



Helen Aikman QC

Areas of Practice

- Public and constitutional law
- Judicial review
- Treaty of Waitangi and Maori land
- Pacific law
- Civil and commercial litigation
- Advice to Government departments, Crown entities and other agencies.

Qualifications

BA in History and Politics, University of the South Pacific, 1974

LLB (Hons) Victoria University of Wellington, 1982

Admitted to New Zealand bar 1982, Samoan bar 1992 and 2009, Tongan bar 2010

Appointed Queens Counsel and Law Commissioner 2005

Professional Experience

Helen has worked as a litigation lawyer in both the public and private sector since 1982. She has also been involved in law reform, and has worked in both New Zealand and the Pacific.

Until 1988 Helen was a staff solicitor for Buddle Findlay and Tripe Matthews and Feist doing general civil and criminal litigation in the District and High Court and Court of Appeal. In 1988 she was a researcher for the Law Commission working on the Courts, Companies Act and Limitation Act projects.

In 1989 she went to the bar, where she continued a general practice, but also undertook public law and insolvency cases, acting for two Crown entities and the Official Assignee. In 1992-1993 she was the Principal State Solicitor in Samoa, where she undertook a wide range of Government work. This included the prosecution of serious crime before the Supreme Court and Court of Appeal, some cases raising important Bill of Rights questions under the Samoan constitution. It also involved advice to a wide variety of government departments and agencies and the negotiation of large government contracts and international treaties on behalf of the Samoan Government.

In 1994 Helen joined Crown Law Office, Wellington, as Crown counsel in the Treaty team. She represented the Crown in many Waitangi Tribunal hearings, and assisted in the negotiation of some of the early Treaty settlements. She was counsel in major Treaty litigation (eg judicial reviews regarding the sale of Radio New Zealand's commercial stations, radio frequencies and other broadcasting matters, the sale of Landcorp properties and the restructuring of Electricorp) as well as the Foreshore and Seabed (*Ngati Apa*) and Moutoa Gardens litigation. She appeared as counsel in the High Court, Court of Appeal and Privy Council, as well as the Maori Land Court and Waitangi Tribunal.

In 1998 she was appointed Team Leader of the Commercial Regulatory team, with responsibility for a wide variety of Government departments, including Ministries of Agriculture, Fisheries, Defence, Labour (including Immigration), Customs, Courts and parts of the Ministry of Economic Development, as well as statutory officers such as the Auditor-General and Ombudsman. Litigation during this period included issues of public interest and judicial immunity, solicitor-client privilege, fiduciary duty of the Crown, challenges to defence and immigration policy, including the role of international conventions.

In 2002 Helen was appointed the Deputy Solicitor-General (Constitutional) with responsibility for the Law Officer, Treaty and International Law, Human Rights and Employment teams. This work included advice to Department of Prime Minister and Cabinet, State Services Commission, Department of Justice (including Courts) as well as litigation involving various human rights issues.

In 2004 Helen recommenced practice as a barrister, where she has acted for the Crown in claims relating to Treaty settlements of forest assets, succession issues before the Maori Land Court and relationship property matters. She has given advice to several Government departments and Crown agencies in New Zealand and appeared in various cases in the Supreme Court and Court of Appeal as an amicus.

She has undertaken work in Tonga, Samoa and Fiji, including the drafting of new legislation in Samoa and for the University of the South Pacific, appearing before the Samoan Court of Appeal in a constitutional challenge to the Electoral Act, and before a Royal Commission of Inquiry in Tonga into the sinking of a passenger ferry.

From 2005 to 2008 she was also a Law Commissioner for a three year term. There she was responsible for projects on Maori governance (leading to the introduction of the Waka Umanga Bill in December 2007) and the report leading to the Inquiries Bill. She was also one of two lead commissioners on a study paper on Custom and Human Rights in the Pacific ("Converging Currents").

Other Activities

From 1995 to 2003 Helen represented the New Zealand government at the annual Pacific Island Law Officers Meeting (PILOM now PILON) and set up and has been a faculty member for each of the PILON Litigation Skills Seminars. She has also been a member of the NZLS Litigation Skills faculty and the National Institute of Trial Advocacy faculty in New Orleans.

In 2003, 2007 and 2008 she was a co-presenter of NZLS seminars on Judicial Review and in 2007 was also an adjunct lecturer at Victoria University for an Honours/Masters class in Public Law.

Helen has been a member of various law society committees, and was a Wellington District Law Society Council member from 2003-4, and was earlier on the committees of the Wellington Women Lawyers and the Community Law Centre Management Board. In Samoa she co-founded a women's group which continues to focus on concerns regarding domestic violence.

Prior to becoming a lawyer she worked as a teacher in Fiji for 3 years.

Publications and Cases

A list of publications and reported cases is attached as an appendix.

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Publications

- “Public Order and the Bill of Rights in Fiji: *R v Butadroka*” (1981) VUWLR 169
- “Customary Title in New Zealand” Papers of 1997 NZ Bar Association Conference
- “Judicial Review Update” NZ Law Society Seminar 2003
- “Judicial Review Intensive” NZ Law Society Seminar 2007
- “Administrative Law” NZ Law Society 2008
- “Is Custom Conservative?” Paper to Tuhonohono conference, Te Matahauariki Institute, Waikato 2007
- Papers on Waka Umanga to Maori Law Conferences 2006 and 2007

Reported Judgments

Alton v Broadcasting Standards Authority [1990] NZAR 571 (HC), a judicial review involved allocation of broadcasting time to a political party

Re Martin [1991] 3 NZLR 630 (HC) - priority of charges.

Smith v Official Assignee (1991) 8 FRNZ 338, [1992] NZFLR 241 (CA)

Police v Stehlin [1980-93] WSLR 568 (WSCA) – re right to counsel.

New Zealand Maori Council v Attorney-General [1996] 3 NZLR 140 (CA) - sale of Radio New Zealand's commercial stations

New Zealand Maori Council v Attorney-General [1996] BCL 912 [1998] NZLJ 440 (CA) – application for leave to appeal to Privy Council

Wanganui District Council v Tangaroa [1995] 2 NZLR 706 (HC) Ownership of Moutoa Gardens

Te Runanga o Ngai Tahu v Attorney-General (1996) 9 PRNZ 321 (HC) – challenge to sale of Landcorp lands

Treaty Tribes Coalition v Urban Maori Authorities [1997] 1 NZLR 513 (PC) - the Maori fisheries allocation case.

de Morgan v Director General of Social Welfare (PC) (the subsequent full hearing is reported at [1997] 3 NZLR 385).

Whittaker v Maori Land Court [1997] NZFLR 707 (CA) (Maori customary adoption)

Bulmer v Attorney-General (1998) 12 PRNZ 316 (CA) (attempted review of High Court)

Wairoa District Council and Attorney-General v Proprietors of Tahora 2F2 (1998) 3 NZ ConvC 192,722 (HC) (claim that Council held land as fiduciary for Maori)

Attorney-General v Maori Land Court [1999] 1 NZLR 689 (CA) - jurisdiction of the Maori Land Court over non-Maori land

Hugel v Cooney (comment at [1999] NZLJ 316 (HC)) – judicial review of coroner's decision, compellability of coroner.

Te Heu Heu v Attorney-General [1999] 1 NZLR 98 (challenge to sale of Landcorp land involving a re-examination of the *Lands* case)

Hawkins v Attorney-General (1999) 14 PRNZ 5 (HC) attempted judicial review of Master's decision

W v Youth Court at Tokoroa (1999) 18 FRNZ 433; [1999] NZFLR 1000 (CA) - powers of Youth Court

Independent Fisheries v Chief Executive Ministry of Fisheries [1999] NZAR 169 (HC) Solicitor-Client/Litigation Privilege

Haskett v Thames District Court (1999) 16 CRNZ 376 (HC) – review of District Court procedure

Mahuta v Attorney-General [1999] BCL 461 (HC) (interim injunction to prevent split of Electricorp)(HC) and *A-G v Mahuta* CA 71/99 1/4/99 reversing High Court.

ENZA v Export Permits Ctte [2001] 3 NZLR 456 (CA) - public interest immunity, and (2001) 15 PRNZ 303 (HC) – intervention by Attorney-General in the public interest

Frucor Beverages v Commissioner of Trade Marks [2001] 1 NZLR 362 (appeal from refusal of trade mark)

Rodney District Council v Attorney-General [2000] 3 NZLR 678 and [2001] 1 NZLR 326 (CA) (basis for setting valuation roll and local government rates)

Brown v Maori Appellate Court [2001] 1 NZLR 87 (amicus in judicial review re partition of Maori land by non-Maori owners) [2004] 3 NZLR 722 (costs)

CRA 3 v Minister of Fisheries [2001] 2 NZLR 345 (CA)(challenge to declaration of marine reserve)

Curtis v Minister of Defence [2002] 2 NZLR 744 (CA) (challenge to decision to disband Air Combat Force)

Attorney-General v Ngati Apa [2002] 2 NZLR 769 (HC) (the Maori claim to foreshore and seabed of the Marlborough Sounds)

Refugee Council v AG (No 2) [2002] NZAR 769 (CA) – challenge to Immigration service policy.

Shaw v AG (No 1) [2002] NZAR 987 (HC) application to cross-examine judicial officer

Shaw v AG (No 2) [2003] NZAR 216 (HC) judicial review by prisoner

Attorney-General v Refugee Council [2003] 2 NZLR 577 (CA) (detention of refugee claimants at Mangere Refugee Centre)

NZ Association for Migration and Investments Inc v Attorney-General [2006] NZAR 45 – immigration policy/legitimate expectations

Ngati Apa v Attorney-General [2003] 3 NZLR 643 (CA) the Foreshore and Seabed appeal

Re Unborn Child [2003] 1 NZLR 115 (HC) guardianship of an unborn child

Shannon v Shannon [2005] 3 NZLR 115 (CA) – legal professional privilege

New Zealand Maori Council v Attorney-General [2008] 1 NZLR 318 (CA) -Te Arawa settlement

Paki v Attorney-General [2009] 1 NZLR 72 (HC) – claim to part of Waikato River