māori in their work (if any)?*

Five themes became apparent in analysing the responses, as follows:

- a. Tikanga Māori being manipulated by lawyers and/or judges and applying it in a negative way;
- b. Judges and/or lawyers having difficulty understanding tikanga and it becomes misused;
- c. The burden of learning tikanga Māori (time-consuming and difficult);
- d. Issues around ownership of tikanga; and
- e. Risk of tokenism and tikanga being weaponised.

a. **Tikanga Māori Being Manipulated by Lawyers and/or Judges and Applying It in a Negative Way**

Tikanga could be misused by judges and lawyers if they don't understand the complexity of tikanga or recognise that they are applying tikanga, not creating it.

Unfair and uneven outcomes and too much influence by local factors, bullying, improper influence on participants. Not being able to reproduce outcome fairly, consistently across the country. (37, Law Academic)

If judges and lawyers don't have a comprehensive enough understanding of tikanga they might begin to apply it wrong. This could result in tikanga not be used as it might be misused. (79, Law Student)

All staff, Judges, and Lawyers, need to understand that they don't make the tikanga (rules), rather they interpret them using the foundational knowledge from an aronga [a separate meaning or definition] that may be different to their own. (97, Iwi Representative, Hapū Representative, Lecturer)

b. **Judges and/or Lawyers Having Difficulty Understanding Tikanga and It Becomes Misused**

A lack of understanding of tikanga Māori by judges and lawyers might increase the misuse of tikanga Māori to the detriment of Māori.

It needs to be done properly and I think that at the moment there is a real risk that would not be done properly. I think there is a risk that judges will refer to tikanga when it suits them – for example where they don't like the outcome of the common law delivers. Also, in this we move beyond the realm of general high level principle (in other words we don't do it properly) it risks adding real uncertainty to the law. I think we have too much value is based reasoning already and my fear is that some judges will use this as an excuse to engage in even more of it! (I should stress that this is not a criticism of tikanga but a concern of how it might be misused. (88, Law Academic)

Probably the misuse and misappropriation of tikanga Māori by Pākehā and non-Māori lawyers and judges especially which has happened already (see Judge Sainsbury's terrible decision imprisoning a Māori woman for fleeing quarantine for a tangi) resulting in institutional injustice and violence against Māori. I think as long as these initiatives are introduced with the end goal being abolition and constitutional transformation, they will be effective and less likely to be tokenistic gestures to be used against Māori. (124, Law Academic)

**c. The Burden of Learning Tikanga Māori
(Time-consuming and Difficult)**

Learning about tikanga Māori may be difficult for some or taught inconsistently to judges and lawyers.

Technical difficulty and error/offence; many practitioners struggle with workload and currency in their fields. (11, Lawyer)

I think that a big risk with applying tikanga in the law is that tikanga (practices) vary so much in how they achieve the same kawa (values). The values themselves are almost always universal, but the law is focused on how they are carried out. I think that iwi and hapū should only be subject to their own tikanga. But then should every judge need to know the intricate tikanga practices of every tribe and hapū in New Zealand? I am unsure as to how tikanga can be appropriately and fairly applied in practice. (95, Law Student)

Some will initially see it as a waste of their time. (138, Lawyer)

d. Issues around Ownership of Tikanga

There remains uncertainty about whether judges and lawyers will understand that they are not the experts in tikanga but are applying the principles of another legal tradition.

Accusations of discrimination/two systems/ unfairness, lack of clarity about when/how/to whom Tikanga can apply/be taken into account. Still a Pākehā system applying tikanga rather than a Māori system (20, Law Academic)

Again I think there is an issue around ownership of tikanga. I know some people are uncomfortable with Pākehā people applying but then super exclusivity risks it then from failing to become mainstream which I'm assuming is the end goal. (48, Law Student, Courts Officer)

The work of judges is greatly different to that of lawyers. Judges deal with society as a whole, lawyers with individual clients. Judges need to give consideration to tikanga Māori at all times. Lawyers only when relevant to client or task. (50, Lawyer, Retiring)

A challenge is for them to do it with humility. There is a risk that if a Pākehā judge or lawyer has a level of proficiency in tikanga, it could be quite disempowering to a Māori client. They need to be in control re tikanga. (60, Lawyer)

e. Risk of Tokenism and Tikanga Being Weaponised

Tikanga is a complex legal tradition and maybe used in a superficial way to cause more harm to Māori.

Risk of tokenism; fitting 'tikanga' within a settler-colonial legal system. The very nature of 'judges' and the system needs transformative overhaul. Risk of being weaponised. (64, Law Academic)

Potential division between non-Māori – may be perceived as a way that Māori can begin to ignore the law, thus disrupting the rule of law (84, Law student)

There is a risk that judges and lawyers end up dictating what tikanga is, rather than applying it. (137, Lawyer)

VII. Te Nohotahi o ngā Pūnaha Ture e Rua | Bijural Legal System CONT.

General Comments

We concluded this section of the survey with the following general open text question: *Please feel free to make any comments about judges and lawyers applying tikanga Māori in their work.*

In addition to noting challenges, benefits, challenges and risks, participants raised several more general issues relating to:

- a. Positive movement in law;
- b. Tautoko for the intention;
- c. Difficulty with understanding how we're going to achieve this; and
- d. Agreeing on what tikanga should be applied to ensure protection.

a. **Positive Movement in Law**

Respondents noted that there is a real advantage to the depth and dynamism of law by the application of tikanga within the legal system.

Applying tikanga Māori will enhance the dynamic capabilities of the common law. (126, Law Academic, Lawyer)

The approach of having the appellate courts focus on this strikes me as the most sensible approach – it will be gradual but will allow consideration at the level of deep argument. (131, Law Academic)

b. **Tautoko for the Intention**

Respondents appreciated the application of tikanga in the legal system, as a reflection of Māori values and respect for whanaungatanga.

I actually love to see it when I do, it strengthens my belief in a system that may have been part of most culturally insensitive protocols of the past. (160, Iwi representative, Hapū representative)

I feel like judges and lawyers understanding and applying tikanga Māori to their work would allow for a better representation of Māori views on the world. (227, Law Student)

Most judges are today well aware of applying tikanga in their work, especially where advanced by lawyers in the courts and mediation and whānau procedures. (188, Law Academic, Lawyer)

c. **Difficulty with Understanding How We're Going to Achieve This**

Respondents had concerns about the implementation of tikanga even if it is a good move.

I believe that judges at all levels are ahead of the profession and the law schools in doing this – however I do not believe we yet know the best ways to achieve this. Our society has made and is making change to its bicultural character. Judges and lawyers need to catch up. (50, Lawyer, Retiring)

Some respondents were also concerned that a bijural legal system would cause confusion as to which legal principles would apply when, and to whom.

This in my view is just opening up the judiciary for two laws for different cultures, one which is rigid and prescriptive for whites and one which is flexible and talks about community values which offering no penalty for Māori. This leads to different standards and overall outcomes, one of quality and conformity and the other of excuses. (47, Occupation not disclosed)

Real world practicality? Does a conveyancing lawyer who is dealing with crown land not Māori land, really require tikanga? I question this. (106, Law Student)

d. **Agreeing on What Tikanga Should Be Applied to Ensure Protection**

Judges utilising Māori tikanga expertise was considered an effective means to implement it in the courts.

Something incredible I have learned about was the process undertaken in the Ellis case, where the lawyers went to a wānanga with tikanga experts to agree upon the tikanga and how it applied. This method of the people who know tikanga best helping determine the tikanga and ensure its protection seems like a good solution to me, as does the practice of appointing a pūkenga to sit with a judge to advise on tikanga. (87, Law Student)

Key Findings

Over 90% of respondents believed the legal system would be moderately or very much improved by judges and lawyers having a greater understanding of tikanga Māori.

- Most respondents (97% for judges and 96% for lawyers) felt that the legal system would be improved at least to some degree if judges and lawyers had a better understanding of tikanga Māori. Judges would have more tools with which to understand the Māori perspective and be more responsive to the different legal principles at play in a dispute. Some respondents felt the legal system is already incorporating tikanga Māori and that it is becoming an essential knowledge base for judges and lawyers. There may be more equitable and just outcomes if judges and lawyers understand and can apply tikanga Māori principles in an appropriate and relevant way.
- Eighty-two per cent of respondents thought that the legal system would be moderately or very much improved by judges and lawyers having a greater understanding of te reo Māori. These skills would help to improve the overall legal system to be more responsive to the changing nature of Aotearoa New Zealand society. It would mean the legal system represents all the people of Aotearoa New Zealand.
- Even where there was strong support for lawyers and judges to have more understanding of tikanga Māori, there was concern that overconfidence in their knowledge could lead to distortions or misrepresentations of tikanga. This could cause problems if the codification of tikanga was inappropriate in relation to te ao Māori. If the judiciary does not understand tikanga differences between iwi or acknowledge the tikanga expertise of others, unnecessary and potentially harmful mistake could be made.

VIII. Respondents' Experience with Tertiary Education, te Reo Māori, Tikanga Māori and Māori Law

We concluded our survey with a series of general questions about respondents' experiences being taught te reo Māori, tikanga Māori and Māori law.

Table 8. New Zealand tertiary institutions(s) where law papers were taken

	<i>n</i>	%
Te Herenga Waka Victoria University of Wellington	70	44.9%
Te Whare Wānanga o Ōtākou University of Otago	38	24.4%
Te Whare Wānanga o Tāmaki Makaurau University of Auckland	32	20.5%
Te Whare Wānanga o Waitaha University of Canterbury	21	13.5%
Te Whare Wānanga o Waikato University of Waikato	8	5.1%
Te Wānanga Aronui o Tāmaki Makau Rau Auckland University of Technology	3	1.9%
Te Wānanga o Raukawa	1	0.6%

NOTE: Multiple selection was possible. Seven participants skipped this question, meaning only 156 responses were received.

Quantitative Results

Almost all (92%, $n=185$) of the respondents had studied at a New Zealand tertiary education institute, and for 88% ($n=163$) of those respondents, this study had included law papers (see Table 2). Table 8 details at which New Zealand tertiary institutions the respondents had taken law papers. The greatest proportion had studied law papers at Te Herenga Waka | Victoria University of Wellington (45%), followed by Te Whare Wānanga o Ōtākou | University of Otago (24%) and Te Whare Wānanga o Tāmaki Makaurau | University of Auckland (21%).

Figure 5 shows the proportion of those who took law papers at New Zealand tertiary institutions who had the opportunity to submit their law course work in te reo Māori.

As Figure 5 shows, it was more common for respondents not to have had the opportunity to submit their law course assessment in te reo Māori – nearly half (46%) reported this compared with just under a fifth (19%) who had had this opportunity. Over a third (35%) did not know if this was a possibility.

The 132 respondents who had not had the opportunity to submit their law course assessments in te reo Māori or did not know if they had, were asked if they would have wanted this opportunity (see Figure 6).

As Figure 6 shows, most (61%) of those who had not had the opportunity to submit law course work in te reo Māori or didn't know if they had indicated that they would not have wanted this opportunity, with nearly a third (32%) reporting that they would have or maybe would have.

Figure 5. Did you have the opportunity to submit any of your law course assessments in te reo Māori?

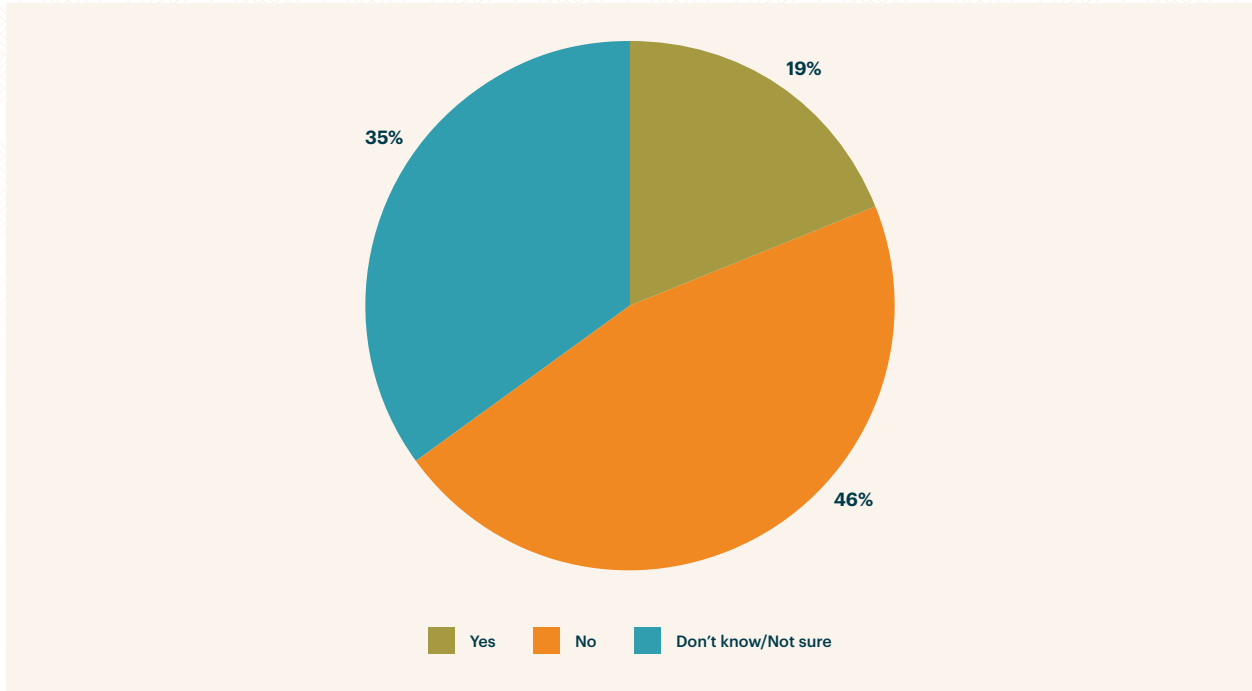
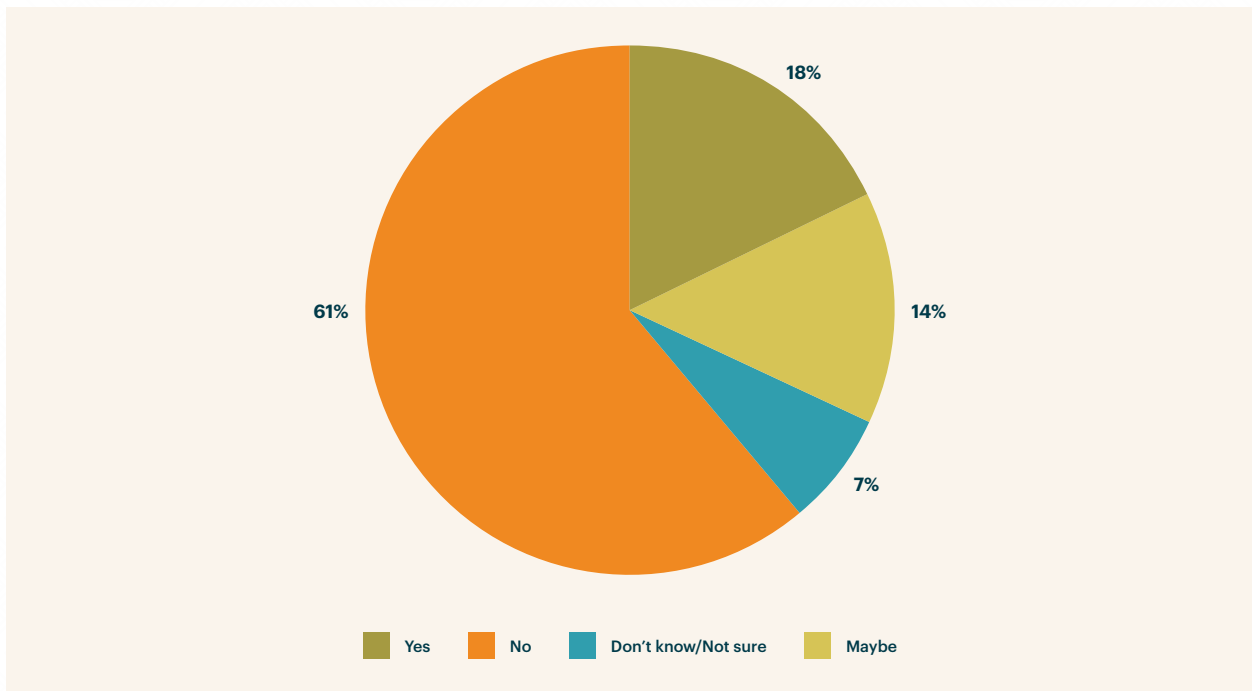


Figure 6. Would you have wanted the opportunity to submit law course work assessments in te reo Māori?



VIII. Respondents' Experience with Tertiary Education, te Reo Māori, Tikanga Māori and Māori Law CONT.

Nearly two-thirds (64%, $n=129$) of the respondents had studied te reo. Just over a third (36%, $n=72$) had not. Table 9 presents data about where those who had studied te reo had undertaken this study (percentages are out of a possible $n=129$).

The most common places to study te reo Māori were at university (44%), at high school (39%) or at Wānanga (19%). Other places that the respondents had learnt te reo Māori included:

- At primary school
- Through work/professional development;
- Marae based learning;
- Te Ataarangi courses;
- Within whānau, hapū and iwi;
- Kura pō | night classes;
- Community courses/classes;
- Private tuition;
- New Zealand Law Society classes; and
- Online courses.

Survey respondents were also asked how helpful for their own work they would find having more knowledge of te reo Māori, Māori law, and tikanga Māori (see Table 10).

Most respondents thought that having more knowledge about te reo Māori, Māori law and tikanga Māori would be helpful for their work, with only 5% or less indicating it would not be helpful at all. Almost three-quarters (72%) reported it would be very helpful to have more knowledge of tikanga Māori. Slightly less (nearly two-thirds) thought having more knowledge of te reo Māori (64%) or Māori law (65%) would be very helpful for their work.

Table 9. Have you studied te reo Māori?

	<i>n</i>	%
Yes, at high school	50	38.8%
Yes, at kura kaupapa	4	3.1%
Yes, at university	57	44.2%
Yes, at wānanga	25	19.4%
Yes, at polytechnic or institute of technology	6	4.7%
Yes, Somewhere else	36	27.9%

NOTE: Multiple selection was possible.

Table 10. Helpfulness of having more knowledge of te reo Māori, Māori law and tikanga Māori

How helpful for your work would you find having more knowledge of...	Not at all helpful	Slightly helpful	Moderately helpful	Very helpful	Don't know/not sure
Te reo Māori	3.0%	10.9%	19.4%	63.7%	3.0%
Māori law	5.0%	8.5%	16.4%	64.7%	5.5%
Tikanga Māori	2.5%	10.0%	12.9%	71.6%	3.0%

Qualitative Results

We concluded our survey with the following open text question: *Please feel free to add any further comments about the issues raised in this survey.*

Many respondents took this opportunity to reinforce previous comments they had made earlier in the survey. We categorised these concluding comments into the following themes:

- a. The survey itself;
- b. Specifics about teaching;
- c. Law school experiences; and
- d. Invaluable knowledge for the future.

a. The Survey Itself

A small number wanted to comment on the survey itself; some reviewed it positively while others had with concerns about how the survey was presented.

Its heartening that you are working in this area. The law profession can be so depressingly conservative when it has great scope to be an agent for progressive change. (60, Lawyer)

This is a great – and challenging! – survey and wish the researchers and the research all the very best for this deeply important work. Kia kaha. (132, Law Academic)

Thanks for exploring this important topic. (134, Lawyer)

I am so excited for Aotearoa if this opportunity transpires or comes to fruition. Yay ;) (140, Law Student, Courts Officer)

A valuable and important survey – thank you for the opportunity to respond. (219, Law Academic)

Put the English names first. That's what everyone can read. (108, Law Student)

b. Specifics about Teaching

Others were concerned about teaching practice: the challenges and benefits of a bijural and bicultural education, and the pressures of the teaching environment.

I think my knowledge is probably higher than most Pākēhā academics – but I would like to learn more and have more time, encouragement, support, and guidance to do this. This should be recognised in the workload planning model for example. I think some academics are worried that they will need to do courses on top of their existing heavy workloads. It is important and it should be resourced within the workload model! (18, Law Academic)

In a way I believe that those of us in the legal academic community who are foreigners may find this easier. Many of us were educated with bilingual and bijural and multijural systems as well as parallel systems such as European Union law. I have a lot of confidence in all my colleagues of their ability to upskill and learn new ways of doing things. Almost everyone in the legal academy in NZ has experience of learning and applying different laws and systems and/or studying or working in different legal systems. We should be well able to do this with the appropriate support. These changes may also be the lever we need to finally raise the number of Māori lecturers. (61, Law Academic)

Te Roopū Whai Pūtake,
University of Otago, 2021



VIII. Respondents' Experience with Tertiary Education, te Reo Māori, Tikanga Māori and Māori Law CONT.

I would like to improve my knowledge of te reo Māori, Māori law and Tikanga Māori. However, in order to do this there would need to be a major shift in the way workload is managed at my institution. We are completely overloaded with teaching and to do the necessary training to get a meaningful understanding of the three important things, would require a change in that workload model. Which I would certainly welcome. (77, Law Academic, Lawyer)

There is considerable anxiety about this proposal at my workplace. Many people prefer not to speak out because it is seen as 'not done'. Part of this is that the proposals are very vague: are these reports aspirational, or do you really intend that these will become practice? There are so many questions about the practicality of it and of the budgetary requirements that remain unanswered. Funding is already so limited. It might be best if efforts are pooled around preparing teaching materials to ensure efficiencies to roll this out at the scale suggested. But even then, there are real concerns. I am particularly concerned about the exclusionary impact of some of the proposals on academics. Will non-Māori academics be able to research and teach in this area, assuming of course that they're willing to jump over the initial hurdle of schooling up on te reo Māori and culture. Will we be taken seriously if we do or will our findings be dismissed for not being ethnically pure? (133, Law Academic)

Mana whenua should definitely be involved in Te Ture Māori education. The only qualifier on this is regional variation in tikanga and kawa may mean that an education on the tikanga of mana whenua alone may pose a challenge. Of course, essential concepts like whanaungatanga and tino rangatiratanga can be broadly discussed, but regional variation may be a challenge for more detailed education. There are three potential solutions. First, education on how to learn about local tikanga in practice. Second, an education on various significant variations in tikanga. Third, making visits to rohe with varying tikanga part of continuing professional development (perhaps on a similar model to medical registrar placements). I also feel that it should be available or required for all law students, but that Māori students should be prioritised. Continuing and former Māori law students continue to demonstrate leadership in the profession and push for reforms, especially when they understand their own law and whakapapa. This has general advantages, but also reinforces hapū and iwi self-determination. (169, Law Student)

c. Law School Experience

Some students remained concerned about particular experiences at law school.

Again, the majority of students are non-Māori, and/or ethnically from different parts of the world. We live in New Zealand we are not reluctant to learn this sphere of law but real life practicality is less. I feel that other ethnicity groups are represented more but the attention is less. I come from hardship. I often slip through all help and scholarships or learning helps. However, UoA law school is the only instance that I encountered who accommodates hardships adequately. Grateful for that, but it is bittersweet to see so much help goes towards these groups (YES, THEY NEED IT, I acknowledge and support it) but often I feel in the minority forgotten. (106, Law Student)

d. Invaluable Knowledge for the Future

However, a number of people, including current students and recent graduates, felt that the knowledge they had gained would be valuable to them in the future.

My small knowledge of te reo Māori has been enormously helpful as I work with clients and I believe that it is essential that te reo and Māori law become part of the law curriculum in Aotearoa. I do not have any Māori tupuna but have learnt so much from my Māori clients and friends. (4, Lawyer)

In my own personal experience, a better understanding of Māori law and te reo would have further prepared me for professional work. I felt out of my depth when I began work at Te Arawhiti and felt inadequate. Even when I did complete all of the Māori law related courses at VUW. Taking law papers about Māori law made me feel closer to my people and country. (51, Law Student, Policy Developer)

I have seen Pākehā judges and lawyers use Te Reo and Māori concepts in ways they were not intended. And it has changed those concepts dramatically in ways that are not particularly beneficial to large parts of Māori. (119, Law Academic, Lawyer)

I feel like understanding te reo Māori, Māori law and tikanga Māori has given me a much more deeper understanding of things I come into contact with. These learnings have afforded me the ability to see the world through two lenses. (227, Law Student)

Improvement in my understanding of mātauranga and tikanga led to improved research processes and better outcomes. (116, Hapū Representative, Policy Developer)

We do entire papers on contract law – i.e. something I have no interest in, but only the opportunity to learn specifically about Māori things in electives in 3rd year. Not compulsory. (151, Law Student)

Key Findings

Most respondents thought that having more knowledge about te reo Māori (94%), Māori law (90%) and tikanga Māori 95%) would be helpful for their work.

- Only 5% or less indicated it would not be helpful at all.
- Nearly two-thirds (64%) of the respondents had studied te reo. The most common places to study te reo Māori were at university (44%), high school (39%) or wānanga (19%).
- Only 19% of student said that they did have the opportunity to submit their assessments in te reo Māori. 35% did not know if it was a possibility.
- Respondents were generally supportive of the intent and design of the survey.

IX. He Kupu Whakatepe | Conclusion

As a Māori law academic research team, we began this collaborative project by collating our knowledge of a sample of written sources of Māori law. We prefaced that literature review with a researched discussion of why we are calling for Aotearoa New Zealand law students to be trained to practise in a bijural, bicultural and bilingual legal system. In 2020, we published the outcome of this research, the Phase One – Issues report, which concluded with this statement:

There can be no systemic change to how we understand law in a contemporary Aotearoa New Zealand if we do not teach it differently in our law schools.

In 2021, we have had the opportunity to test our initial recommendations made in the Phase One report. This report details the results of Part I of Phase Two – Consultation – our online survey completed by 201 people. We are immensely grateful to all who took time to complete the survey. The findings are of enormous value to us and, we hope, to all who are interested in this topic. In 2022, we will publish our Part II report, which will detail the findings from our interviews with a range of experts.

Phase Two is the central component of this multiphase national research project. We now have a deeper appreciation of the extent of the support and the perceived opportunities and risks associated with our call for transformational legal education.

We are now preparing for Phase Three – Models. If we are successful in receiving funding to commence Phase Three, we will develop researched ideas and models for how we as Māori law academics think Aotearoa New Zealand can successfully transition to teaching the LLB degree in a bicultural, bilingual and bijural manner. We will be guided by kaupapa Māori methods, and old and new mātauranga and expertise. We will draw on the opportunities and risks raised in this Phase Two to help us propose a series of practical ideas and models for committing to decolonised legal education in Aotearoa New Zealand. We will draw on best Indigenous-led practices already developed in the tertiary education sector here and overseas, including in other disciplines such as medicine, to present staggered solutions that will collectively transform the teaching of law in Aotearoa New Zealand's law schools. Phase Three will require our best research nous and imagination. We are excited about the prospect of this next step.

This multiphase national project is enabling Māori-led research to explore how Māori law should be understood and used to inform us about the role and application of law in this country. Undergraduate legal education has an essential role in fulfilling this call for change and in enabling the practice of Māori law as *law* within Aotearoa New Zealand's modern legal system.

Thank you for joining us in this journey of exploration of what is possible.

Appendices

Appendix A. Survey Email Invitation

Tēnā koe, ngā mihi nui ki a koe.

Professor Jacinta Ruru, Carwyn Jones, Linda Te Aho, Claire Charters, Metiria Turei and the Māori Laws research team invite you to contribute to our **survey on the opportunities for the teaching of Māori law** as a foundation source of the Aotearoa New Zealand Bachelor of Laws (LLB) degree. We suggest legal education should move in a formal way towards becoming bijural and that teaching should occur in a bicultural and bilingual way.

In 2020 we published our “Inspiring National Indigenous Legal Education for Aotearoa New Zealand’s Bachelor of Laws Degree” Phase 1 report. You can find it here: Māori Laws Project, Research, Faculty of Law, University of Otago, New Zealand.

We are now embarking on the Phase 2 of this research project where we survey hapū and iwi Māori and the legal community on how we could implement the teaching of Māori law as a foundational part of the New Zealand LLB degree. We hope that you will contribute to this research.

Just click the link here: [Māori law survey](#)

The survey will take about 15 mins, is anonymous unless you choose to give us your contact details, and **will close on 28 May 2021**. We have attached to this email the Information Sheet for the survey. This research project has been approved by the Otago University Human Ethics Committee. We will be collating the consultation into a final report which will be made publicly available. Please pass on this email to someone else if you think they would want to participate.

We have attached a Summary paper of our research to this email but in brief we are calling for:

- A bijural legal education presupposes the existence of Māori law founded on tikanga Māori, which is taught as a legitimate and continuing source and influence on the rights, obligations, rules and policy in Aotearoa New Zealand’s legal system.
- A bicultural legal education implements structures, develops processes, and provides resources grounded in Te Tiriti o Waitangi | the Treaty of Waitangi, including the employment of Māori, and sharing of resources, leadership, and decision-making with iwi, hapū and Māori academic staff within the law schools.
- A bilingual legal education would utilise te reo Māori broadly in general teaching and specifically in relation to Māori law concepts and principles such that all law students have a working knowledge of Māori law in te reo Māori at the time of graduation.

We look forward to your participation and views and we thank you for your participation.

Ngā mihi

Professor Jacinta Ruru
Metiria Turei
Associate Professor Carwyn Jones
Associate Professor Khylee Quince
Associate Professor Claire Charters
Associate Professor Andrew Erueti
Associate Professor Robert Joseph
Maureen Malcolm
Adrienne Paul
Mihia Pirini
Mylene Rakena
Associate Professor Māmari Stephens
Dr Fleur Te Aho
Associate Professor Linda Te Aho
Professor Valmaine Toki
Tracey Whare

Appendix B. Information Sheet

Reference Number: 20/100



Inspiring national Indigenous Legal Education for Aotearoa New Zealand's LLB degree: Phase Two Consultation

Information Sheet for survey participants.

Thank you for your interest in this study. Please read this information sheet carefully before deciding whether to participate. If you decide to participate we thank you. If you decide not to take part there will be no disadvantage to you and we thank you for considering our request.

You have been sent this survey because you are professionally involved in the law, or legal academic work, in Māori academic work or are a iwi organisation listed on the Te Puni Kokiri Te Kāhui Māngai (Directory of Iwi and Māori Organisations). Please do pass on this email to others you think would like to contribute.

What is the Aim of the Project?

The Faculty of Law at the University of Otago is consulting on how Māori law might be better taught as part of Aotearoa New Zealand's law degree. In August 2020, Māori law academics from across Aotearoa's six law schools produced an issues paper looking at how Indigenous law is and could be taught in law schools in Canada, Australia and New Zealand. The paper suggests that the Aotearoa New Zealand law degree can become significantly more bicultural and bilingual for the benefit all law students and ultimately all New Zealanders using the legal system. The study also found agreement among Indigenous lawyers and academics that law schools should teach Indigenous law in a way that is similar to the teaching of state law, so that all law graduates understand, in New Zealand's case, that Māori law exists and is still relevant today.

We are now looking for views about whether bicultural approaches to teaching, bilingual teaching and teaching Māori law as a foundational part of a law degree is a good idea, if not why not and if so, what the challenges and opportunities are for doing so might be.

We want to canvas a broad selection of views from the legal profession, academia and Māori iwi and organisations and so that we can better understand whether this is important, to whom it is important and what concerns participants have.

A summary of the study findings and the final report will be made available on our study website, and participants may also contact the research team directly to obtain a copy. If you choose to provide your email address we will send you the summary directly.

The data collected in the survey will be securely stored in such a way that only the research team can access it. Data obtained as a result of the research will be retained for **at least 5 years** in secure storage. Any personal information held on the participants (such as contact details if provided) may be destroyed at the completion of the research even though the data derived from the research will, in most cases, be kept for much longer or possibly indefinitely.

Can Participants Change their Mind and Withdraw from the Project?

You may withdraw from participation in the study at any time before the data are analysed without any disadvantage to yourself of any kind.

What if Participants have any Questions?

If you have any questions about our project, either now or in the future, please feel free to contact the Project Manager:

Metiria Stanton Turei

Wāea: 03 479-8841, 021 440-701

Īmera: maori.law@otago.ac.nz

This study has been approved by the University of Otago Human Ethics Committee. If you have any concerns about the ethical conduct of the research you may contact the Committee through the Human Ethics Committee Administrator (ph +64 3 479 8256 or email gary.witte@otago.ac.nz). Any issues you raise will be treated in confidence and investigated and you will be informed of the outcome.

Appendix C. Survey Questionnaire

Inspiring National Indigenous Legal Education for Aotearoa New Zealand's LLB degree

Ngā mihi ki a koe

Professor Jacinta Ruru, University of Otago, along with all Māori law academics from across Aotearoa's six law schools are consulting on how Māori law can be further integrated into the LLB degree.

In August 2020 we produced an issues paper exploring what is Māori law and how Aotearoa New Zealand's legal system is increasing interacting with Māori law. We concluded that law schools should now move in a more systematic formal manner towards preparing their graduates for a legal practice built on a bijural, bicultural and bilingual legal education.

We are now consulting on whether bicultural approaches to teaching, bilingual teaching and teaching Māori law as a foundational part of a law degree is a good idea, if not, why not, and if so, what the challenges and opportunities are for doing so might be.

The study findings will not identify individual participants. Quotes may be used in publications and presentations in an unidentifiable way. The findings of the research will be written up in a report that will be made publicly available. Articles will also be published in journals or presented at conferences. Every attempt will be made to preserve your anonymity.

A summary of the study findings and the final report will be made available on our study website, and participants may also contact the research team directly to obtain a copy. If you choose to provide your email address we will send you the summary directly.

The data collected will be securely stored in such a way that only the research team can access it. Data obtained as a result of the research will be retained for **at least 5 years** in secure storage. Any personal information held on the participants (such as contact details if provided) may be destroyed at the completion of the research even though the data derived from the research will, in most cases, be kept for much longer or possibly indefinitely.

What if Participants have any Questions?

If you have any questions about our project, either now or in the future, please feel free to contact the Project Manager:

Metiria Stanton Turei

Wāaea: 03 479-8841

Īmera: Māori.law@otago.ac.nz

Your participation in this research is voluntary. You may choose not to participate.

Electronic Consent

Selecting "Agree" below indicates that:

- You have read the above information
- You voluntarily agree to participate

If you do not wish to participate, please indicate below or quit from this web page.

- I agree to participate in this study
- I do not wish to participate in this study

If you do not wish to participate in this study thank you for considering our request. Please feel free to forward on the email we sent you to anyone else with legal or Māori experience who might wish to complete our survey.

Appendices CONT.

Our report, *Inspiring National Indigenous Legal Education for Aotearoa New Zealand's Bachelor of Laws Degree*, suggests that New Zealand is moving towards a "bijural" legal system and recommends law schools should provide a bijural legal education to all law students. A bijural legal system in Aotearoa New Zealand is where **tikanga Māori** (*Māori values, practices, principles and traditional knowledges*) is understood, practiced and applied in the law. A bijural legal system and legal education will positively impact everyone who is involved with the law, such as lawyers, clients, iwi, hapū, whānau, judges, law students, academics and policy makers. A bijural legal education would teach about **Māori law** (*the systems and decision-making processes that maintain tikanga Māori values, practices and principles*) to law students who are equipped to practice law in a bilingual manner requiring familiarity with **te reo Māori** (*Māori language*).

This survey asks for your views on the issues raised in our report. We appreciate your time in responding.

Te reo Māori in University Legal Education

We are interested in how te reo Māori (Māori language) might become a bigger part of the LLB degree. Our report suggests some changes that could be made to improve law graduates' knowledge of te reo Māori.

How strongly do you agree or disagree with the following statements?

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know/ Not sure
Law schools should require law students to pass some Māori Studies te reo Māori introductory papers.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Law schools should require law students to pass Māori Studies advanced te reo Māori 300 level (or equivalent) papers.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Law students who are fluent in te reo Māori should be actively encouraged to submit their law course assessments in te reo Māori.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Law schools should provide significant professional development support to their teaching staff to learn or improve their te reo Māori.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

What are some opportunities or benefits of te reo Māori becoming a required part of a university legal education (if any)?

[Open text box]

What are some challenges or risks with te reo Māori becoming a required part of a university legal education (if any)?

[Open text box]

Please feel free to make any comments about te reo Māori being an encouraged or required part of a university legal education.

[Open text box]

Māori law in University Legal Education

Our report recommends moving to a bijural legal education that would teach law students about Māori law (the systems and decision-making processes that maintain tikanga Māori) alongside the teaching of New Zealand state law.

How strongly do you agree or disagree with the following statements:

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know/ Not sure
Law students should be taught Māori law as a requirement for earning their law degree.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Law schools should teach relevant Māori law in <i>all</i> law papers.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Law schools should teach Māori law <i>only</i> in the first-year law papers.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Law schools should teach Māori law <i>only</i> in specific Māori issues papers, like Māori land law or Treaty settlements law.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Law schools should provide significant professional development support to their teaching staff to learn or improve their knowledge about Māori law.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Māori legal expertise from mana whenua (local iwi and hapū) should be involved in teaching Māori law to law students.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If Māori law was a comprehensive and required part of a law degree, who should teach it to law students?

Please select all that apply.

- Māori staff from law schools
- All staff from law schools
- Staff from university Māori departments
- Mana whenua
- Other. Please specify:

- Don't know/not sure
- None the above

What are some opportunities or benefits of teaching Māori law to law students (if any)?

[Open text box]

What are some challenges or risks with teaching Māori law to law students (if any)?

[Open text box]

Please feel free to make any comments about Māori law being a comprehensive and required part of a university legal education.

[Open text box]

Appendices CONT.

Biculturalism in university legal education

Our report identifies some structural changes to law schools to further ensure they are all bicultural in order to deliver a decolonised bijural curriculum grounded in Te Tiriti o Waitangi:

- increasing the number of **Māori teaching staff**;
- Māori leadership and Māori decision-making;
- increasing the **cultural competencies** of all staff;
- having Māori-led quality content in all papers;
- making **funding available to develop a bicultural curriculum** that includes the teaching of Māori law and its quality delivery;
- using Māori teaching methods;
- using Māori legal expertise.

How strongly do you agree or disagree with the following statements:

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know/ Not sure
Laws schools should have an action plan detailing commitments to a bicultural legal education.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Māori leadership in law schools should be advanced and visible.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The number of law lecturers in New Zealand universities who are Māori should be increased. (Currently, less than 6% of law lecturers in NZ are Māori).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring law schools are bicultural should be a priority in their budgets.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Māori legal academics should be involved in developing a bicultural curriculum.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mana whenua should be involved in developing a bicultural curriculum.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Law students should be taught some of their course on marae.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Law students should be taught some of their course using Māori teaching methods.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

What are some opportunities or benefits of law schools committing to bicultural practices (if any)?

[Open text box]

What are some challenges or risks with law schools committing to bicultural practices (if any)?

[Open text box]

Please feel free to make any comments about biculturalism as part of a university legal education.

[Open text box]

Bijural Legal System

Our report recommends a bijural legal education to assist in the development of a bijural legal system where tikanga Māori (*Māori values, practices, principles and traditional knowledges*) is understood, practiced and applied in the law.

Thinking about New Zealand’s legal system, how much could it be improved by:

	Not at all	Slightly improved	Moderately improved	Very much improved	Don't know/ Not sure
Judges having a better understanding of tikanga Māori?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lawyers having a better understanding of tikanga Māori?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges and lawyers having a better understanding of te reo Māori?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

What are some opportunities or benefits of judges and lawyers applying tikanga Māori in their work (if any)?

[Open text box]

What are some challenges or risks with judges and lawyers applying tikanga Māori in their work (if any)?

[Open text box]

Please feel free to make any comments about judges and lawyers applying tikanga Māori in their work.

[Open text box]

Finally, we have some general questions about your experience with the legal system or profession, tertiary education and te reo Māori, tikanga Māori and Māori law.

What is your current involvement with the legal profession and/or system? Please select all that apply.

- University law student
- University law academic/lecturer/teacher
- Lawyer
- Legal executive
- Courts officer
- Judge
- Iwi representative
- Hapū representative
- Government official
- Policy developer
- Other. Please specify:

- None of the above – I do not currently work in, or with, the legal profession and/or system

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Do you have experience with any of the following legal issues?

Please select all that apply.

- Treaty settlements
- Iwi or hapū legal issues
- Resource management
- Māori land court
- Business legal issues
- Whānau legal issues
- Other. Please specify:

- Waitangi Tribunal [N.B. This has been added as new recoded variable and was not an option in original survey]
- None of the above

Feel free to add more about your experience in, or with, the legal profession and/or system.

[Open text box]

Have you studied at any of the following NZ tertiary education institutes?

Please select all that apply.

- Te Wānanga o Aotearoa
- Te Whare Wānanga o Awanuiārangi
- Te Wānanga o Raukawa
- Te Wānanga Aronui o Tāmaki Makau Rau | Auckland University of Technology
- Te Whare Wānaka o Aoraki | Lincoln University
- Te Kunenga ki Pūrehuroa | Massey University
- Te Whare Wānanga o Tāmaki Makaurau | University of Auckland
- Te Whare Wānanga o Waitaha | University of Canterbury
- Te Whare Wānanga o Ōtākou | University of Otago
- Te Whare Wānanga o Waikato | University of Waikato
- Te Herenga Waka | Victoria University of

Wellington

- A Polytechnic or Institute of Technology
- Other. Please specify:

- None of the above

Did that study include any law papers?

- Yes
- No
- Don't know/Not sure

At which NZ tertiary institution(s) have you taken law papers?

- Te Wānanga o Raukawa
- Te Wānanga Aronui o Tāmaki Makau Rau | Auckland University of Technology
- Te Whare Wānanga o Tāmaki Makaurau | University of Auckland
- Te Whare Wānanga o Waitaha | University of Canterbury
- Te Whare Wānanga o Ōtākou | University of Otago
- Te Whare Wānanga o Waikato | University of Waikato
- Te Herenga Waka | Victoria University of Wellington

Did you have the opportunity to submit any of your law course assessments in te reo Māori?

- Yes
- No
- Don't know/Not sure

Would you have wanted the opportunity to submit law course assessments in te reo Māori?

- Yes
- Maybe
- No
- Don't know/Not sure

Have you studied te reo Māori? Please select all that apply.

- No
- Yes, at high school
- Yes, at kura kaupapa
- Yes, at university
- Yes, at wānanga
- Yes, at polytechnic or institute of technology
- Yes, somewhere else. Please specify where:

How helpful for your work would you find having more knowledge of the following:

	Not at all helpful	Slightly helpful	Moderately helpful	Very helpful	Don't know/not sure
Te reo Māori?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Māori law?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Tikanga Māori?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please feel free to add any further comments about the issues raised in this survey.

[Open text box]

Thank you very much for participating in our survey. Just a few more questions about yourself.

What is your age in years?

- Under 20 years
- 20–29 years
- 30–39 years
- 40–49 years
- 50–59 years
- 60–69 years
- 70–79 years
- 80+ years
- Prefer not to answer

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What region do you live in?

- Northland
- Auckland
- Waikato
- Bay of Plenty
- Gisborne
- Taranaki
- Hawke's Bay
- Manawatū-Whanganui
- Wellington
- Tasman
- Nelson
- Marlborough
- West Coast
- Canterbury
- Otago
- Southland
- I don't live in Aotearoa New Zealand

What ethnic group(s) do you belong to? Please select the option(s) which apply to you.

- New Zealand European
- Māori
- Samoan
- Cook Island Māori
- Tongan
- Niuean
- Chinese
- Indian
- Other (such as Dutch, Japanese, Tokelauan).
Please specify:

Please specify your iwi if you would like to.

[Open text box]

Are you interested in being contacted for an interview about this work?

- Yes
- No

Are you interested in receiving updates about this research project?

- Yes
- No

So we can contact you, please tell us your name and email address:

[Open text box]

Appendix D. Consultation Summary

Reference Number: 20/100



Inspiring National Indigenous Legal Education for Aotearoa New Zealand's Bachelor of Laws Degree: Phase Two: Consultation Summary

Strengthening the Ability for Māori Law to Become a Firm Foundational Component of a Legal Education in Aotearoa New Zealand

Professor Jacinta Ruru (Raukawa, Ngāti Ranginui)
Metiria Turei (Ngāti Kahungunu, Ati Hau nui a Pāpārangi)

"In 1840 we had been here for a thousand years. We had a highly workable and adaptable system of law in operation, and Te Tiriti o Waitangi guaranteed that it would remain as the first law of Aotearoa." — Ani Mikaere (Ngāti Raukawa, Ngāti Porou)¹

Introduction

Māori law is the first law of Aotearoa.

The hapū and iwi of Aotearoa operated under complex systems of values and principles that recognised the importance of, and regulated, relationships between people, between people and their environment, and between the natural world and the spiritual world.²

That system was deep, complex and constantly evolving.³ Common values were understood across different hapū and iwi⁴ just as iwi and hapū-specific kawa⁵ was understood and practised. Through tikanga – a system of "practices, principles, processes and procedures, and traditional knowledge"⁶ – social, economic and familial relationships; disputes; transfers; and concerns were all managed. Trade, exchange values, access to environmental resources, inheritance, infringements, punishment, restitution, authority, governance and leadership were all part of this complex legal system.

Mead's *Tikanga Māori: Living by Māori Values* provides a comprehensive analysis of tikanga values and their historical and modern application across all spheres of life.⁷ Durie, meanwhile, describes in detail the values-based system that regulated the maintenance of personal relationships, protocols in meeting and fighting, whakapapa to settle rights and status, establishing authority and status (mana) through acts of generosity, maintenance of balance through reciprocity, contracts, and trade through gift exchange.⁸

1 Ani Mikaere "Tikanga as the First Law of Aotearoa" (2007) 10 *Yearbook of New Zealand Jurisprudence* 24 at 25.

2 Joseph Williams "Lex Aotearoa: An Heroic Attempt to Map the Māori Dimension in Modern New Zealand Law" (2013) 21 *Waikato Law Review* 1.

3 Hirini Moko Mead *Tikanga Māori: Living by Māori Values* (Huia Publishers, Wellington, 2003). See also Robert Joseph "Re-creating Space for the First Law of Aotearoa-New Zealand" (2009) 17 *Waikato Law Review* 74; Richard Benton, Alex Frame and Paul Meredith *Te Mātāpunenga: A Compendium of References to the Concepts and Institutions of Māori Customary Law* (Victoria University Press, Wellington, 2013) at 128; Ani Mikaere "Tikanga as the First Law of Aotearoa" above n 1; Valmaine Toki "Tikanga Māori – A Constitutional Right? A Case Study" (2014) 40 *Commonwealth Law Bulletin* 1 at 32–48.

4 See ET Durie "Will the Settlers Settle? Cultural Conciliation and Law" (1996) 8 *Otago Law Review* 449; Benton, Frame and Meredith above n 3, at 429.

5 Williams above n 2, at 6.

6 Carwyn Jones "A Māori Constitutional Tradition" (2014) 12 *New Zealand Journal of Public and International Law* 187 at 189–190.

7 Mead above n 3.

8 Durie above n 4, at 445.

Appendices CONT.

In our Issues paper *Inspiring National Indigenous Legal Education for Aotearoa New Zealand's Bachelor of Laws Degree* (citation) we collated our knowledge of a sample of written sources of Māori law and prefaced our review with a researched discussion of why we are calling for Aotearoa New Zealand law students to be trained to practise in a bijural, bicultural and bilingual legal system.

We concluded with this simple message:

There can be no systemic change to how we understand law in a contemporary Aotearoa New Zealand if we do not teach it differently in our law schools.

We now begin a comprehensive consultation with Māori and the legal community on how this legal education might be undertaken, as Phase two of our research. We invite you to consider our key findings and issues raised in our Issues Paper. We have provided a brief summary of the 4 key findings from that report below. You are welcome to contact us with a written response or for a phone or online conversation. Our contact details are below.

We look forward to your response to this bold call for systemic change.

Metiria Stanton Turei

Īmēra: maori.law@otago.ac.nz

Waea: 03 4778841

Summary of our key findings

1. *A legal profession that is trained to work in a bijural, bicultural and bilingual Aotearoa New Zealand legal system.*

To realise the practice of Māori law as law in Aotearoa New Zealand's modern legal system, systemic change in the legal profession needs to occur. We have called for a legal profession that is trained to work in a bijural, bicultural and bilingual Aotearoa New Zealand legal system. Undergraduate legal education has an essential role in fulfilling this call for change. Aotearoa New Zealand's six law schools already have varying levels of competency in this area but we consider should now move in a systemic formal manner towards preparing their graduates for a legal practice built on a bijural, bicultural and bilingual legal education.

There is increasing understanding and acceptance that the first laws of Aotearoa New Zealand came with Kupe, another law was later brought by Cook (that became our Pākehā state law), and that now there is a unique jurisprudence, "Lex Aotearoa", which has developed from both legal traditions. The increasing recognition of the value of Māori law by the nation's legal profession means we need to carefully think through and work out how Māori law ought to be taught as a compulsory part of the LLB degree. Legal education in Aotearoa New Zealand will need to evolve in order to live up to the challenges that Lex Aotearoa will demand of us.

However, as yet there has been no national collaborative discussion about if and how Māori law ought to be taught as a substantial part of the foundational part of the LLB degree. We readily accept that while a culturally sensitive legal education is understood and practised, our law schools do not yet equip all LLB graduates with the ability to respond to the current and evolving legislative, judicial and societal expectations of understanding Māori law as a foundational component of law in this country.

We therefore believe that legal education in Aotearoa New Zealand should change. There is increasing demand from the judiciary for advice on Māori law, especially since the Supreme Court accepted in 2012 that “Māori custom according to tikanga is therefore part of the values of the New Zealand common law” (*Takamore v Clarke*).⁹ Other parts of the legal profession are recognising this need. Significant professional training is being done, for example, to upskill the judiciary on Māori law including time spent on marae. Law firms are engaging in Māori law professional development for their legal staff on Māori law understandings beyond treaty settlement and land law issues due to the needs of their clients. We can ensure all Aotearoa New Zealand law graduates are well prepared for these new expectations in society and within the practice of law.

2. *A bijural legal education prioritises bicultural and bilingual teaching and learning for all law graduates.*

A bijural legal education presupposes the existence of Māori law founded on kaupapa tuku iho and tikanga Māori, which is taught as a legitimate and continuing source and influence on the rights, obligations, rules and policy in Aotearoa New Zealand’s legal system. Māori law can and should be taught as part of the multi-year core LLB curriculum in a manner that adheres to Māori transmission methods of knowledge.

A bijural legal system is one where there is the “coexistence of two legal traditions within a single state”.¹⁰ Therefore, we as the authors of this report use the term “bijural” to describe the equitable treatment of both Māori law and Aotearoa New Zealand’s Western legal tradition, in recognition of Durie’s J view that “our law comes from two streams”¹¹ whether in legal education or law in general, and whether in the development of Williams’s J specific “Lex Aotearoa”¹² or a pluralistic system.

⁹ *Takamore v Clarke* [2012] NZSC 116 per Elias CJ.

¹⁰ C Lloyd Brown-John and Howard Pawley “When Legal Systems Meet: Bijuralism in the Canadian Federal System” (Working Paper 234, Institut de Ciències Polítiques i Socials, 2004).

¹¹ Above n 4, at 461.

¹² Above n 2.

The literature we reviewed argues for the recognition of Māori law in Aotearoa New Zealand jurisprudence as an activation of rangatiratanga held by hapū and guaranteed in Te Tiriti o Waitangi. Indeed some of the literature assumes that the progress already made in the recognition of Māori law by the Parliament and judiciary leads inevitably towards a new form of Aotearoa New Zealand jurisprudence that incorporates both “Kupe’s law” and “Cook’s law” into a coherent legal system on an equitable basis. The literature presupposes the existence of Māori law founded on tikanga; that it is a legitimate source of rights and obligations; and that it has independent, authoritative standing in an Aotearoa New Zealand bijural legal system.

A bijural legal education therefore would engage with Māori law as a source of legitimate legal rights and obligations. Māori law would be the subject of legal education in Aotearoa New Zealand, recognised as a legal order on its own terms, not merely as a fixed cultural artefact that is only relevant when viewed through the prism of a common law-based system. The literature identifies the need to include legitimate and enforceable Māori legal concepts that, in effect, bring about a genuine bijural legal system.¹³

The teaching of these concepts means moving beyond simply incorporating more Māori content within existing courses. It requires exploring ways in which the LLB curriculum could be structured to effectively recognise Māori law as a foundational component of Aotearoa New Zealand law. For example, there would need to be careful consideration of the basic organisation of material in a programme that was genuinely bijural because it is unlikely that a programme structure

¹³ This definition was provided by Leo Watson, 18 October 2019. See also C Lloyd Brown-John and Howard Pawley above n 10; John Borrows “Creating an Indigenous Legal Community” (2005) 50 McGill Law Journal 15; Durie “Will the Settlers Settle? Cultural Conciliation and Law” above n 4; Williams “Lex Aotearoa” above n 2; Joseph “Re-creating Space for the First Law of Aotearoa-New Zealand” above n 3; Carwyn Jones *New Treaty, New Tradition: Reconciling New Zealand and Māori Law* (University of British Columbia Press 2016); Anne Des Ormeaux and Jean-Marie Lessard *Legal Dualism and Bilingual Bisystemism: Principles and Applications* (2017) Canada, Department of Justice; Xavier Blanc-Jouvan “Bijuralism in Legal Education: A French View” (2002) 52(1–2) *Journal of Legal Education* 61; Carwyn Jones “Whakaeke i Ngā Ngaru – Riding the Waves: Māori Legal Traditions in New Zealand Public Life” in Lisa Ford and Tim Rowse (eds) *Between Indigenous and Settler Governance* (Routledge, New York, 2013), 174.

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designed to deliver a common law curriculum will be appropriate to deliver a bijural legal education.¹⁴

3. *A bicultural legal education implements structures, develops processes and provides resources grounded in Te Tiriti o Waitangi | the Treaty of Waitangi.*

A bicultural legal education would ensure quality, structural relationships with mana whenua with the intent of building greater collaboration for the teaching of Māori law. It would also require the recruitment and retention of high numbers of Māori teaching staff, a structure for ensuring Māori-led quality content in the compulsory and optional courses offered across the study years and financial support for the development of a bicultural curriculum and its quality delivery. Māori epistemologies for teaching and instruction, such as wananga, pūrākau, the use of te reo Māori and the legal knowledge held by kaumātua would be respected and incorporated into a bicultural curriculum. Shared decision-making authority and equitable access to financial resources with Māori staff in the law faculty is also recommended.

The literature reviewed sources the definition of biculturalism in Te Tiriti o Waitangi¹⁵ and the struggle for self-determination.¹⁶ Māori legal academic and judicial commentary distinguishes between biculturalism underpinned by structural change and the lesser goals of cross-cultural competence or cultural sensitivity.¹⁷ Durie has described the structural participation of Māori in the “legal, political and institutional systems of

New Zealand ... with the opportunity to develop a Māori component within the legal system”.¹⁸ Whiu describes the Māori expectation for a bicultural law school as a site for “emancipatory or liberating theory and practice of education”.¹⁹ Milroy traverses this area in some depth and concludes that despite the differences in interpretation, “[w]hat they seem to concentrate on are structures, processes and resources grounded in our understanding of the Treaty and the successful functioning of organisations for Māori and Pākehā”.²⁰ While each law school will need to develop their approach *in situ*, Milroy insists that the²¹ “ model must include transfer and sharing of resources and decision-making power (perhaps the hardest and most important step); acknowledgment of our history; and practices and procedures that deliver a legal education service that works for Māori as well as for Pākehā.”

Law schools have a unique and powerful opportunity to improve students’ understanding of the social role of law and develop a critical discourse on the role and application of law.²² Of great importance in the literature is the need for a genuinely collaborative approach to the content and the instruction of law courses for a bicultural education.²³ This includes the retention of a high number of Māori teaching staff and an institutional structure for ensuring Māori-led quality content in the compulsory and optional courses offered in the school. It is also important that a law school shares decision-making authority and equitable access to financial resources with Māori staff in that faculty. The development of a bicultural curriculum and its quality delivery needs sufficient funding to succeed,

14 John Borrows *Law’s Indigenous Ethics* (University of Toronto Press, Toronto, 2019) at 192–194.

15 See Ranginui Walker “Cultural Domination of Taha Māori: The Potential for Radical Transformation” in J Codd, R Harker and R Nash (eds) *Political Issues in New Zealand Education* (Palmerston North: Dunmore Press, 1985); Durie “The Rule of Law, Biculturalism and Multiculturalism” (2005) 13 *Waikato Law Review*: Taumauri.

16 See Leah Whiu “Waikato Law School’s Bicultural Vision – Anei Te Huarahi Hei Wero I A Tatou Katoa: This Is the Challenge Confronting Us All” (2001) 9 *Waikato Law Review* 265.

17 See Mackinnon and Te Aho “Delivering a Bicultural Legal Education” above n 145; Durie “The Rule of Law, Biculturalism and Multiculturalism” above n 15; Stephanie Milroy “Waikato Law School: An Experiment in Bicultural Legal Education. Part 1: Biculturalism and the Founding of Waikato Law School” (2005) 8(2) *Yearbook of New Zealand Jurisprudence* 173.

18 Durie above n 15 at 8, with reference to Mason Durie “Māori and the State: Professional and Ethical Implications for a Bicultural Public Service” (paper presented at the Public Service Senior Management Conference, Wellington, 1993).

19 Whiu above n 16, at 271.

20 Milroy above n 17 at 184.

21 At 185.

22 Carwyn Jones “Indigenous Legal Issues, Indigenous Perspectives and Indigenous Law in the New Zealand LLB Curriculum” (2009) 19 *Legal Education Review* 257 at 259. For a Canadian First Nations perspective see Val Napoleon “Thinking About Indigenous Legal Orders” in R Provost and C Sheppard (eds) *Dialogues on Human Rights and Legal Pluralism* (Springer, The Netherlands, 2013), 229–245.

23 Mackinnon and Te Aho above n 17, see also Jacinta Ruru, “Legal Education and Māori” in Claudia Geiringer and Dean R Knight (eds), *Seeing the World Whole: Essays in Honour of Kenneth Keith* (Victoria University Press, 2008), 243.

in part because it also requires recognition of the different forms of teaching and instruction, such as oral knowledge and the use of Māori language.²⁴

The research reviewed acknowledges the important role of law schools in the teaching of Māori law but also suggests teaching off-site in Māori cultural forums based on tikanga and te reo Māori.²⁵ Marae and Māori community-based legal education is underway²⁶ and could be further developed in collaboration with bicultural legal education systems within universities and between educational institutions such as wananga and iwi. Most universities have clear and structural relationships with the mana whenua in the rohe in which the university operates but some will need to build stronger networks. Such collaborations would provide students with unique exposure to the operation of Māori law and the intrinsic value of tikanga and te reo Māori. To this end, it will be essential that law schools develop highly collaborative relationships with academic and non-academic Māori law experts to ensure that any instruction retains the integrity and mana of those experts and is appropriate to the rohe in which the institution is situated.

4. *A bilingual legal education would utilise te reo Māori in relation to Māori law concepts and principles such that all law students have a working knowledge of Māori law in te reo Māori at the time of graduation.*

By ensuring graduates' fuller understanding of Māori legal and cultural concepts unlimited by the use of English interpretations a bilingual legal education will help to promote every citizen's right to use te reo Māori in legal and parliamentary forums

and documents. Where students are fluent in te reo Māori, they should be easily able to learn and be assessed in te reo Māori in their legal education. It is also essential that there is professional development support for learning te reo Māori for teaching staff and for the development of a bilingual curriculum and its quality delivery to provide greater support for a law student's right to use te reo Māori in all forms of communication in their legal education and future profession.

This move towards bijuralism is closely connected to improved bilingualism in the law schools,²⁷ particularly where a state has more than one official language used in legal and parliamentary forums and documents. Te reo Māori is the first language of Aotearoa New Zealand and is already recognised as an official language.

Parliament is increasingly using te reo Māori in its law-making processes, with many select committee reports and legislation being written and/or translated in both English and te reo Māori. Reports from the Māori Affairs Select Committee are now routinely published in a bilingual format.²⁸ Te Ture mō Te Reo Māori 2016 | Māori Language Act 2016 provides that any person appearing in court may speak Māori in court, including counsel, parties, witnesses and any member of the court.²⁹ The provision explicitly states that this entitlement stands whether or not the person speaks English also, and that although notice to the court is required by way of service in the lower courts, not giving notice does not defeat the entitlement to speak in te reo Māori. The court is required to provide an interpreter.³⁰ However, with the appointment to the Supreme Court bench of Justice Williams, a fluent te reo Māori speaker of Ngāti Pūkenga and Te Arawa, and a growing number of judicial appointments of fluent te reo Māori speakers, greater use of te reo Māori in all courts may well become the norm.

²⁴ Jones "Indigenous Legal Issues" above n 22, at 267.

²⁵ Jones *New Treaty* at n 13.

²⁶ For example, see Waikato University 2020 Summer Paper LEGAL441 – Comparative and International Indigenous Rights Research Project taught by Linda te Aho, where students were taught on the marae and undertook their own research project within the scope of domestic and international law in the United States, Canada, Australia and New Zealand, with a focus on independence, the Discovery Doctrine, Aboriginal title, treaties, Indigenous jurisdiction, modern treaty or agreement making and the Indigenous Declaration, as well as ahunga tikanga (Māori laws and philosophy). Bachelor's programme taught at Te Wānanga o Raukawa.

²⁷ Des Ormeaux and Lessard above n 13.

²⁸ For a list of such reports see <https://www.parliament.nz/en/pb/sc/scl/m%C4%81ori-affairs/tab/report>.

²⁹ Te Ture mō te reo Māori 2016 | The Māori Language Act 2016, s 7.

³⁰ James Greenland "Te Reo Māori I Nga Kōti O Aotearoa – The Māori Language in The New Zealand Courts" New Zealand Law Society (2016). <https://www.Lawsociety.Org.Nz/News-And-Communications/Latest-News/News/Te-Reo-Mori-I-Te-Kti-O-Aotearoa-The-Mori-Language-In-The-New-Zealand-Courts>.

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The New Zealand Government has committed to a significant revitalisation plan that it is hoped will see one million New Zealanders speaking te reo Māori by 2040. The Government's Māori Language Revitalisation Strategy 2019–2023 Maihi Karauna³¹ commits to a vision of "Kia Mauri Ora te Reo", describing the Māori language is a "living language" and aiming for a time when "whānau are acquiring te reo Māori as their first language through intergenerational transmission". With some 37,000 Māori aged over fifteen speaking te reo Māori at least as much as English,³² and increasing use of te reo Māori by the courts and Parliament, there is an increasing need for law schools to respond to tauria with high levels of, and a preference for, te reo Māori. Law schools need to keep up if they want to attract and retain this cohort of motivated Māori students.

Law schools also need to make sure their whole graduate cohort can meet the demands of a populace exercising their legal right to use te reo Māori in the court room – as participants, lawyers, and judges. Te reo Māori can be better supported across the profession and will need to be because the full understanding of Māori legal concepts is only possible if the court officers have some working knowledge of te reo Māori.³³ We recognise that law schools will not yet have the resources and skill sets available to them to become bilingual, but we make recommendations that can assist law schools to make this shift for the benefit of their students.

A Starter Reading List: Ten Readings on Māori Law

1. Richard Benton, Alex Frame and Paul Meredith *Te Mātāpunenga: A Compendium of References to the Concepts and Institutions of Māori Customary Law* (Victoria University Press, Wellington, 2013).
2. ET Durie, "Will the Settlers Settle? Cultural Conciliation and Law" (1996) 8 *Otago Law Review* 449.
3. Moana Jackson *He Whaipaanga Hou: Maori and the Criminal Justice System* Ministry of Justice (1987).
4. Carwyn Jones *New Treaty, New Tradition: Reconciling New Zealand and Māori Law* (University of British Columbia Press, Vancouver, 2016; republished by Victoria University Press, 2016).
5. Ani Mikaere "The Treaty of Waitangi and Recognition of Tikanga Māori" in Michael Belgrave, Merata Kawharu and David Williams (eds) *Waitangi Revisited: Perspectives on the Treaty of Waitangi* 2nd ed. (Oxford University Press, Auckland, 2005).
6. Hirini Moko Mead *Tikanga Māori: Living by Māori Values* rev. ed. (Huia Publishers, Wellington, 2016).
7. New Zealand Law Commission *Māori Custom and Values in New Zealand Law* (NZLC SP9, 2001).
8. Māmari Stephens and Mary Boyce (eds) *He Papakupu Reo Ture: A Dictionary of Māori Legal Terms* (LexisNexis NZ, Wellington, 2013).
9. Waitangi Tribunal *Ko Aotearoa Tēnei: A Report into Claims concerning New Zealand Law and Policy Affecting Māori Culture and Identity* (Wai 262, 2011).
10. Joseph Williams "Lex Aotearoa: An Heroic Attempt to Map the Māori Dimension in Modern New Zealand Law" (2013) 21 *Waikato Law Review* 1.

31 Maihi Karauna "The Crown's Strategy for Māori Language Revitalisation 2019–2023" <https://www.tpk.govt.nz/en/a-matou-kaupapa/maihi-karauna>.

32 At 14.

33 See Judge Stephanie Milroy "Ngā Tikanga Māori and the Courts" (2007) 10 *Yearbook of New Zealand Jurisprudence* at 15–23; Māmari Stephens and M Boyce (eds) *He Papakupu Reo Ture: A Dictionary of Māori Legal Terms* (LexisNexis NZ, Wellington, 2013); Des Ormeaux and Lessard above n 13.





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