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**INTELLECTUAL PROPERTY COMMERCIALISATION AND PROTECTION OF
MĀTAURANGA MĀORI IN NEW ZEALAND UNIVERSITIES**

DR LIDA AYOUBI

**A 21ST CENTURY RIGHT? AN ANALYSIS OF THE EXTENT TO WHICH
NEW ZEALAND'S PRIVACY ACT 1993 PROVIDES A RIGHT TO BE FORGOTTEN**

KYLIE JACKSON-COX

ARE OR WERE? THE CONTINUING INFLUENCE OF THE SETTLOR

SAM SHORT

While traditionally the settlor of a trust falls away after it has been created, increasingly they are seeking to retain some degree of influence over it. The impetus for this can be found in a number of factors, such as the need for supervision over increasingly wide discretions, a sense of attachment to assets that have been settled, fundamental principles of settlor autonomy and the competition between trust jurisdictions seeking to attract clients. The first form of influence examined is that of communicating wishes to trustees, both around the creation of the trust and during its operation. Here it is shown that both forms of communication are considered acceptable for trustees to consider, so long as certain thresholds (such as for a breach of trust or a sham) are not passed in the decision-making process. The second form is that of powers, held either by the settlor or another person chosen by them. The focus here shifts to the question of the fiduciary or personal nature of those powers, given its relevance to the next matter, before finding that there is a significant permitted scope for them, as long as they also do not either conceal a sham or go so far as to deprive the trust of any substance.

**RETROACTIVE AND RETROSPECTIVE INCOME TAX LEGISLATION:
THE NEW ZEALAND CONSTITUTIONAL PERSPECTIVE**

SEBASTIAN HARTLEY

Retroactive tax legislation is one of several tools available to the government in its ongoing mission to combat taxpayers' exploitation of loopholes in tax legislation. However, the use of such tools undermines the rule of law. As this article demonstrates, it does so by infringing on subjects' legitimate reliance that the statutes governing the legal (taxation) consequences of their actions will do so only in a prospective manner. Non-prospective tax laws also amount to the expropriation of subjects' vested property interests in a way that prospective statutes do not. The sovereignty of parliament does not provide a satisfactory justification for the adoption of such laws. New Zealand's commitment to parliamentary sovereignty reflects an underlying commitment to liberal democracy. Indeed, the commitment to parliamentary sovereignty is in fact a commitment to upholding liberal democracy. It is possible, though admittedly not yet the case, that judges would, and arguably should, refuse to enforce statutes that do not promote the continuation of liberal democracy. Upholding the rule of law is important, under circumstances of pluralism, to ensuring that society is governed by democratic processes and democratically made laws, as opposed to the will of the majority cloaked in legality. New Zealand's commitment to liberal democracy therefore suggests that laws inimical to the rule of law, including retroactive tax legislation, is not only unprincipled but also in fact potentially unconstitutional. However, as this article also demonstrates, two important factors mean the Crown retains considerable freedom to adopt non-prospective tax legislation while acting in a principled manner. The first is the unobjectionably retrospective – as opposed to retroactive – nature of all legislation. That defeats many principled objections. The second is the mechanical underpinnings of New Zealand's income tax legislation, which means that taxpayers gain a legitimate expectation as to their final tax liability, or lack thereof, at the end of each tax year. This allows significant scope for principled legislation combatting avoidance and minimisation.

ORIGINALITY OR OBEDIENCE? THE DOCTRINE OF PRECEDENT IN THE 21ST CENTURY

DOUGLAS WHITE