

BOOK REVIEW

Eric L. Kwa, Kwa's Legal Dictionary, (Port Moresby: 110 Ltd, 2018)

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When the Constitutional Planning Committee (CPC) was consulting the people in the lead-up to Papua New Guinea's independence – through discussion-groups which were provided with papers that raised important questions (not preferred ways forward or choices on offer), consideration of submissions received from interested parties, and public meetings convened at centres around what was then the Territory of Papua New Guinea – the Constitution which would take effect at independence was described in Tok Pisin as the '*As Lo bilong Gavman*' ('the basic – or foundation - law of government'). Now, the term generally employed to refer to the National *Constitution* some 44 years later is '*Mama Lo*' ('primary source'). The difference is best understood by reference to the process whereby succeeding generations of Papua New Guineans have grown up, lived, and worked at a time when the founding document of the Independent State of Papua New Guinea has transitioned from a proposal to a framework within which the institutions of national government have acquired and exercised constitutional authority.

Papua New Guinea's system of government is the product both of colonial inheritance as well as national self-determination.

The former is evident in the adoption of arrangements which owe a great deal to the Westminster system of responsible ministerial government (in which the Government-of-the-day is formed, held accountable, and subject to removal by the National Parliament), as well as a number of laws adopted from Australia and England.

The CPC was firmly committed to developing a 'home-grown' constitution, devised and adopted by Papua New Guineans to suit Papua New Guinea, and (unlike the constitutions of many other former colonies) neither negotiated with nor deriving its authority from the former colonial power.

The pre-independence House of Assembly's and the Constituent Assembly's acceptance of many (but by no means all) of the CPC's recommendations explains why significant aspects of the *Constitution of the Independent State of Papua New Guinea* and the Organic Laws which implement many matters of detail cannot be properly understood by reference to legal texts which apply in Australia or other Commonwealth countries. They are unique – and can be understood only by reference to distinctively Papua New Guinean sources. Thus, the *Constitution of the Independent State of Papua New Guinea* contains a set of National Goals and Directive Principles, including Papua New Guinean Ways, as well as Basic Social Obligations. While the Queen is head of state, the Governor-General, who represents her, is appointed on the advice of the National Executive Council (NEC) in accordance with a decision by the National Parliament. The Governor-General is required to act not only 'on' but 'in accordance with' the advice received from the NEC or another body specified by law; the Ombudsman Commission administers a Leadership Code which defines the duties and responsibilities, including the integrity required, of Ministers, Members of Parliament, and other holders of public office, and provides for the investigation and penalisation of breaches; the Prime Minister is elected on the floor of the National Parliament, and is assured a minimum term in office (which has grown over time) before a motion of no-confidence can be moved; etc.

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The provisions outlined explain why a dictionary of legal terms specific to Papua New Guinea is needed – not only by lawyers, public officeholders, and aspiring students, but by citizens with an interest in their rights, obligations, and Papua New Guinea’s system of government generally.

Echoing what might be regarded as an enduring aspect of life in Papua New Guinea and the changes occurring, the first entry in *Kwa’s Legal Dictionary* is ‘a close blood relative’, and the last is ‘zone’ (which is defined as ‘an area designated for a specific purpose’). The Dictionary consists of a carefully researched and recorded collection of words and phrases contained in Acts of Parliament and/or decisions of the National and Supreme Courts. Each entry consists of a clearly worded definition or explanatory phrase, followed by citations of the law(s) and the National and Supreme Court judgment(s) in which the word or phrase appears.

Kwa’s Legal Dictionary is the product of truly impressive, original research. In focusing on Acts of Parliament and court judgments, it provides a useful supplement to information contained in the *Interpretation Act 1975*, which contains guidelines for the application and definition of provisions contained in Acts and other legal instruments, and to the *Constitution* (Section 24) which specifies that certain materials can be used as aids to interpretation. The specified aids are the official records of the deliberations on the CPC’s Final Report in the House of Assembly (the parliament of the pre-independence Territory of Papua New Guinea) and the body into which it was reconstituted in order to debate and adopt the National *Constitution*, namely the Constituent Assembly. Relevant records other than the CPC’s Final Report (which is available online at the Pacific Islands Legal Information Institute website, paclii.org) are not readily accessible.

The particular contribution and value of *Kwa’s Legal Dictionary* is that it provides succinct explanations, with relevant sourcing, of many key terms employed in Papua New Guinea laws and court judgments. In doing so, it builds on previous publications by the author, Dr Eric Kwa, and reinforces his reputation as a leading, productive, scholarly researcher and writer of Papua New Guinea law (now serving as Secretary of the Department of Justice and Attorney General).

Kwa’s Legal Dictionary is an essential reference for anyone interested in contemporary Papua New Guinea law. It is a volume that readers familiar with Latin will regard as a *sine qua non* – an essential tool - for anyone seeking guidance on distinctive aspects and the evolving character of Papua New Guinea Law. Or, if one may be permitted to adapt the original Latin expression just cited, ‘a sine Kwa non’ (an essential of Kwa’s creation).

Over all, the book provides a carefully researched and clearly formulated guide to the legislative and judicial development and current understanding of significant aspects of Papua New Guinea law. One can only hope – and encourage the author and other interested parties – to update *Kwa’s Legal Dictionary* from time to time as legislation and judicial interpretations continue to evolve.