

SOUTH PACIFIC ISLAND LEGAL SYSTEMS

General Editor Ntumy, M

University of Hawaii Press, Honolulu, 1993

ISBN 0-8248-1438-X

Pp 660

This substantial work has been put together by Michael Ntumy, as general editor, and a distinguished editorial committee, consisting of Tony Angelo, Guy Powles, Jean Zorn and Stephen Zorn, who are well known to scholars of South Pacific law. Chapters have been written by members of the editorial committee and eight contributors from a number of academic institutions, including such diverse locations as De Paul University, Chicago and City Polytechnic, Hong Kong. The stated aim of the book is to provide a major step towards a 'comprehensive reference to the legal systems of the nations and territories of the South and Central Pacific'. It is intended to serve lawyers and non-lawyers alike, both within and outside the region, with information about the governments and legal systems of the region. This goal is achieved with distinction.

The 660 pages of the book are divided in three parts, each representing a different governmental structure. Chapters covering different countries are then grouped within these three sections. The first part is the most substantial and is entitled 'The Parliamentary Model'. It covers countries with a Westminster style of government. The second part is entitled 'The Presidential Model', and deals with countries exhibiting closer ties to a presidential model of government. The third is entitled 'The French Territories' and deals with countries coming within that classification.

Within the three parts there are 23 chapters. Each chapter is dedicated to a separate country. Countries covered in Part 1 are Cook Islands, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Norfolk Islands, Papua New Guinea, Pitcairn Island, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Western Samoa (now Samoa). In Part 2 are American Samoa, Federated States of Micronesia, Guam, Northern Mariana Islands, Palau. Part 3 covers New Caledonia, Wallis and Futuna, and French Polynesia.

All chapters are arranged under the same 23 major headings, being Dateline; Historical, Cultural and Economic Survey; Sources of Law; Constitutional System; Administrative Organisation and Law; International Obligations; Revenue Law; Investment Law; Welfare Law; Criminal Law; Judicial Procedure; Land and Natural Resources; Persons and Entities; Family Law; Personal Property; Wills and Succession; Contracts; Commercial Law; Torts; Labor law; Industrial and Intellectual Property Rights; Legal Education and Profession; and Research Guide. A series of second level headings are used within these topics. The consistent first and second level headings used in each chapter assist in ready reference and in making comparisons between the countries of the region. Within those headings, the editors have allowed varying subheadings to be used. This flexibility is essential to take account of the diversity of the legal and governmental systems being covered. Because of the consistency of structure in each of the chapters the Contents List and headings overcome the fact that there is no general index. An index of

cases is not given or required, as there is little reference to case law. An index of statutes might have been useful, but, again, is not essential in a work of this kind.

There are the occasional errors in the book, for example, the statement in the Solomon Islands chapter that civil procedure rules are to be found in the courts' establishing statutes (p 284), when procedure is in fact governed by separate rules. However, this is inevitable in a book concerning countries where primary materials were at the time, and to a lesser extent still are, so difficult to access. This difficulty is expressed by the editors in the introduction and followed by a caveat acknowledging that there may be some omissions where primary materials were not available to them. There also some over simplifications. For example, the only entry under Personal Property in the Solomon Islands chapter states that, 'The English common law principles of personal property apply in Solomon Islands', which could be taken to mean that customary law has no relevance in that area. Again, it is impossible to cover every aspect of legal systems in a reference work of this kind.

There is a great disparity in the referencing of individual chapters. Some chapters have extensive endnotes, some have only a few, and others have none. Whilst each chapter has a Research Guide at the end, which lists secondary source materials, the lack of authority for some of the interesting points made in the text, can be frustrating. For example, in the Chapter on Nauru, at p 146, the author states that, 'Arguments that the constitution may include, by implication, customary law have recently been dismissed by the Supreme Court, which held that customary law has effect only to the extent that it is applied by ordinance or statute'. There is no reference to the case name or citation. The endnotes are all placed together, at the end of the book, under chapter headings, which may be considered unhelpful by those who prefer footnotes to appear on the same page as the reference mark.

The closest text to 'South Pacific Legal Systems' is 'Pacific Courts and Legal Systems' (Powles et al (ed), 1988, Suva: USP and Monash University). However, whilst both works cover the same region, the work under review is a more academic study, providing a compendium of source information about the systems of government and law in each country covered. 'Pacific Courts and Legal Systems' does not deal with government but concentrates on courts and legal institutions and those who serve within them. Contributors are mainly from within the region, either engaged in Pacific courts or employed in other law related fields. Contributors offer some interesting criticisms and recommendations for improvement based on their inside knowledge. The only other published work in this area is 'Introduction to Pacific Law (Corrin Care et al, 1999, London: Cavendish). Like the book under review, it is an academic study, but it differs in some key areas. Rather than providing a general overview of law and government, it concentrates on sources of law, the substantive law in force in some key areas of law, the formal courts and legal procedure. Additionally, this book is only concerned with the member countries of the University of the South Pacific. Accordingly, whilst these three works are related, they are not market rivals.

'South Pacific Legal Systems' is now 8 years old. As stated in the introduction, some of the material on which it is based is older, having been collected in 1988 and 1989 (see p xviii). Accordingly, the book is out of date in places. This is particularly the case in relation to those countries that have undergone constitutional change, such as Fiji Islands, or significant statutory innovation, such as Papua New Guinea, where the Underlying Law Act 2000 has been passed. The Research Guides are also out of date, as there has been a vast increase in the availability of South Pacific material since the establishment of the Law School at the University of the South Pacific. The availability of primary material within the library and online at the Law School's web site has stimulated research and publication both within and outside the Law School. Other developments, such as the production of the Vanuatu Law Reports and the publication of consolidated laws such as Laws of the Cook Islands 1994 and Laws of Solomon Islands 1996, have also assisted researchers.

CONCLUSION

This is an essential reference work for scholars and practitioners and anyone else interested in South Pacific law, history or government. It is a book worth owning, but, unfortunately, it is not yet available in paperback and the price of US\$100 makes it too expensive for a student textbook. Those who have struggled to gain access to primary and secondary regional materials (particularly before the USP Law School Web Site got underway!) will appreciate the work involved in putting together a work of this nature. The only impediment to a recommendation to buy this immediately if you can afford it is the out of date material. A second edition would be very welcome. Until it appears, this remains an important reference work.

Jennifer Corrin Care, Senior Lecturer, School of Law, University of Queensland

3 April 2001

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