

2. From the Bush

The political autonomy, economic habits, religious practices, and sexual customs of organized native groups, in so far as they threaten European control or offend Western notions of morality, must be abandoned.

Stephen Winsor Reed, 1943.¹

Introduction: The background

In Chapter One, I described how Ryan Goodman challenged the ‘enforcement principle’ (the belief that proscriptive laws which are not enforced have no social effect), arguing that laws which criminalise certain sexualities operate far more broadly, to form and inform social norms. The laws which I examine were introduced into Papua New Guinea (PNG) by the Anglo-Australian colonial enterprise, so in this chapter I describe how the colonisation process took the many peoples of PNG from their villages in the bush to the management of their own affairs as citizens of an independent nation. I pay particular attention to the colonial regulatory management of indigenous sexuality, some of the processes and discourses which aided this management, and the enduring effects of colonisation, even after Independence, on the many peoples of PNG.

I start by outlining the work of the philosopher Michel Foucault which is the basis for Goodman’s critique of the enforcement principle. Foucault argues that the legal processes by which the modern state is regulated are supported by other normative discourses, mainly those of religion and medicine. To these, in the context of the colonial enterprise, should be added the languages of race and class. Writers on colonialism both in and beyond PNG have analysed specific examples of the operation of the regulation of colonial sexuality and, whether or not they acknowledge the influence of Foucault, his insights can be discerned in much of what they describe.

1 Stephen Winsor Reed, 1943, *The Making of Modern New Guinea with Special Reference to Culture Contact in the Mandated Territory*, Philadelphia: The American Philosophical Society, xvii. Reed, an American anthropologist working under the auspices of the US Institute of Pacific Relations, conducted a ‘sociological’ study of government, missions, planters, traders and labour recruiters in the Mandated Territory of New Guinea just before World War II. His writing reflects little of British anthropological traditions: a contemporaneous review of his book, Lennox A. Mills, 1943, ‘Reed, Stephen Winsor: The Making of Modern New Guinea,’ *The ANNALS of the American Academy of Political and Social Science*, 229, 202, refers to terms and phrases such as ‘neolithic natives of New Guinea,’ ‘head-hunting, cannibalism, and a small amount of trade,’ and ‘a lively fear of malevolent spirits who could be recognized by their possession of fiery red buttocks.’ For these details see Reed, *The Making of Modern New Guinea*, 1–71, especially 53–55 and 67. Nevertheless, Reed’s work appears to reflect generally accepted views of white inhabitants of the Territory during the inter-war period.

First, though, I provide a background to those aspects of the history, cultures and development of PNG during and following colonisation which are germane to the book and preface the case studies I present in later chapters. As Martha Macintyre puts it:

Colonialism and the forces of Australian neo- and postcolonial dominance have shaped the world that urban and industrialised Papua New Guineans inhabit. The economy, the institutions of government, the legal system and the prevailing religious beliefs have developed within Australian hegemony.²

The rural and subsistence population was also affected in many ways, although the present decline in government services (such as infrastructure, health and education) may lead a casual observer to think otherwise.³ The effects of this newly shaped world have been felt everywhere. So I describe the institutions (patrol officers, native regulations, police) through which the colonists imposed an administrative, regulatory and political system on the colonised. These processes established colonial rule and bequeathed to the independent nation a western-style, centralised legal system, a policing culture which is semi-military in nature, and frequent public claims that all society's ills can be solved by making more state laws. The post-colonial legal discourse has been tempered to an extent by the constitutional entrenchment of an elaborate system of human rights.

I then review other discursive systems which arguably support that of legal regulation. The Christian message brought by the early missionaries has been absorbed into traditional belief systems and practices, both changing and being changed by them. The spread of exotic diseases was accompanied by the intrusions of western medical practices and the deployment of medical discourse to assist legal control of indigenous sexualities and sexual practices, now heightened by the recent emergence of a serious HIV epidemic. These discourses on sexuality are simultaneously created by and used to support the unequal power relations in society, so I also describe how the discourses of race, ethnicity and class which divided coloniser from colonised in PNG have been reconfigured in the post-colonial era around a new binary of *elites* and *grassroots*. Changes have taken place in the configuration of PNG communities. I discuss whether and how far identity has shifted from the collective to the individual in a vertically divided modern society, increasingly affected by cultural globalisation.

2 Martha Macintyre, 2011, 'Money changes everything: Papua New Guinean women in the modern economy,' in *Managing Modernity in the Western Pacific*, ed. Mary Patterson and Martha Macintyre, Brisbane: University of Queensland Press, 90–120, 91.

3 For an illustration see Nicole Haley, 2009, 'HIV/AIDS and witchcraft at Lake Kopyago,' *Catalyst* 39(1): 115–34.

The power of sexuality

The primary concern was not repression of the sex of the classes to be exploited, but rather the body, vigor, longevity, progeniture, and descent of the classes that 'ruled.'

We must say that there is a bourgeois sexuality, and that there are class sexualities.

Sexuality is not the most intractable element in power relations, but rather one of those endowed with the greatest instrumentality.

Michel Foucault, 1976.⁴

Foucault has been widely analysed and criticised,⁵ but his work is helpful for the many ways in which it provides us with reference points from which to develop an understanding of the role of sexuality in the social construction of power and knowledge. Three main themes can be found in his work: systems of knowledge, modalities of power, and the self's relationship to itself.⁶ He suggests that power has come to be exercised not through the repressive mechanisms of the sovereign's law over entire populations but through disciplines of the body which demand of each individual the effort to develop and maintain a moral stance. It is this shift in modern times which underpins his theories of the relationship of sexuality to the operation of systems of knowledge and power.⁷ In his work *The Will to Knowledge: The History of Sexuality Volume 1*,⁸ he reasoned that modern society is shaped by normative processes that operate largely by exclusion—of the criminal, the insane, the sexually deviant and so on. The management of sexuality plays a highly significant role in this process, governing populations and creating and buttressing class divisions. Laws which criminalise sexual conduct and the individual internalisation of the project of self-discipline represent an exercise of social power via the control of human bodies.

But although law has a significant place in the regulation of society, it is not supreme. Laws cannot operate in isolation from other influences.⁹ For Foucault,

4 Michel Foucault, 1978 [1976], *The Will to Knowledge: The History of Sexuality: Volume 1*, London: Penguin Books, 123, 127, 103.

5 For example David Couzens Hoy (ed.), 1986, *Foucault: A Critical Reader*, Oxford and New York: B. Blackwell, 1; and see Ben Golder and Peter Fitzpatrick, 2009, *Foucault's Law*, Abingdon, UK: Routledge, discussed in Chapter Three and thereafter.

6 Arnold I. Davidson, 1986, 'Archaeology, genealogy, ethics,' in *Foucault: A Critical Reader*, ed. Hoy, Oxford and New York: B. Blackwell, 221–46, 221.

7 *Ibid.*, 228–29.

8 Foucault, *The Will to Knowledge: The History of Sexuality Vol. 1*.

9 Goodman, 2001, 'Beyond the enforcement principle: sodomy laws, social norms, and social panoptics,' *California Law Review* 89: 643–740, 719–21.

'bourgeois sexuality' was an outcome of the displacement of church power by the state, and the triumph of a capitalist class structure over a feudal order. Since the Middle Ages in Europe, the church had managed social relations through canon law. But in the eighteenth and nineteenth centuries, the state came to assume this role, developing disciplines and laws to produce a sense of sexuality which was an aspect of bourgeois self-regulation, self-discipline and self-definition, set in opposition to working-class immorality on the one hand and aristocratic decadence on the other.¹⁰ 'The old power of death that symbolized sovereign power was now carefully supplanted by the administration of bodies and the calculated management of life,' a process which Foucault termed 'biopower.'¹¹ Matters of sex and sexuality, far from being 'repressed,' were animated as an ever-present danger, through a multiplicity of discourses.¹² The three realms of sin (religion), sickness (medicine), and crime (law) worked to reinforce one another, giving rise to the four sexual objects of power and knowledge: the hysterical woman, the masturbatory child, the psychotic pervert and the properly socialised and state-controlled procreative couple.¹³ Laws became self-regulating by operating as internalised norms rather than as overt exercises of power.¹⁴

Bourgeois sexuality is male-dominated, defined and policed by the bourgeoisie themselves, and demands adherence to the only lawful sexuality, that of the monogamous heterosexual married couple. Procreative behaviour is approved—all other sexual conduct is illicit and those who engage in it, such as prostitutes and homosexuals, are relegated to the realm of the outclasses. The prostitute acts out the unrestrained sexuality of women, and is constructed as the 'other' to the chaste and virtuous woman; the homosexual represents an extreme in perversion, remote from the disciplined heterosexual married couple and the 'other' to the gentleman, father and patriarch.¹⁵ Sexual order is generated and social barriers demarcated by the exercise of power through the legislative

10 And from the exotic others of Africa, Asia and the Pacific see, Margaret Jolly and Lenore Manderson, 1997, 'Sites of desire and economies of pleasure in Asia and the Pacific,' in *Sites of Desire, Economies of Pleasure: Sexualities in Asia and the Pacific*, ed. Manderson and Jolly, Chicago: University of Chicago Press, 1–26, 7.

11 Foucault, *The Will to Knowledge: The History of Sexuality Vol. 1*, 139–40.

12 *Ibid.*, 103–05.

13 To these four, Stoler added a fifth, the erotic savage of the colonial experience. See Ann Laura Stoler, 1995, *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things*, Durham and London: Duke University Press.

14 Foucault, *The Will to Knowledge: The History of Sexuality Vol. 1*, 144.

15 Ballard, 'Sexuality and the state in time of epidemic,' 109.

production of these categories of deviance,¹⁶ and through the processes of self-definition and self-regulation produced by the disciplining processes of the law.¹⁷

Foucault in the colonies

Foucault wrote exclusively for and about the European metropole, and although he did not concern himself with colonial laws governing the sexuality of the colonised, others have applied his analyses.¹⁸ ‘Colonialism,’ Sally Engle Merry reminds us bluntly, ‘is an instance of a more general phenomenon of domination.’¹⁹ This process of domination involved the wholesale transfer of laws from the core to the periphery, whereby one society strove to rule and transform another. This process of imposing the coercive control of coloniser over the colonised through the local imposition of imported legislation, has been termed *lawfare*: ‘the effort to conquer and control indigenous peoples by the coercive use of legal means.’²⁰ As Merry demonstrates, through the power it wields colonial law can play a critical role in defining identity and ethnicity and thus citizenship, nationality, political participation, and access to land and other resources.²¹ US lawyer Katherine Franke points out, in writing about the creation of post-colonial homophobia in Zimbabwe and Egypt, that where there is sex, there is likely to be power; but the reverse may also be true: where there is power, there is likely to be sex. The state’s management of sexuality becomes a tool of governance ‘that produces individual unfreedom in the name of expanding national freedom or independence.’ And where power is transferred from colonial to post-colonial control, sex can be an ‘especially

16 Foucault, *The Will to Knowledge: The History of Sexuality Vol. 1*, 87; Ballard ‘Sexuality and the state in time of epidemic,’ 104–05.

17 Margaret A. McLaren, 2002, *Feminism, Foucault, and Embodied Subjectivity*, Albany, NY: State University of New York Press, 87–90.

18 Stoler, *Race and the Education of Desire*, viii, 9; Peter Fitzpatrick, 1982, ‘The political economy of law in the post-colonial period,’ in *Law and Social Change in Papua New Guinea*, ed. David Weisbrot, Abdul Paliwala and Akilagpa Sawyerr, Sydney, Melbourne, Brisbane, Adelaide, Perth: Butterworths, 25–55; Peter Fitzpatrick, 1984, ‘Traditionalism and traditional law,’ *Journal of African Law* 28: 20–27; Peter Sack, 1997, ‘Colonial government, “justice” and “the rule of law”’: the case of German New Guinea,’ in *European Impact and Pacific Influence: British and German Colonial Policy in the Pacific Islands and the Indigenous Response*, ed. Hermann J. Hiery and John M. MacKenzie, London: Tauris Academic Studies, 189–213; John L. Comaroff, 2001, ‘Colonialism, culture, and the law: a foreword,’ *Law & Social Inquiry* 26(2): 305–14; and for a view from the other side of the fence, Bernard Narokobi, 1977, ‘Adaptation of western law in Papua New Guinea,’ *Melanesian Law Journal* 5(1): 52–69.

19 Sally Engle Merry, 1991, ‘Law and colonialism,’ *Law and Society Review* 25(4): 889–922, 890.

20 Comaroff, ‘Colonialism, culture, and the law,’ 306; and see also Sally Engle Merry and Donald Brenneis, 2004, ‘Introduction,’ in *Law & Empire in the Pacific: Fiji and Hawai’i*, ed. Merry and Brenneis, Santa Fe: School of American Research Press, 3–34, 6.

21 Sally Engle Merry, 2004, ‘Law and identity in an American colony,’ in *Law & Empire in the Pacific Fiji and Hawai’i*, ed. Merry and Brenneis, Santa Fe: School of American Research Press, 123–52.

dense transfer point.²² So it is not surprising that control of sexuality features prominently in many colonial regulatory schemes, to be carried forward into the post-Independence era.²³

The law's focus on the sexuality of the colonised is apparent in PNG. Because of the diversity of cultures encountered by the newly arrived colonists, and because contact by private entrepreneurs and missions usually preceded the arrival of any form of governmental apparatus, few societies were studied and objectively described early enough to provide details of pre-colonial systems—this is particularly true for pre-colonial sexuality, much of which was quickly concealed in the face of mission and administration disapproval.²⁴

The colonists were quick to make their mark. Sinclair Dinnen notes how the early colonial administration displayed a 'persistent concern with indigenous criminality.'²⁵ Racial and sexual anxieties gave rise to draconian and discriminatory legislation in an atmosphere of paternalism and authoritarianism. A surprisingly large number of matters which concerned the formal courts of the colony were sexual in nature. Alongside murder and sorcery, cases of rape, incest and sodomy featured frequently. Adultery was punished by the criminal law too, because it seemed so often to lead to breaches of the peace.²⁶

Colonial discourses of sexuality in PNG were largely qualified and directed by principles of social organisation upon which the introduced state legal system was based. Whereas the sexuality of the colonisers was idealised in this system as controlled and restrained,²⁷ the colonised were viewed as 'licentious savages': to be reformed by missionaries; to be studied by early anthropologists intent on understanding 'the sexual life of savages';²⁸ and to have their (introduced)

22 Foucault, *The Will to Knowledge: The History of Sexuality Vol. 1*, 103; Katherine M. Franke, 2004, 'Sexual tensions of post-empire,' *Columbia Law School Pub. Law Research Paper No.04-62*, 2, online: <http://ssrn.com/abstract=491205>, accessed 12 November 2006.

23 And see Ann Laura Stoler, 2003, *Carnal Knowledge and Imperial Power: Race and the Intimate in Colonial Rule*, Berkeley: University of California Press, 43–45.

24 Bernard Narokobi, 1989, 'Law and custom in Melanesia,' *Pacific Perspectives* 14(1): 17–26; Carol Jenkins, 1996, 'The homosexual context of heterosexual practice in Papua New Guinea,' in *Bisexualities and AIDS*, ed. Peter Aggleton, London: Taylor and Francis, 191–206, 193. Nevertheless, many early missionaries were also enthusiastic students of culture and language, even if their reports and views were tempered by their own moral stance and their projects of conversion.

25 Sinclair Dinnen, 1989, 'Crime, law and order in Papua New Guinea,' *Melanesian Law Journal* 17: 10–25, 10–11.

26 David Plumley Derham, 1960, *Report on the System for the Administration of Justice in the Territory of Papua and New Guinea*, Melbourne: report to the Minister for Territories (*Derham Report*), Appendix H.

27 In reality, the opposite was true as regards relations between white men and indigenous women. For accounts of the uneasy attitudes of the Administration to such liaisons, see Wolfers, *Race Relations and Colonial Rule*, 127; and Amirah Inglis, 1974, *Not a White Woman Safe: Sexual Anxiety and Politics in Port Moresby, 1920–1934*, Canberra: Australian National University Press, 13–19.

28 Bronislaw Malinowski, 1948, *The Sexual Life of Savages in North-Western Melanesia: An Ethnographic Account of Courtship, Marriage, and Family Life among the Natives of the Trobriand Islands*, *British New Guinea*, [third ed], London: Routledge & K. Paul.

venereal diseases and dwindling populations controlled by the medical branch of the colonial administration.²⁹ However, the colonial management of 'savage' sexuality was concerned not with the development and regulation of an indigenous bourgeoisie but rather with securing the dominance of (male) colonisers over colonised and the protection of chaste white womenfolk from the depredations of this 'lascivious savage.' Although colonised later than many other parts of the non-western world, these processes were pervasive in the territories of PNG as well.

Objects of public surveillance

New Guinea ... was originally divided into hundreds of small groups speaking different languages and living in a state of fear and enmity towards one another.... There was no single religious belief and nothing in the nature of a priesthood but only the fear of the dead and the power of the sorcerer. The existence of most of the people was hand-to-mouth from the garden and the jungle straight to the cooking pot.... In their primitive condition the expectation of life was short because of disease, violence and the absence of medical knowledge or hygienic practice. The country itself is made difficult by jungle, precipitous mountains, torrents and vast swamps.... To this country of close upon 2,000,000 people, who lived originally in a condition of the most primitive savagery, separated from each other into hundreds of hostile groups, we have brought law and order without bloodshed.

Paul Hasluck, Minister for Territories, to the Australian Commonwealth Parliament, 1960.³⁰

The European colonists brought with them to PNG not only their administrative practices, their laws and their cash economy, but their social norms as well. Whether or not they adhered to them in practice (a far-flung outpost of empire is always a good place to flout the social strictures of home), lip-service at least was paid to the conventions.³¹ Writers such as Ann Laura Stoler and Anne McClintock have argued that beliefs in the patriarchal family and evolutionary theory provided the colonial setting for disapproval of non-(re)productive women (including prostitutes) and men (including homosexuals); concubinage produced problematic mixed-race offspring, while the importation into and

29 Jolly and Manderson, 'Sites of desire, economies of pleasure in Asia and the Pacific,' 8; Adam Reed, 1997, 'Contested images and common strategies: early colonial sexual politics in the Massim,' in *Sites of Desire, Economies of Pleasure*, ed. Manderson and Jolly, Chicago: University of Chicago Press, 48–71.

30 Commonwealth of Australia, *Parliamentary Debates*, House of Representatives, 23 August 1960, 259 (Paul Hasluck, Minister for Territories).

31 Robert Aldrich, 2003, *Colonialism and Homosexuality*, London and New York: Routledge.

maintenance in tropical colonies of white wives was expensive and fraught with the danger of the (presumably unstable) women themselves transgressing the boundaries of white supremacy.³² And so it was in PNG.

The early administrations of both territories tried to protect villagers from the 'sexual depredations' of single white males, who sought both casual sex and concubines—the latter arrangements were regarded as liaisons 'unworthy of white men.'³³ The infamous *White Women's Protection Ordinance* of 1929 was drawn up in Papua to protect white women from the fantasised savage 'other,'³⁴ and also partly to protect them from themselves, women being then considered weak and prone to lapse into 'savagery.' Years later, on the insistence of male villagers, laws were passed for the 'protection' of native women. In Papua, this was effected by the *Native Women's Protection Ordinance* in force from 1951 to 1962, which forbade any indigenous woman to be on expatriate premises at night without her husband, or any expatriate to be in a village at night, effectively confining those women to their villages—a measure designed ostensibly to protect them from the depredations of white men, but probably also to assist in preserving white prestige.³⁵

The late-nineteenth and early-twentieth centuries were times when selling sex and sexual relations between men were high on the social regulation agenda. In many colonies, state laws criminalised sexualities with little regard for the realities of the cultures they encountered. The laws were enforced wherever some feature of local social practice was identified which might fall within their ambit. In both PNG territories, 'prostitution' and 'homosexual dealings' were thus criminalised. And the rationale for this drew upon Foucault's familiar discourses of crime, sin and sickness.

Imposing peace, bringing law, creating disorder

'Enlightened colonial methods'

We went to New Guinea solely and simply to serve our own ends, and this fact should never be forgotten in dealing with the natives of that country.

Sir William MacGregor, first Administrator of Papua, 1912.³⁶

32 Anne McClintock, 1995, *Imperial Leather: Race, Gender and Sexuality in the Colonial Conquest*, New York and London: Routledge; Stoler, *Carnal Knowledge and Imperial Power*.

33 McClintock, *Imperial Leather*, 55, 81.

34 Inglis, *Not a White Woman Safe*; Wolfers, *Race Relations and Colonial Rule*, 58.

35 Wolfers, *Race Relations and Colonial Rule*, 128.

36 Sir Hubert Murray, 1912, 'Introduction,' *Papua or British New Guinea*, London: T. Fisher Unwin, quoted in B. Jinks, P. Biskup and H. Nelson, 1973, *Readings in New Guinea History*, Sydney: Angus and Robertson, 67.

The eastern half of the island of New Guinea was progressively colonised from Europe from the mid-nineteenth century, by Germany in the north and Britain in the south. While the German colony was established primarily for economic exploitation, the southern half (originally named British New Guinea and later Papua) was possessed at the insistence of Queensland, mainly for purposes of defence.³⁷ When World War I broke out, German New Guinea was occupied by the Australian Naval and Military Expeditionary Force. Laws promulgated by the Germans remained in force 'so far as is consistent with the military situation,' until Australia assumed post-war administration in May 1921 under the Commonwealth *New Guinea Act*, first as a Class C mandated territory and then after World War II as a United Nations Trust Territory.³⁸ In the inter-war period, the two territories were administered separately, but following World War II they were amalgamated under a single administrative and judicial system.³⁹

Following the assumption of the administration of both territories, Australia's main concern was with their commercial prospects, agriculture and mining. Pacification was the first task, to enable these enterprises to take hold. Administrative policy was based on concepts of social evolution and the goal of ultimate assimilation. The colonised were to remain villagers, protected in the first instance from the worst effects of social and economic change, until through the application of western and Christian principles and the introduction of colonial law, they would eventually be civilised.⁴⁰ As the Administrator of Papua, Sir Hubert Murray, put it:

So, as the Papuan has no Courts of Justice of his own, we must establish Courts for him. This is direct rule of the most bare faced kind, but the Court is after all only the machinery, and in the actual administration of justice we come back to our principle of indirect government. From here we give due weight to native custom, especially in the sentences that we pass.... But the main thing to remember ... is that it is our criminal code and not that of the Papuans that is going to survive.⁴¹

37 John Goldring, 1978, *The Constitution of Papua New Guinea*, Sydney Melbourne Brisbane Perth: The Law Book Company, 6; Jinks, Biskup and Nelson, *Readings in New Guinea History*, 60, 154; Allen M. Healy, 1987, 'Monocultural administration in a multicultural environment: the Australians in Papua New Guinea,' in *Colony to Coloniser: Studies in Australian Administrative History*, ed. J.J. Eddy and J.R. Nethercote, Sydney: Hale & Iremonger, 207–24, 210, 216; D.C. Lewis, 1996, *The Plantation Dream: Developing British New Guinea and Papua, 1884–1942*, Canberra: The Journal of Pacific History, 16; Hank Nelson, 1982, Taim Bilong Masta: *The Australian Involvement with Papua New Guinea*, Sydney: Australian Broadcasting Commission, 23, 67.

38 Jinks, Biskup and Nelson, *Readings in New Guinea History*, 202–06, 227, 230; Wolfers, *Race Relations and Colonial Rule*, 74–79.

39 J.R. Mattes, 1969, 'The courts system,' in *Fashion of Law*, ed. B.J. Brown, Sydney: Butterworths, 71–82, 71.

40 Healy, 'Monocultural administration in a multicultural environment,' 215; Murray, *Papua or British New Guinea*, 360; Wolfers, *Race Relations and Colonial Rule*, 66–70, 92.

41 J.H.P. Murray, 1929, *Indirect Rule in Papua*, Port Moresby, quoted in Jinks, Biskup and Nelson *Readings in New Guinea History*, 128.

Alan M. Healy claims that Australia lacked the basic interest in its colony which was necessary for developing a modern colonial administrative practice designed to manage acculturation.⁴² Its involvement in the colonial enterprise was confined to a very limited and poorly implemented set of self-interested objectives. No properly professional public service was ever developed, administrative interaction with the colonised was limited in the main to police action, very little political attention was ever paid to the colony and the approach was one of white paternalism, which nevertheless was considered to be the epitome of enlightened colonial methods—a ‘benevolent type of police rule.’⁴³

The colonial enterprise in PNG involved the bringing of peace and order into what was perceived to be a disordered situation (the reality that this ‘order’ was often brought by non-peaceful means was ignored).⁴⁴ So laws of general application in each territory, based on or even copied directly from those of the metropole, were applied both to colonisers and colonised. But there was a further step. Part of the *lawfare* process of colonial control included the creation of ‘customary law,’ so that local norms and dispute settlement processes were restricted and incorporated into the lowest level of the state legal system. As Peter Fitzpatrick puts it, ‘The European created the native and the native law and custom.’⁴⁵ Customary norms and principles were explicated, codified and, where deemed by the colonists to be overly primitive or dangerous, criminalised.⁴⁶

So a host of ‘native regulations,’ applying only to ‘natives’ carefully defined, was promulgated: the *Native Regulations* in Papua commencing in 1888, and the *Native Administration Regulations* in New Guinea from May 1921 (collectively the Native Regulations).⁴⁷ In the absence of clearly visible chiefs, kings or other forms of hierarchical ruler with whom to react directly, the colonists brought governance to the people by appointing faux-chiefs, the *luluais* and *tultuls*, and administered it by means of a travelling administrative officer (the patrol officer or *kiap*) who walked (or in coastal or islands areas, sailed) around his designated area of command. Among his many other duties the *kiap* adjudicated the Native Regulations in specially established Courts of Native Affairs (Figure 2.1).

42 Healy ‘Monocultural administration in a multicultural environment,’ 208–10.

43 *Ibid.*, 210–21.

44 Peter Fitzpatrick, 1980, ‘Really rather like slavery: law and labour in the colonial economy in Papua New Guinea,’ *Contemporary Crises* 4(1): 77–95, 82; Peter Fitzpatrick, 1992, *The Mythology of Modern Law*, London and New York: Routledge, 107–14; Peter Fitzpatrick, 2000, ‘Magnified features: the underdevelopment of law and legitimisation,’ *Journal of South Pacific Law* 13(1), online: <http://www.pacii.org/journals/EJSPL/vol04/5.shtml>, accessed 28 March 2014; see also Sinclair Dinnen, Tess Newton and Anita Jowitt (eds), 2003, *A Kind of Mending: Restorative Justice in the Pacific Islands*, Canberra: Pandanus Books, 5.

45 Fitzpatrick, *The Mythology of Modern Law*, 110.

46 Comaroff, ‘Colonialism, culture, and the law,’ 306; Peter Bayne, 1975, ‘Legal development in Papua New Guinea: the place of the common law,’ *Melanesian Law Journal* 3(1): 9–39, 13, 20.

47 See also David Weisbrot, 1982, ‘Integration of laws in Papua New Guinea: custom and the criminal law in conflict,’ in *Law and Social Change in Papua New Guinea*, ed. Weisbrot, Paliwala and Sawyerr, Sydney: Butterworths, 59–103, 65–67.



Figure 2.1. *Kiap* presiding at a Native Affairs Court hearing, 1950s.

Source: PMB Photo 6_12, District Officer holding court, from PMB Photo 6. Sir Paul HASLUCK, New Guinea Administration Series of Photographic Slides, 1956, Nos. 00121–00188.

These regulations were borrowed in the first instance from those of the British colony of Fiji,⁴⁸ and remained in force, albeit with frequent revisions, insertions, deletions and alterations, until a complete repeal process commenced in the 1960s.⁴⁹ The regulations were based on the assumption that the colonists had the right to unilateral intervention in almost every aspect of village life; and that the form and principles of the legal system they knew were applicable to everyone everywhere. Sprinkled through the Papuan regulations (the New Guinea version is mercifully free of them) are brief homilies on the reason for these massive intrusions into private village life, penned under the administration of the first Administrator Sir William MacGregor and retained in subsequent revisions,⁵⁰ such as:

Clothes are good to wear if they are kept clean, and if they are taken off when they are wet and dried before they are put on again. Otherwise they are bad, for they cause sickness and death. Some natives know how to keep their clothes clean and do not wear them when they are wet, but

48 Wilfred Norman Beaver, 1920, *Unexplored New Guinea: A Record of the Travels, Adventures, and Experiences of a Resident Magistrate*, London: Seeley, Service & Co, 292.

49 This process was consequent on the *Derham Report*.

50 Wolfers, *Race Relations and Colonial Rule*, 21–24.

many others are foolish and wear them when they are very dirty, and keep them on, and even sleep in them, when they are wet. To protect these foolish men and women it is necessary to make a law about the wearing of clothes.⁵¹

Sorcery is only deceit, but the lies of the Sorcerer frighten many people and cause great trouble, therefore the Sorcerer must be punished.⁵²

The practice of people abandoning their old homes in settled villages and scattering themselves in small groups over the face of the country is growing in the land. Experience proves that this isolated way of living tends to breed animosities, to increase superstitious fears and to debase those that follow it. On the other hand people persist in living in villages that are built on unhealthy sites even when it is easy for them to remove the village to a healthy site.⁵³

The first aim of the Native Regulations in both Territories was to establish law and order by stopping warfare and murder.⁵⁴ Practices ‘repugnant to humanity’ (according to the definitions of the colonisers) were proscribed, and then the perceived needs of the villagers themselves were addressed. Populations and their whereabouts were controlled through regular census-taking and strict control of movement in both territories. Health and well-being were promoted through a wealth of regulations governing (among other matters) dress, housing, sanitation, disease—and not surprisingly, sexuality.⁵⁵ Native marriage was recognised as being governed solely by custom—the regulations in both jurisdictions are at pains to ensure that this is acknowledged. Consensual sex outside marriage, and indeed outside heteronormativity, was made illegal: adultery, prostitution and ‘indecent practices’ between males were all offences under the regulations, as well as appearing in criminal laws of national application.

This was the situation until well into the post-World War II era. One consequence of the trusteeship of New Guinea was regular inspection of Australia’s administration by international missions. In 1962, one mission considered Australia’s administrative approach to its colony to be outdated and unworkable, and felt it should be changed.⁵⁶ But it was too late. The Australian

51 *Native Regulations* 1922 (Papua), Regulation 87. The regulation does not apply to ‘village’ clothing, which is not clothing at all for the purposes of the law.

52 *Ibid.*, Regulation 80.

53 *Ibid.*, Regulation 90.

54 Rowley, *The New Guinea Villager*, 67–68.

55 This very brief overview of the development of the native regulations of both territories elides much of the historical processes that underpinned their making. For this see for example, Healy, ‘Monocultural administration in a multicultural environment’; Wolfers, *Race Relations and Colonial Rule*; Nelson, *Taim Bilong Masta*, 185–191, for greater detail.

56 *Report of the 1962 United Nations Visiting Mission to the Trust Territory of New Guinea*, Chairman Sir H. Foot, New York, 1962 (*Foot Report*), referred to in Healy, ‘Monocultural administration in a multicultural

colonial administration had already imposed an administrative, legal and political system on PNG which has persisted to this day.⁵⁷ The adoption of a *Constitution* at Independence in 1975, the many repeals, consolidations and amendments of the laws described in more detail in Chapter Three, have not altered the basic systems of governance introduced by the colonial regime.

'Benevolent police rule': Creating dis-order

The two finest and best institutions I left in New Guinea were the constabulary and village police, and the missions.

Sir William MacGregor, first Administrator of Papua, 1912.⁵⁸

MacGregor established the Armed Native Constabulary for British New Guinea in 1890, and was proud to report that the process of pacification had never required military assistance.⁵⁹ The same was not true of German New Guinea, although the *Neu-Guinea-Kompagnie* had already established a small armed native police force there, as Germany's naval presence was only intermittent.⁶⁰

The foundations for today's police culture in PNG were laid in these origins. In Europe, the role of policing had shifted from the maintenance of an orderly environment in which trade and commerce could flourish to one of focus on criminal activity and the maintenance of social order through increased surveillance and restrictions on the use of violence.⁶¹ In the Territories, however, community pacification and regulation was carried out by the peripatetic *kiaps*, accompanied, assisted and protected by an armed native constabulary. The demarcation of functions between police and army was blurred and the 'pacification' was sometimes anything but peaceful.⁶² Particularly in New Guinea, police were selected for the warrior-like traditions of their societies. Police on patrol, and even on the government stations, were required to repel attacks and enforce the colonial presence, and to do this they were entitled to

environment,' 207, n1.

57 Healy, 'Monocultural administration in a multicultural environment,' 224.

58 Sir William MacGregor, in Murray, 1912, 'Introduction,' *Papua or British New Guinea* (1912), quoted in Jinks, Biskup and Nelson, *Readings in New Guinea History*, 69.

59 *Ibid.*, 60–61. MacGregor did not proceed to the obvious inference, that an army was not needed because the police fulfilled this role already. Minister's Hasluck's reference to the lack of bloodshed in the epigraph which commences this section is wishful thinking.

60 Peter Sack, 2001, *Phantom History, the Rule of Law and the Colonial State: The Case of German New Guinea*, Canberra: Division of Pacific and Asian History, The Australian National University, 72.

61 John Braithwaite, 2009, 'Foreword,' in Miranda Forsyth, *A Bird That Flies With Two Wings: Kastom and State, Justice Systems In Vanuatu*, Canberra: ANU E Press, xi–xiv, xi, online: <http://press.anu.edu.au?p=49351>, accessed 10 April 2014; Sinclair Dinnen and John Braithwaite, 2009, 'Reinventing policing through the prism of the colonial kiap,' *Policing and Society* 19(2): 161–73; Alan Hunt and Gary Wickham, 1994, *Foucault and the Law: Towards a Sociology of Law as Governance*, London; Boulder, Colorado: Pluto Press, 99.

62 Sinclair Dinnen, 1998, 'Criminal justice reform in Papua New Guinea,' in *Governance and Reform in the South Pacific*, ed. Peter Larmour, Canberra: National Centre for Development Studies, The Australian National University, 253–72, 260.

use armed force, often against people with whom they had no prior relationship (although they were both 'Melanesian') and whom they regarded as alien. They also acquired power over all native servants and employees of the colonists, including the power of physical punishment.⁶³ During the 1960s, though, *kiap* control of the constabulary was removed, it became more of an unarmed professional police force,⁶⁴ and its rural regulatory role was eclipsed by a new emphasis on urban paramilitary crime control.⁶⁵ This quasi-militaristic tradition has left its legacy in the retributive and violent nature of policing today. Even before Independence, a private lawyer practising in Port Moresby felt obliged to declare that

authorities directly involved in the administration of law generally give order and punishment more weight than they give to law ... this policy will slowly, but nonetheless surely, lead to a crisis between the community on the one hand and the law-enforcement agencies, especially the police, on the other.⁶⁶

Dinnen argues that the cause is to be found in those early pacification strategies—'many features of state strategies of control in the post-independence period represent a return to the pacifying strategies of early colonial rule'—and points to such present-day actions as punitive raids, orders to 'shoot to kill,' and violence against the civilian population.⁶⁷ A second facet of policing is derived from a congruence of traditional cultural constructs and 'modern' views of the function of a police force. The police in PNG constitute themselves as guardians of the community, not of individuals, in much the same way as the warriors of traditional times did.⁶⁸ A further feature of modern-day police culture in PNG was recently described by Macintyre.⁶⁹ She examined representations of masculinity by today's youth, not only in towns but rural settings as well. Traditions which stress male physical strength and the propensity for violence

63 Jinks, Biskup and Nelson, *Readings in New Guinea History*, 61–64; Nelson, Taim Bilong Masta, 52–56; Bill Gammage, 1996, 'Police and power in the pre-war Papua New Guinea Highlands,' *Journal of Pacific History* 31(2): 162–77, 162, 168–69; August Ibrum K. Kituai, 1998, *My Gun, My Brother: The World of the Papua New Guinea Colonial Police, 1920–1960*, Honolulu: University of Hawai'i Press.

64 Donald Denoon, 2005, *A Trial Separation: Australia and the Decolonisation of Papua New Guinea*, Canberra, Pandanus Books, 35, 150–51.

65 Dinnen and Braithwaite, 'Reinventing policing through the prism of the colonial *kiap*,' 163.

66 Michael F. Adams, 1975, 'Law versus order,' in Lo Bilong Ol Manmeri: *Crime, Compensation and Village Courts*, ed. Jean Zorn and Peter Bayne, Port Moresby: University of Papua New Guinea, 97–103, 97.

67 Dinnen, 'Criminal justice reform in Papua New Guinea,' 260.

68 A present-day analogy to this may be seen in the current accounts of witch-killing, where it is often the community at large, or in some places its young men, who carry out the inquisition, torture and killing of a suspected witch. See for example 'Suspects appear in court,' *National*, online, 17 March 2009; Philip Gibbs, 2012, 'Engendered violence and witch-killing in Simbu,' in *Engendering Violence in Papua New Guinea*, ed. Margaret Jolly, Christine Stewart with Carolyn Brewer, Canberra: ANU E Press, <http://press.anu.edu.au?p=182671>, accessed 31 March 2014.

69 Martha Macintyre, 2008, 'Police and thieves, gunmen and drunks: problems with men and problems with society in Papua New Guinea,' *The Australian Journal of Anthropology* 19(2): 179–93.

translate into the wearing of modern military-style clothing, possession of firearms and the consumption of drugs and alcohol, all signalling socially approved manifestations of masculinity.⁷⁰ These presentations by rebel *raskols* overlap with those of the police, supposedly their opponents. But it is less of an oppositional relationship than a continuum. Both groups share class origins and ideals of masculine comportment and consumption, and both groups feel betrayed by a state which fails to provide employment for the unemployed (the *raskols*) or decent living and working conditions for those it does employ (the police). Meanwhile, the community is ambivalent about the police. While people want a greater police presence in the community as a deterrent to crime, police are considered to be inefficient, corrupt, given to improper conduct, violent and even involved in crime themselves.⁷¹

The fundamental rights and freedoms of the individual

We Papua New Guineans are all too familiar with authoritarian governments, having been ruled by them for almost ninety years. The last years of colonial rule have, of course, been enlightened by world standards, but in earlier times the basic rights and dignity of our people were frequently suppressed or ignored.

Constitutional Planning Committee, 1974.⁷²

Independence in 1975 was achieved with a minimum of fuss and a maximum of flurried preparation. Experts from all around the world assisted in the preparation of a national constitution. The House of Assembly established a Constitutional Planning Committee (CPC), and the *Constitution*, hailed as one of the most detailed and lengthy of its time, was based on the Committee's Report.

The Preamble to the *Constitution* declares that 'all persons in our country are entitled to the fundamental rights and freedoms of the individual ... subject to respect for the rights and freedoms of others and for the legitimate public interest.' The *Constitution* then includes a lengthy set of human rights provisions, and the means of enforcing them.⁷³ The need for the colonial administration to control the native population, effected through the Native Regulations and other colonial legislation, had meant that all the best aspects of the common

⁷⁰ Ibid., 180–83.

⁷¹ National Research Institute 2005, *Port Moresby Community Crime Survey, 2005: A Report Prepared for the Government of Papua New Guinea's Law and Justice Sector's National Coordinating Mechanism*, Port Moresby: National Research Institute, 48, 51; and see Human Rights Watch, 'Making Their Own Rules'; Human Rights Watch, 'Still Making Their Own Rules.' Negative attitudes to the police on all these grounds are regularly voiced in the newspapers, producing a reference body too large for detailed citation.

⁷² Constitutional Planning Committee, 1974, 'Final Report of the Constitutional Planning Committee,' Port Moresby: Papua New Guinea House of Assembly: 5/1/4.

⁷³ *Constitution* Part III Division 3. Enforcement mechanisms appear at Sections 57 and 58. Section 57 had its origins in the *Human Rights Ordinance*, 1972.

law system—the jury system, the separation of powers, the independence of the judiciary, the prohibitions against unreasonable search and seizure, the role of the independent defence lawyer, the presumption of innocence and the guarantee of equal protection before the law (to name some)—were either not available in practice to most of PNG society or not imported into the colony’s legal system at all.⁷⁴ Small wonder then that the CPC regarded the incorporation of human rights into the *Constitution* as a matter of high priority, as witnessed by the rhetoric in the epigraph above.

The model for these rights was already at hand, in the *Human Rights Ordinance* 1972. The Ordinance had been moved by Private Member Percy Chatterton in response to the Administration’s *Public Order Ordinance* 1971, which he considered ‘made substantial inroads into the right of freedom of assembly, and it still gave very great powers to the police without providing ... adequate legal checks on the exercise of these powers.’⁷⁵

Human rights in the *Constitution* are of two kinds. The civil and political rights of the *Universal Declaration of Human Rights* (UDHR)⁷⁶ and the *International Covenant on Civil and Political Rights* (ICCPR)⁷⁷ are termed Basic Rights, and may be enforced by the courts.⁷⁸ Other rights of a more socio-economic nature, some contained in the UDHR and some in the later International Covenant on Economic, Social and Cultural Rights (ICESCR),⁷⁹ were considered at the time of framing the *Constitution* not to be capable of judicial enforcement.⁸⁰ But the nation’s founders wanted to see many of these principles embedded in the *Constitution*, along with others more removed from the traditionally western concepts of state and nation,⁸¹ so they were incorporated into the Preamble and a provision inserted that courts and government bodies should apply and give effect to them as far as possible.⁸²

Since Independence, the Supreme and National Courts have often been called upon to adjudicate and pronounce on constitutional rights.⁸³ Many cases involve conflicts between custom and the rights of the individual. For example, in 1991,

74 Bayne, ‘Legal development in Papua New Guinea,’ 12; Weisbrot, ‘Custom and the criminal law in conflict,’ 66–67.

75 Chatterton, *Day That I Have Loved*, 108–11.

76 GA Res 217A (III), UN Doc A/810 (1948) (‘UDHR’).

77 G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976 (‘ICCPR’).

78 *Constitution* Div III.3, ss 35–57.

79 GA Res 2200A (XXI), 21 UN GAOR Supp (No. 16) at 49, UN Doc A/6316 (1966), 993 UNTS. 3 (‘ICESCR’).

80 Frans Viljoen, 2009, ‘International Human Rights Law: a short history,’ *UN Chronicle: The Magazine of the United Nations*, online: <http://www.un.org:80/wcm/content/site/chronicle/home/archive/Issues2009/internationalhumanrightslawashorthishistory>, accessed 6 August 2011.

81 Constitutional Planning Committee, *Final Report of the Constitutional Planning Committee*, 2/1–2/2.

82 *Constitution* Section 25.

83 Even though, as I recall, the first Rules of Court for the appropriate procedures were not drawn up until around 1990.

a woman gaoled by a Village Court for adultery was released on the grounds that the detention was unlawful and unreasonable and that ‘customs which denigrate women should be denied a place in the underlying law because they conflict with the National Goals of equality and participation laid down in the *Constitution*.’⁸⁴ Another the same year decided that a customary requirement which obliged a murderer to hand over one of his daughters to the family of his victim was akin to slavery, proscribed under *Constitution* Section 253.⁸⁵ A third case held that the giving away of a young woman as part of a compensation payment for wrongful death contravened her right to freedom and equality.⁸⁶

But this approach of the formal courts is not reflected in the views and actions of the general public. Constitutional rights are a prime example of the kind of alien imported concepts discussed by Michael Jacobsen below. They are based in liberalism, the dominant western ideology of the twentieth century,⁸⁷ with its emphasis on the concept of civil liberty and the fundamental value of political organisation; on the individual, whose liberties lie at the heart of society; and on John Stuart Mill’s ‘harm principle’: that harm to others in the form of interfering with their rights is the only legitimate ground for interfering with liberty through legal sanctions.⁸⁸

Today, this ideology has been criticised in the West by a more radical jurisprudential school of thought which holds that these rights in fact belong only to the privileged groups of society, are a screen to hide the nature of oppression in society, and do not necessarily produce substantive justice or equality.⁸⁹ In the Pacific, where the discourse of nationalism includes antagonism to European and colonial traditions, these formal constitutional protections become a source of tension.⁹⁰ The chief conflicts are claimed to arise between the communal rights upheld by custom and the rights of the individual espoused by state law;⁹¹ and

84 *Re Wagi Non and Section 42(5) of the Constitution* [1991] PNGLR 84. Village Courts were established in 1974 independently of the formal court system, to dispense justice at the local level according to custom and subject only to the limitations of the *Constitution*.

85 *The State v Kule* [1991] PNGLR 404.

86 *In the Matter of an Application under Section 57 of the Constitution; Application by Individual and Community Rights Advocacy Forum Inc (ICRAF); In re Miriam Willingal* [1997] PNGLR 119 (*Willingal's Case*).

87 Maila Stevens, 2000, ‘Gender politics and the reimagining of human rights in the Asia-Pacific,’ in *Human Rights and Gender Politics: Asia-Pacific Perspectives*, ed. Anne-Marie Hilsdon et al., London and New York: Routledge, 1–36, 5.

88 Margaret Davies, 2008, *Asking the Law Question*, Sydney: Law Book Co., 203–08.

89 *Ibid.*

90 Martha Macintyre, 2000. “‘Hear us, women of Papua New Guinea!’: Melanesian women and human rights,” in *Human Rights and Gender Politics: Asia-Pacific Perspectives*, ed. Hilsdon et al., London and New York: Routledge, 147–71, 152; Pacific Regional Rights Resource Team, 2005, *Pacific Human Rights Law Digest: Volume 1, PHRLD*, Suva: Pacific Regional Rights Resource Team, xv.

91 This promotion of individualism by the formal law is supported by the missionising process, which aimed from the outset to promote the individual as a discrete entity. See Anne Dickson-Waiko, 2003, ‘The missing rib: mobilizing church women for change in Papua New Guinea,’ *Oceania* 74(1/2): 98–119, 104.

between male precedence and domination and gender equality.⁹² Protecting the rights of the individual at the expense of collective rights of groups ignores the reality of collective group rights that characterise Pacific communities, and may well contribute to their disintegration.⁹³

But this distinction between collectivism and individualism may not be as clear-cut as received wisdom would have us believe. The Enlightenment tradition in the West was equally concerned with collective rights in such matters as the democratic process and citizenship, while the emphasis on collectivity in Melanesia overlooks individual agency and action even in the remotest of villages.⁹⁴ Recent discussions of the effects of modernity, consumerism and of 'individualistic' Christian conversion on Marilyn Strathern's Melanesian 'dividual,' a person embedded in social relations and manifesting self through the reciprocity of exchange,⁹⁵ have simultaneously dismantled and supported the concepts of relationality, gift-exchange, agency and individualism in PNG.⁹⁶

It is not just this perceived tension between collectivity and individuality which prompts the reluctance of Papua New Guineans to espouse the principles of equality. Various other reasons have been advanced for the eschewing of human rights and the principles of individualism that underpin them. The 'collision' between introduced and traditional political practices has produced a hybridised 'non-liberal democratic political culture,' involving cronyism, bribery, coercion, and a marked absence of morality and ethical standing on the part of leaders.⁹⁷ PNG is extremely vulnerable to the international economy.⁹⁸ Women

92 Laitia Tamata, 2000, 'Application of human rights conventions in the Pacific Islands courts, *Journal of South Pacific Law* 4 (Working Paper 4), online: <http://www.paclii.org/journals/fJSPL/vol04/12.shtml>, accessed 30 April 2010; Macintyre "'Hear us, women of Papua New Guinea!'" 150–51.

93 Bernard Narokobi, 1980, *The Melanesian Way: Total Cosmic Vision of Life*, Boroko: Institute of Papua New Guinea Studies.

94 Margaret Jolly, 1996, 'Woman *ikat raet long human raet o no?*: Women's rights, human rights and domestic violence in Vanuatu,' *Feminist Review* 52 (Spring): 169–90; Macintyre, "'Hear us, women of Papua New Guinea!'" 162–64; Margaret Jolly, 2012, 'Introduction—engendering violence in Papua New Guinea: persons, power and perilous transformations,' in *Engendering Violence in Papua New Guinea*, ed. Margaret Jolly, Christine Stewart with Carolyn Brewer, Canberra: ANU E Press, online: <http://press.anu.edu.au?p=182671>, accessed 31 March 2014.

95 Marilyn Strathern, 1988, *The Gender of the Gift: Problems with Women and Problems with Society in Melanesia*, Berkeley: University of California Press.

96 Mark Mosko, 2010, 'Partible penitents: dividual personhood and Christian practice in Melanesia and the West,' *Journal of the Royal Anthropological Institute* 16(2): 215–40. This article elicited much debate, see Joel Robbins, 2007, 'Afterword: possessive individualism and cultural change in the Western Pacific,' *Anthropological Forum* 17(3): 299–308; Karen Sykes, 2007, 'Interrogating individuals: the theory of possessive individualism in the Western Pacific,' *Anthropological Forum* 17(3): 213–24; and other articles in this collection; and see Joel Robbins, 1994, 'Equality as a value: ideology in Dumont, Melanesia and the West,' *Social Analysis* 36: 21–70.

97 Alphonse Gelu, 2000, 'The emergence of a non-liberal democratic political culture in Papua New Guinea,' in *Politics in Papua New Guinea: Continuities, Changes and Challenges*, ed. Michael A. Rynkiewich and Roland Seib, Goroka, PNG: Melanesian Institute, 87–119, especially 91.

98 Deborah B. Gewertz and Frederick K. Errington, 1999, *Emerging Class in Papua New Guinea: The Telling of Difference*, Cambridge and New York: Cambridge University Press, 3.

claim to be reluctant to embrace global culture for fear of being labelled elitist and westernised and of antagonising men and destabilising the community.⁹⁹ Nevertheless, women activists, particularly those operating at the national level, may take up an appeal to ‘women’s rights as human rights’ to further their aims, and reject the assumptions of men that women as the custodians of tradition are primarily responsible for the stability of the community.¹⁰⁰

To convert the soul: Mission to church

Pacific churches, fundamental as they are to Pacific societies, are powerful social institutions. *Christianity is interwoven into almost all aspects of Pacific societies and daily life* [emphasis in original].

Commission on AIDS in the Pacific, 2009.¹⁰¹

This observation holds as true for PNG as it does for other Pacific countries. The Christian message has been received, appropriated, varied, sometimes distorted,¹⁰² but despite diversities, the religious discourse of these ‘powerful social institutions’ has supported and been supported by the legal and regulatory discourse of PNG.

Something of a storm

The Christian evangelism of Melanesia has often (for those involved, from earliest times) constituted something of a storm.

Terry Brown, former Bishop of Malaita, Solomon Islands, 2008.¹⁰³

For many villages, the missions provided their first experience of outsiders. The first missionaries, European and Polynesian, arrived well before the government; they went where officialdom did not; they were frequently the most sedentary of settlers, and exerted the most continuous influence, learning the local languages

99 Dickson-Waiko, ‘The missing rib,’ 99; Macintyre, “‘Hear us, women of Papua New Guinea!’” 153.

100 Stivens, ‘Gender politics and the reimagining of human rights in the Asia-Pacific,’ 7–8, 20; Orovu V. Sepoe, 2000, *Changing Gender Relations in Papua New Guinea: the Role of Women’s Organisations*, New Delhi: UBS Publishers’ Distributors Ltd.

101 Commission on AIDS in the Pacific 2009, *Turning the Tide: An OPEN Strategy for a Response to AIDS in the Pacific*, 80–81.

102 See for example Peter Worsley, 1970, *The Trumpet Shall Sound: A Study of ‘Cargo’ Cults in Melanesia* [2nd ed], London: Paladin; Joel Robbins 2004, *Becoming Sinners: Christianity and Moral Torment in a Papua New Guinea Society*, Berkeley: University of California Press; Roger Ivar Lohmann, 2007, ‘Moral and missionary positionality: Diyos of Duranmin,’ in *The Anthropology of Morality in Melanesia and Beyond*, ed. John Barker, Aldershot and Burlington: Ashgate, 131–47.

103 Post by Terry Brown to Oceanic Anthropology Discussion Group ASAONET@LISTSERV.UIC.EDU, 20 September 2008.

and acquiring much deeper knowledge of the peoples among whom they lived;¹⁰⁴ and they actively and consciously intervened for change.¹⁰⁵ Assisted by wives, nuns and lay brothers and sisters,¹⁰⁶ they established schools and clinics, trade stores and plantations, introduced new goods, skills, crafts and crops, and often compiled excellent records of customs and languages.¹⁰⁷ The missions were also partly responsible for introducing the concept of a specialised social class—teachers, evangelists—which produced no material goods, but provided novel services instead and in return often required feeding or the land on which to produce food.¹⁰⁸ Education, ‘disciplining the body in order to convert the soul,’¹⁰⁹ was a prime concern from the outset, with far-reaching consequences for its effect on indigenous sexuality. Schooling was essential to the evangelisation of the people: schools with a standardised curriculum were established at mission stations,¹¹⁰ and the extent of social change in the villages depended in large part on the length of time of exposure to mission influences.¹¹¹ Nearly all the pre-war schools for Papua New Guineans were provided by missions.¹¹² The education process was often achieved by concentrating on the conversion of children, who were sequestered away from the village, first in fenced compounds, later in boarding schools.¹¹³

Along with traders, labour recruiters, planters and administration officers, the missions and their converts instigated great changes to traditional village culture. Some of the earliest white missionaries were somewhat appalled by what they found in the South Seas, for example interpreting refusal to convert to

104 Christine Weir, 2008, ‘“White man’s burden,” “white man’s privilege”: Christian humanism and racial determinism in Oceania, 1890–1930,’ in *Foreign Bodies: Oceania and the Science of Race 1750–1940*, ed. Bronwen Douglas and Chris Ballard, Canberra: ANU E Press, 283–303, 284–86, online: <http://press.anu.edu.au/?p=53561>, accessed 31 March 2014.

105 Franco Zocca, 2007, *Melanesia and its Churches: Past and Present*, Gorokoa, Melanesian Institute.

106 Different missions took different attitudes to the appointment of women assistants, wives and even female missionaries. See D. Langmore, 1982, ‘A neglected force: white women missionaries in Papua 1874–1914,’ *Journal of Pacific History* 17(3): 138–57.

107 Margaret Jolly and Martha Macintyre, 1989, ‘Introduction,’ *Family and Gender in the Pacific: Domestic Contradictions and the Colonial Impact*, ed. Jolly and Macintyre, Cambridge: Cambridge University Press, 1–18, 6–7; Dickson-Waiko, ‘The missing rib,’ 103.

108 Ian Willis, 1974, *Lae: Village and City*, Melbourne: Melbourne University Press, 58.

109 Wayne Fife, 2001, ‘Creating the moral body: missionaries and the technology of power in early Papua New Guinea,’ *Ethnology* 40(3): 251–69, 260.

110 *Ibid.*, 253–55.

111 Oram, *Colonial Town to Melanesian City*, 133. This is reflected in the form of the pre-Independence Antecedent Report provided by police in criminal cases, which asks, after questions about proximity to Administration station and Supreme Court town, how close is the nearest mission and the extent of mission influence on the accused: See Appendix 2.

112 Nelson, Taim Bilong Masta, 152.

113 Fife, ‘Creating the moral body’; Martha Macintyre, 1989, ‘Better homes and gardens,’ in *Family and Gender in the Pacific*, ed. Margaret Jolly and Macintyre, Cambridge and Melbourne: Cambridge University Press, 156–69; David Wetherell, 1996, *Charles Abel and the Kwato Mission of Papua New Guinea 1891–1975*, Melbourne: Melbourne University Press; Michael Young, 1989, ‘Suffer the children: Wesleyans in the D’Entrecasteaux,’ in *Family and Gender in the Pacific*, ed. Jolly and Macintyre, Cambridge and Melbourne: Cambridge University Press, 108–34.

Christianity as stubbornness, ignorance and lack of morality.¹¹⁴ They are famous for having insisted on the abolition (or at least concealment) of traditional sacred practices, particularly fertility ceremonies which often involved activities and display which were considered by the missionaries to be scandalously lewd, and the destruction of sacred objects perceived as evidence of satanic practices and cannibalism.¹¹⁵ Later however, many missions were more concerned to preserve traditional ways than were the officials of the fledgling colony. Like other London Missionary Society (LMS) missionaries, James Chalmers, who worked in British New Guinea from 1877–1894, engaged sometimes intensely with the local villagers, and kept detailed diaries and records of what he saw and learnt.¹¹⁶ His editor wrote,

It is open to hope that for once we may not exterminate a race in the process of ruling it ... the young colony has not readily admitted that the savage has any rights, and it is altogether too fond of the doctrine that the day of the savage has gone, and it is time that he made way for the robust, so-called civilised race. The Australian pioneer of the nineteenth century had more faith in physical than in moral suasion, and it will need careful watching to see that England's annexation promises are not like pie-crust, made only to be broken.¹¹⁷

Unlike the other two main categories of colonist, administrators and trader/planter settlers, missionaries usually brought their womenfolk with them—even the celibate Catholic priests were accompanied by missionary nuns, and mission health services attracted nursing sisters.¹¹⁸ Whereas only men were being educated 'in the broadest sense' by the opening of mines and the indentured labour system, the missionaries directed their education towards entire societies, men and women, and therefore had greater impact for cultural change in the long term.¹¹⁹

114 Elisabetta Gnechi-Ruscone, 2010, "A school of iron, vexation and blood, but a school nonetheless": the writings of the first PIME missionaries to Oceania in the 1850s,' paper presented at the Race, Encounters, and the Constitution of Human Difference in Oceania Conference, The Australian National University, Canberra, Australia.

115 Jolly and Macintyre, 'Introduction,' 10; Lamont Lindstrom and Geoffrey M. White, 1994, *Culture, Kastom, Tradition: Developing Cultural Policy in Melanesia*, Suva: Institute of Pacific Studies, 58; Macintyre, 'Better homes and gardens,' 162–63; Nelson, Taim Bilong Masta, 154, 162.

116 Collected, somewhat repetitiously, in James Chalmers and W. Wyatt Gill, 1885, *Work and Adventure in New Guinea 1877 to 1885*, London: Religious Tract Society; James Chalmers, 1887, *Pioneering in New Guinea*, London: Religious Tract Society; James Chalmers, 1895, *Pioneer Life and Work in New Guinea 1877–1894*, London: Religious Tract Society.

117 Religious Tract Society Editor, in 'Preface,' to Chalmers, *Pioneering in New Guinea*, iii.

118 Maria Lepowsky, 2001, 'The Queen of Sudest: white women and colonial cultures in British New Guinea and Papua,' in *In Colonial New Guinea: Anthropological Perspectives*, ed. Naomi McPherson, Pittsburgh: University of Pittsburgh Press, 125–50, 127.

119 Reed, *The Making of Modern New Guinea*, 234.

Missions aspired to effect far-reaching fundamental changes to the family structure and sexual relations of traditional societies—significantly, kinship, marriage, patterns of sexual segregation, the division of labour and the care of children and the sick. Their project of ‘civilisation’ involved a transformation of daily life, and the promotion of an idealised domesticity centring on a home whose preferred inhabitants were a nuclear family, where women’s agricultural labour was denigrated, and the emphasis was on conjugal rather than sibling and kin relations.¹²⁰ The monogamous procreative couple was essential to the stability of society, the ‘precocious’ Papuan child was to be purified and the irresponsible mother condemned and retrained.¹²¹ This project effected some far-reaching changes in village life, but ultimately failed in its goal of ‘domesticating’ village women, who have continued to carry out the work associated with subsistence living, to which many burdens of modernity, such as participation in church work, have now been added.¹²² Another effect of the mission project was in the regulation of marriage itself.¹²³ Opposition to polygyny and insistence on monogamy in some areas resulted in many wives being discarded by their husbands and even killed, with drastic consequences for children and the wider kin networks which had been involved in the initial brideprice payments.¹²⁴ In some cases, this insistence by the missions that extra wives be divorced actually introduced the concept of divorce to the area, although the indissolubility of marriage was preached.¹²⁵

Other more indirect changes were visited on PNG culture. A residential feature of many Melanesian communities, the men’s house (often the focus not just of male kin-group cohabitation and communal work and eating, but also of secret ritual and association with departed ancestors) was replaced by smaller dwellings occupied by individual nuclear family units, a monogamous married couple and their children.¹²⁶ Associations between white men and village women were condemned as evidence of promiscuity and prostitution on the part of the

120 See Margaret Jolly, 2003, ‘Epilogue,’ *Oceania* 74(1/2): 134–47, 137, and the references there.

121 Adam Reed, ‘Contested images and common strategies,’ 66–70. The horrified fascination with traditional abortion practices, real and supposed, is reflected to this day in a steadfast refusal on the part of policy-makers to countenance decriminalising abortion.

122 Margaret Jolly, 2010, ‘Divided mothers: changing global inequalities of “nature” and “nurture,”’ in *The Globalization of Motherhood: Deconstructions and Reconstructions of Biology and Care*, ed. Wendy Chavkin and JaneMaree Maher, Abingdon, Oxon: Routledge, 154–79, 156–58.

123 Jolly and Macintyre, ‘Introduction,’ 2–18; Rowley, *The New Guinea Villager*, 150–51.

124 Cyndi Banks, 1993, *Women in Transition: Social Control in Papua New Guinea*, Canberra: Australian Institute of Criminology, 154–55. I can recall a visit I made in 1969 to noted Simbu parliamentarian, the late Yauwe Wauwe Moses, in his village high on the slopes of Mt. Elimbari, when he recounted proudly how he had had ten wives before the (Anglican) mission came, but when he converted he ‘threw out’ [*mi bin rausim*] nine of them and only kept the youngest. I do not know what effect this may have had on the kinship relations or the women involved.

125 Willis, *Lae: Village and City*, 56.

126 E.g., Macintyre, ‘Better homes and gardens’; Holly Wardlow, 2006, *Wayward Women: Sexuality and Agency in a New Guinea Society*, Berkeley: University of California Press, 53.

latter,¹²⁷ and this was later reinforced by the law.¹²⁸ Mission activity provided support and reinforcement for the laws which the secular colonial administrators brought with them, particularly as those laws related to and governed sexuality.

However, the missionaries themselves were not solely responsible for all these changes. Missionaries could not have succeeded without willing compliance, even eager acceptance, on the part of their converts.¹²⁹ And in the process, Christianity has undergone some conversions of its own, as people continually reinterpret Christian themes, forms and practices within their own cultural traditions.¹³⁰ The missions moreover helped people to extend their social bonds beyond the narrow confines of the village, even if they were still bounded by the dominion of the particular church to which they belonged. Both Nigel Oram and Alan Rew noted the importance of church groups in providing a basis for urban association in Port Moresby of the 1960s, and this process continues today.¹³¹ Many early converts went on to become local leaders who passed on what they had learnt, and some graduates went on, often via Australian high schools and local seminaries, to become some of the first of the national élite.¹³² Most of the first University of Papua New Guinea students were the children either of police or of mission workers.¹³³ Many Papua New Guineans were, and still are, closer to the church than to government. By the mid-1960s, when the first national census was taken, over 90 per cent of those polled claimed to be Christian.¹³⁴ As government health care services decline, mission and church involvement in health care continues to increase. Today, some 50 per cent of health care is provided by the churches which are funded by the government to this effect.¹³⁵

127 Jolly and Macintyre, 'Introduction,' 4.

128 Wolfers, *Race Relations and Colonial Rule*, 81, 107.

129 Margaret Jolly, 2002, 'Introduction: birthing beyond the confinements of tradition and modernity?' in *Birthing in the Pacific: Beyond Tradition and Modernity?* Ed. Vicki Lukere and Margaret Jolly. Honolulu: University of Hawai'i Press, 1–30, 11; John Garrett, 1992, *Footsteps in the Sea: Christianity in Oceania to World War II*, Suva: Institute of Pacific Studies, University of the South Pacific, xi; Robert W. Robin, 1982, 'Revival movements in the Southern Highlands Province of Papua New Guinea,' *Oceania* 52(4): 320–43, 336–37.

130 John Barker, 1990, 'Introduction: ethnographic perspectives on Christianity in Oceanic societies,' in *Christianity in Oceania: Ethnographic Perspectives*, ed. Barker, Lanham: University Press of America, 1–24, 5–8.

131 See Oram, *Colonial Town to Melanesian City*, 137–39; and Rew, *Social Images and Process in Urban New Guinea*, 229.

132 Rowley, *The New Guinea Villager*, 129.

133 Gammage, 'Police and power in the pre-war Papua New Guinea Highlands,' 163.

134 Rowley, *The New Guinea Villager*, 155.

135 Catholic Health Services, for example, operates some 160 health facilities throughout the country. See Lawrence Hammar, 2009, 'There wouldn't even be a national response without the churches: faith-based responses in Papua New Guinea to HIV and AIDS,' unpublished, 7; and see Vicki Luker, 2003, 'Civil society, social capital and the churches: HIV/AIDS in Papua New Guinea,' paper presented at the Governance and Civil Society Seminar in Symposium Governance in Pacific States: reassessing roles and remedies, University of the South Pacific, Suva, Fiji, 30 September–2 October.

The foundation of a (Christian) nation

In its Preamble, the *Constitution* affirmed the Christianisation of PNG, when it acknowledged Christian principles together with customs and the traditional wisdom of the ancestors as the foundation for the new society.¹³⁶ Today, approximately 96 per cent of Papua New Guineans claim adherence to one or other of the 300-odd Christian denominations and sects in PNG.¹³⁷ But the Christian message has been transformed in the process. Most Papua New Guineans have a holistic world view which melds the empirical and the non-empirical; the sacred and the secular; dreams, visions, rituals, spells, public professions of faith, with power and politics.¹³⁸ The Christian message has been 'indigenised' in many and varied ways, assisted by the advent of a multitude of churches, some of them strongly charismatic, which were admitted into the Territory by the administration even before Independence.¹³⁹ Since then, the constitutional guarantee of freedom of religion, conscience and thought in *Constitution* Section 45 has ensured the continuity of this open access policy, with only very few rejections or ejections. The result has been an 'entanglement of custom and Christianity in modern Melanesian identity politics,' presenting apparent paradoxes to anthropologists and indigenous peoples alike.¹⁴⁰

There are radical divisions between the multitude of churches and denominations. The original mainstream churches—Catholic, Lutheran, United and Anglican—have joined with the Baptist Union and the Salvation Army in the Papua New Guinea Council of Churches.¹⁴¹ The Seventh-day Adventists constitute their own powerful bloc, and a growing number of Pentecostal and charismatic churches form a loose alliance in distinction from the rest.¹⁴² It has been claimed that the teachings of some fundamentalist churches may have promoted cults and revivalist movements, which in some instances have even led to ill health, psychiatric disorders and general disruption of village life.¹⁴³ And from an initial religious colouration of the village view of the world,¹⁴⁴ appeals are

136 This has often been interpreted as a declaration that Christianity is the national religion, and several attempts have been made to entrench this principle in law. See Philip Gibbs, 2002, 'Religion and religious institutions as defining factors in Papua New Guinea politics,' *Development Bulletin* 59 (October): 15–18, 16.

137 Philip Gibbs, 2004, 'Growth, decline and confusion: Church affiliation in Papua New Guinea,' *Catalyst* 34(2): 164–84; Hammar, 'There wouldn't even be a national response without the churches,' 7.

138 Gibbs, 'Religion and religious institutions as defining factors in Papua New Guinea politics,' *Development Bulletin* 59 (October): 15–18, 15.

139 Rowley, *The New Guinea Villager*, 153.

140 Bronwen Douglas, 2000, 'Introduction: hearing Melanesian women,' in *Women and Governance from the Grassroots in Melanesia*, ed. Douglas, Canberra: State Society and Governance in Melanesia Discussion Paper No. 2 of 2000, 3–7, 4.

141 Dickson-Waiko, 'The missing rib,' 109.

142 Gibbs, 'Religion and religious institutions as defining factors in Papua New Guinea politics,' 16.

143 Nelson records some *kiap* and missionary accounts of the divisive effects of some 'revivalist movements' and the ways in which cargo cults took people away from gainful garden work: Nelson, Taim Bilong Masta, 160; and Robin, 'Revival movements in the Southern Highlands Province of Papua New Guinea,' 327.

144 Rowley, *The New Guinea Villager*, 158.

frequently made to Christian precepts, both those filtered through the belief systems of many of these fundamentalist and charismatic denominations and those emanating from the mainstream churches,¹⁴⁵ in today's public discourse on the relationship of law and morality. Laura Zimmer-Tamakoshi noted in the 1980s that 'while many Christian missions promote a type of family life in which husbands and wives are partners, others preach fundamentally misogynist views that urge women to be subservient and mindful at all times of their husband's wishes.'¹⁴⁶ Whichever way the message is received and promulgated, the image of the good modern respectable middle-class person in PNG, a member of the *elites*, is strongly linked with being Christian.¹⁴⁷

These patterns persist and have intensified with the spread of HIV in PNG. The following example is taken from a presentation prepared by a medical practitioner in the Public Health Department for use during World AIDS Day 2004 (Figure 2.2).¹⁴⁸ This presentation combined statistics and scientific data on HIV with religious messages such as:

SEX IS SACRED AND SPECIAL FOR ALL HUMAN BEINGS **BECAUSE** IT IS BY THIS ACT THAT WE ARE BROUGHT INTO THIS WORLD [**3S** - **SEX IS SACRED AND SPECIAL**].

SEX SHOULD NOT BE FOR SALE AND USED FOR MONEY SINCE IT **DEHUMANISED** ITS SACREDNESS.

SEX BEFORE MARRIAGE [**FORNICATION**] AND OUT OF MARRIAGE [**ADULTERY**] ARE SINS AS IT WAS NOT INTENDED TO BRING FORTH LIFE AND MUST NOT BE ENCOURAGED. THESE ACTS ARE DEFINED AS " **PROMISCUOUS**" WHICH I WILL DEFINE AS THE **ROUTE OF TRANSMISSION OF HIV** IN MY PRESENTATION

Figure 2.2. Thomas Vinit, 'Sex is Sacred and Special.'

Source: Thomas Vinit, 'Sex is Sacred and Special'. Thomas Vinit, 2004, 'HIV/AIDS Control – The PNG Way: World AIDS Day 2004,' Oilsearch Ltd., Powerpoint presentation.

145 It is important to recognise that mainstream churches are equally implicated in sin-based messages such as those relating to HIV and condoms. See Holly Wardlow, 2008, "'You have to understand: some of us are glad AIDS has arrived": Christianity and condoms among the Huli, Papua New Guinea,' in *Making Sense of AIDS: Culture, Sexuality, and Power in Melanesia*, ed. Leslie Butt and Richard Eves, Honolulu: University of Hawai'i Press, 187–205, 195.

146 Laura Zimmer, 1990, 'Sexual exploitation and male dominance in Papua New Guinea,' in *Human Sexuality in Melanesian Cultures*, ed. Joel F. Ingebritson, Goroka: Melanesian Institute, 250–67, 259; but see Anna-Karina Hermkens, 2008, 'Josephine's journey: gender-based violence and Marian devotion in urban Papua New Guinea,' *Oceania* 78(2): 151–67; Anna-Karina Hermkens, 2012, 'Becoming Mary: coping with gender-based violence in urban Papua New Guinea,' in *Engendering Violence in Papua New Guinea*, ed. Margaret Jolly, Christine Stewart with Carolyn Brewer, Canberra: ANU E Press, online: <http://press.anu.edu.au?p=182671>, accessed 31 March 2014.

147 Wardlow, "'You have to understand: some of us are glad AIDS has arrived,'" 198–99.

148 Thomas Vinit, 2004, 'HIV/AIDS Control—The PNG Way: World AIDS Day 2004,' Oilsearch Ltd., Powerpoint presentation. The formatting of the original has been retained.

Meanwhile, the role of church groups in providing a basis for urban association has persisted and strengthened, both in town and in rural areas. Women's fellowship groups function both as guardians of morality, Christian and traditional, as conduits for modernity and as catalysts for women's activism. They provide a counter to male dominance in preaching which tends more towards the prescriptive and proscriptive message and have been described as the missing link in an evolving indigenous feminism.¹⁴⁹

Medicine and sexuality

Foucault asserts that, along with religious discourse, the scientific and medical discourse which developed from the eighteenth century was a significant factor promoting self-regulation of the body and of populations.¹⁵⁰ Insofar as it related to sex work and male-male sex, the medical discourse was supported in Anglo-Australian law by 'contagious diseases' Acts,¹⁵¹ further legislation governing surveillance and management of sexually transmitted infections (STIs), and the 'sodomy' laws.

Medicine as a practice and a discourse separate from other aspects of traditional PNG cosmology¹⁵² was purely a colonial import, by both administration and mission. *Lawfare* was conducted in the colony from the outset not just through sexuality laws per se but also through its interaction with colonial medical policies and practice, which themselves were linked to religious discourse via the body/soul connection. Public health controls of the time, involving the direct approaches of surveillance, testing, notification, contact-tracing, treatment (when available) and quarantine, were enshrined in legislation and thinking.¹⁵³ Even after Independence, the *Constitution* has permitted the restriction of human rights in law for the purpose of protecting public health.¹⁵⁴

149 Dickson-Waiko, 'The missing rib,' 99; Bronwen Douglas, 2003, 'Christianity, tradition, and everyday modernity: towards an anatomy of women's groupings in Melanesia,' *Oceania* 74(1/2): 6–23, 8.

150 Foucault, *The Will to Knowledge: The History of Sexuality Vol. 1*, 116–19, 136–39.

151 Judith R. Walkowitz, 1982, *Prostitution and Victorian Society: Women, Class, and the State*, Cambridge and New York: Cambridge University Press, 1.

152 For illustrations of traditional healing and the place of medicine in traditional societies, see Josephine Abajjah and Eric Wright, 1991, *A Thousand Coloured Dreams*, Mount Waverley, Vic: Dellasta Pacific, 46–51; Chilla Bulbeck, 1992, *Australian Women in Papua New Guinea: Colonial Passages 1920–1940*, Cambridge: Cambridge University Press, 111–12.

153 John Ballard, 1998, 'The constitution of AIDS in Australia: taking Government at a distance seriously,' in *Governing Australia: Studies in Contemporary Rationalities of Government*, ed. Mitchell Dean and Barry Hindess, Melbourne: Cambridge University Press, 125–38.

154 *Constitution* Section 38(1)(a)(i)(E).

Very serious diseases

Venereal diseases are very serious diseases which cause loss of both health and strength, and sometimes end in a horrible death. Both men and women are liable to contract these diseases. They also injure the children of persons who are infected.

Opening passage of Regulation 91, *Native Regulations* 1923 (Papua).

The health of villagers was a major concern in the two Territories. In addition to Native Regulations aimed at promoting village hygiene and suppressing disease, specific Ordinances were enacted in each Territory to govern a multitude of public health matters. These laws were eventually incorporated into the current *Public Health Act*, with an entire Part V devoted to the management of 'venereal diseases'.¹⁵⁵ This management includes the establishment of specialised hospitals and clinics, mandatory reporting and medical consultation on the part of persons 'suffering'; the powers of medical personnel; and a range of offences and restrictions, including prohibitions on the employment of an infected person in the food industry, and marriage while knowingly infected; and an offence of knowingly infecting another person. The Act also signals its particular concerns by criminalising the use of certificates of cure for, or in connection with, prostitution, and creating an offence of:

Permitting infected prostitute to occupy house, etc.

(1) The owner or occupier of a house, room or place who knowingly permits a female suffering from a venereal disease to occupy or resort to the house, room or place for the purpose of prostitution is guilty of an offence.¹⁵⁶

This places female sex workers squarely in an outclass condemned by medical discourse.

The history of Part V (Venereal Diseases) is intriguing. The Native Regulations of both territories included requirements of reporting cases of venereal disease and compelling sufferers to attend hospital.¹⁵⁷ But there were differences between the two territories, brought about by their differing histories. In Papua, the health of villagers had been regulated almost from the outset of colonial control

155 In 2006, when I was preparing the first draft of *Enabling Effective Responses to HIV in Pacific Island Countries: Options for Human Rights-Based Legislative Reform*, UNDP Pacific Centre and UNAIDS, 2009, I encountered much the same form of public health legislation for all sixteen Pacific countries surveyed.

156 *Public Health Act* 1973 Section 67.

157 Wolfers, *Race Relations and Colonial Rule*, 22, 31–32, 94–95; Reed, 'Contested images and common strategies'; and Katherine Lepani, 2007, "'In the process of knowing": making sense of HIV and AIDS in the Trobriand Islands of Papua New Guinea, Ph.D. thesis, Canberra: The Australian National University, 193–94, for a description of these lock hospitals in the Trobriands. The irony is that the regulations shifted the blame and the onus of control from the colonisers who introduced the diseases to the colonised who contracted them.

in the late-nineteenth century by means of the *Native Regulations*. Regulation 91, entitled simply *Venereal Diseases*, was adopted in 1904, and proceeded on from the provision above to require a person infected to

keep himself clean by washing with water every day and ... abstain from all sexual intercourse while so diseased. He is also to be very careful that anything that touches his diseased parts is not to touch any other person, nor to come into contact with his own eyes lest they become blind.¹⁵⁸

The person must report to the Village Constable, who was to take him (or her) to the Magistrate, who upon medical certification (if available) could order a period of custody in hospital. Unless released from custody upon a doctor's certification, the Magistrate could order repeated inspection. Sub-regulation (5) specifically applied the regulation to 'women and girls as well as men and youths,' and disobeying a requirement of the regulation could result in a fine or imprisonment.

In the Territory of New Guinea, the *Native Administration Regulations* 1924 included a much terser regulation on venereal disease, which simply required the village officer, the *luluai*, to take the native concerned to the nearest Government hospital, or if none was easily accessible, then to the nearest plantation or mission, for forwarding to a Government hospital. But there was a difference. New Guinea also had a specific Ordinance, the *Venereal Diseases Ordinance*, which had been enacted by the military administration in 1920, even before the *Native Administration Regulations*. No equivalent ordinance was ever enacted in Papua.

Why did the Territory of New Guinea have a venereal diseases ordinance while Papua did not? Why did it need an ordinance when native regulations would do? And why was the New Guinea ordinance enacted so swiftly, before Native Regulations, even before general civilian legislative powers were assumed in May 1921, while the Military Administration was still in control of the former German territory and the existing laws and customs of the colony were by practice and by the terms of the capitulation left undisturbed? Part of the answer, I believe, lies in the recital in the Preamble to the Ordinance:

WHEREAS owing to the exigencies of the British Military Occupation of the Colony of German New Guinea and in the interests of public health it is expedient to make provision for the treatment of Venereal Diseases and to prevent the spread of such diseases and for the purposes consequent thereon or incidental thereto: Now therefore I Thomas

158 *Native Regulations* 1922 (Papua) Regulation 91(2).

Griffiths *Brigadier-General British Military Administrator of the Colony of German New Guinea* by virtue of the powers me thereunto enabling do hereby order enact and proclaim as follows [emphasis added].¹⁵⁹

The territory at the time was under the control of the military. It may have been that venereal disease was already appearing in the barracks, and it was decided that measures should be taken. Native Regulations could not apply to expatriates, so an ordinance was needed. But even if no actual cases occurred, troops were believed liable to avail themselves of local prostitutes and thereby contract venereal disease; British law and policy was to enact legislation to control the prostitutes who were believed to spread venereal disease; in the absence of argument to the contrary, it would probably be a good idea to enact similar legislation in New Guinea (as had been the policy in many other British territories) in order to protect the troops.¹⁶⁰

Judith Walkowitz points out that the Contagious Diseases Acts of the late-nineteenth century in England reinforced existing patterns of class and gender differentiation, as Foucault observed. Illicit extramarital sex involving soldiers of the realm became a matter of national significance. The Acts located control measures onto the female body, identifying prostitutes rather than their clients as vectors of disease, and creating an outclass of sexually deviant females.¹⁶¹ So, in the enactment of the *Venereal Diseases Ordinance* 1920 during the military occupation of New Guinea, the legal discourse of sexuality was being supported by general principles derived from biomedical discourse, with its strong gender and class presumptions. The Ordinance was retained on the statute books even after the making of the *Native Administration Regulations*.

The Territory of Papua, however, never legislated for specific control of venereal diseases amongst expatriates and continued to rely solely on the controls over villagers in the *Native Regulations* until 1974. By that time, self-government was in place and the Crown Law Department was working frantically to rationalise and amalgamate the laws of the two Territories. Urban centres were expanding at a rapid rate and venereal diseases were spreading. The *Venereal Diseases Ordinance* 1920–1947 of New Guinea, although old, was considered to be capable of providing legal control measures, so it was applied to the Territory of Papua as well¹⁶² and, re-titled the *Venereal Diseases Ordinance (Amalgamated)* 1973, became a law of what was already known as Papua New Guinea.¹⁶³

159 Preamble to the *Venereal Diseases Ordinance* of New Guinea, 1920, made under the Military Occupation of New Guinea 1914–1921, and notified in the *Rabaul Gazette*, 31 July 1920.

160 Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State*; Richard Phillips, 2006, *Sex, Politics and Empire: A Postcolonial Geography*, Manchester and New York: Manchester University Press.

161 Walkowitz, *Prostitution and Victorian Society*, 4–5.

162 R. Taureka, 1973, 'Venereal disease and the law,' paper presented at the Law and Development in Melanesia Waigani Seminar, Waigani, 1–2. Taureka, a medical doctor, was at the time Minister for Health.

163 *Statute Law Revision (Amalgamation of Laws) Ordinance* 1973, Section 6.

Further major law revision after Independence saw a reorganisation and complete amalgamation of public health legislation in 1986. The original health and sanitation laws were joined by those governing infectious diseases, malaria control measures, mental disorders, Hansen's Disease (leprosy), and venereal diseases, and all were incorporated, virtually unchanged in principle and content, into one lengthy *Public Health Act*.

It is probable that no specific venereal diseases legislation to govern both villagers and expatriates was enacted in the Territory of Papua because there was no military presence there until World War II. Such matters involving expatriates would have been dealt with quietly throughout most of the colonial era without the need for legislative intervention. New Guinea's venereal disease legislation may well have been adopted in Papua in 1974 due to increasing concerns about the spread of disease nation-wide. Specialist venereal disease clinics had been established in Port Moresby by the Department of Health,¹⁶⁴ and I can recall posters from an active awareness campaign undertaken around 1973–74. Much of the rhetoric in the 1970s and 1980s surrounding the criminalisation of prostitution revolved around the prostitute as vector of venereal disease, a view which has persisted until today.

Medical discourse continued to impact on outgroups in other ways too. Joan Johnstone was aided in her study of Highlands sex-sellers in Moresby in the late colonial period by Dr Burton-Bradley, government psychiatrist, who was interested in testing a theory in vogue at the time to the effect that there existed a specific psychological type of socially deviant person, the 'prostitute.' In her Ph.D. thesis, researched in the late 1960s but not written up until the 1990s, Johnstone concluded that her findings neither supported nor contradicted this theory, preferring to situate her conclusions regarding the choice of sex work in the forces and effects of the socio-economic climate of Port Moresby of the 1960s.¹⁶⁵

The advent of AIDS

Since the late 1980s, the HIV epidemic has become well established in PNG where, as elsewhere in the world, it has focused attention on gender and sexuality—highlighting social problems, prompting legal reforms, and transforming gender activism into AIDS activism.¹⁶⁶ The top levels of the PNG government were slow to accept the reality of the epidemic in the 1980s, but

164 Joan Drikoré Johnstone, 'The Gumini *Bisnis-Meri*: a study of the development of an innovative indigenous entrepreneurial activity in Port Moresby in the early 1970s,' Ph.D. thesis, Brisbane: University of Queensland, xiv, 7.

165 Ibid., xiii–xiv, 291–94.

166 Jolly and Manderson, 'Sites of desire and economies of pleasure in Asia and the Pacific,' 4–5; Cindy Patton 2002, *Globalising AIDS*, Minneapolis and London: University of Minnesota Press, 3.

the Department of Health established a National AIDS Committee in 1986 to advise the Departmental Secretary. However, early attempts in the 1990s to introduce legislation for a National AIDS Council met with total government disinterest and denial. In 1997, however, the new Prime Minister Bill Skate, whose Port Moresby electorate was characterised by a high level of ‘settler’ or *grassroots* residents, took up the challenges of the issue. A National AIDS Council was established,¹⁶⁷ a *National Health Plan 1996–2000* identified priority areas for HIV/AIDS prevention, and a *National HIV/AIDS Medium Term Plan 1998–2002*, developed in conjunction with WHO, was endorsed in 1998.¹⁶⁸ Subsequent action (much of it prompted by large infusions of foreign aid) has led to increased awareness and an atmosphere of highly contested discourse on prevention, origin, and management, and high levels of stigmatisation and discrimination.¹⁶⁹

The impact of HIV on political and moral thinking and practice, in the ‘violent, vexed and contested political world in which we now live,’ has been enormous.¹⁷⁰ The epidemic has served to emphasise the division of society into the ‘general population’ and the perverse ‘other’ of homosexuals and prostitutes. Gays (to be distinguished and divided from the true heterosexual man, who is presumed not to be infective) and prostitutes (who are seen as permanently contaminated)¹⁷¹ have both been constructed as locales of high incidence of infection.¹⁷² The epidemic perpetuates colonialism, as the health of aid-client state populations remains contingent on donors;¹⁷³ it plays into existing socio-cultural divisions world wide, and reinforces entrenched class and gender stereotypes.¹⁷⁴ Social research all too often ends up reproducing punitive stereotypes about sexuality that place blame on sexual ‘deviants.’¹⁷⁵ In PNG, a nation of low literacy levels and poor mobilisation of ‘civil society,’ popular wisdom, urban myths and

167 By the *National AIDS Council Act 1997* (No 30 of 1997). I drafted the Bill in 2003 when working with the Health Department’s National AIDS Committee, but the Bill’s introduction into Parliament was rejected by previous governments.

168 Christine Stewart, 1993, *Law, Ethics and HIV/AIDS: Existing Law of Papua New Guinea*, Law Reform Commission of Papua New Guinea and Papua New Guinea Department of Health Joint Working Paper, 5.

169 John Ballard and Clement Malau, 2009, ‘Policy-making on AIDS to 2000,’ in *Policy Making and Implementation, Studies from Papua New Guinea*, ed. R.J. May, Canberra: ANU E Press, 369–78, online: <http://press.anu.edu.au?p=78541>, accessed 31 March 2014.

170 Nancy Scheper-Hughes, 1994, ‘“AIDS and the social body,”’ *Social Science & Medicine* 39(7): 991–1003, 991.

171 Paula A. Treichler, 1999, *How to have Theory in an Epidemic: Cultural Chronicles of AIDS*, Durham: Duke University Press, 20.

172 Patton, *Globalising AIDS*, 68–69. The ‘high risk settings strategy’ was foisted upon PNG by donor countries and focused principally on the risks involved in prostitution, not marriage or companionate relationships. The terminology has been severely criticised e.g., in Lawrence James Hammar, 2010, *Sin, Sex and Stigma: A Pacific Response to HIV and AIDS*, Wantage, UK: Sean Kingston Publishing, 130–31. See also UNAIDS, *UNAIDS Terminology Guidelines (2011)*. The programme’s name was changed to *Tingim Laip* [Think about your Life] later that year. But the stigma remains.

173 Patton, *Globalising AIDS*, 27.

174 Treichler, *How to have Theory in an Epidemic: Cultural Chronicles of AIDS*, 7.

175 *Ibid.*, 113. When this occurs in the context of HIV, Ballard suggests that the infection itself is constituted as deviant. See Ballard, ‘Sexuality and the state in time of epidemic,’ 112.

received stereotypes are accepted at all levels of society.¹⁷⁶ Conservative views of divine retribution, claims of miracle cures accomplished by prayer, church preaching which encourages the rejection of condoms and the attribution of AIDS illness to sorcery or divine retribution are prevalent; persecution, banishment, even murder of those infected or presumed to be infected have been reported.¹⁷⁷ Along with many other countries which have just discovered the concept of 'homosexuality' as a discrete socio-sexual phenomenon, PNG has tried to dismiss it as a western import, or explain away evidence of 'ritual homosexuality' as a description of something different to the homosexuality of the West.¹⁷⁸

Thoroughly conditioned by decades of imported processes of public health regulation, PNG's *elites* have readily accepted and preached the power-based control methods of mandatory and repeated testing,¹⁷⁹ immigration restrictions on foreign nationals entering for employment,¹⁸⁰ the focus on 'hotspots' prompted by the high risk settings strategy, and the imposition of provider-initiated testing, particularly at ante-natal clinics, with little regard for the caveats sounded in the *WHO Guidance*.¹⁸¹ The concept of 'high-risk groups' was eagerly taken up by those who wished to immure themselves within the safety of a *cordon sanitaire*.¹⁸² The later restyling of this as a concern with 'high-risk settings' made little difference, simply shifting the overt focus to stigmatised locales rather than stigmatised persons. HIV awareness has meant that for the first time, public health initiatives have focused on the infective dangers of sex between males, usually casting it, in public discourse at least, in terms of sodomy

176 I recall in 2002 having to listen to a woman outreach worker recount to me a number of such myths, all recast into an appropriate PNG context and mainly concerning infection of innocent citizens by evil foreign white women.

177 Nicole Haley, 2008, 'When there's no accessing basic health care: local politics and responses to HIV/AIDS at Lake Kopyago, Papua New Guinea,' in *Making Sense of AIDS*, ed. Leslie Butt and Richard Eves, Honolulu: University of Hawai'i Press, 24–40; Wardlow, "'You have to understand: some of us are glad AIDS has arrived'"; Hammar, *Sin, Sex and Stigma*, 358–60.

178 Patton, *Globalising AIDS*, 111.

179 Despite hours of training of high-level public servants in a workshop I conducted in 2002, participants still insisted that the entire public service workforce should be tested and the results divulged to top management 'for planning purposes.' It was only when confronted with estimates of the cost of this proposal that they fell silent: PNG National HIV/AIDS Support Project (NHASP), 2002, *Workplace Policy Development Workshops Report*, report prepared for PNG National HIV/AIDS Support Project, Port Moresby, 4.

180 The Immigration Division of the Department of Foreign Affairs and Trade established a policy in 1988 of requiring expatriates intending to enter for work purposes to provide proof of HIV-free status before being granted a visa. See National AIDS Council of Papua New Guinea, 2001, *Review of Policy and Legislative Reform Relating to HIV/AIDS in Papua New Guinea*, National AIDS Council of Papua New Guinea, 26.

181 World Health Organization and UNAIDS, 2007, *Guidance of Provider-Initiated HIV Testing and Counselling in Health Facilities*, Geneva: World Health Organization. To my knowledge, no research has yet been done on the adverse effects of implementing this policy in PNG, but anecdotal evidence which I and others have gathered indicates that it is resulting in highly gendered forms of discrimination and abuse.

182 Catherine Waldby, Susan Kippax and June Crawford, 1993, 'Cordon Sanitaire: "clean" and "unclean" women in the AIDS discourse of young heterosexual men,' in *AIDS: Facing the Second Decade*, ed. Peter Aggleton, Peter Davies and Graham Hart, London: Falmer Press, 29–39, 31.

in prisons.¹⁸³ It is only very recently that society has been confronted with the reality that the epidemic has reached all sectors of society¹⁸⁴ but stigmatisation persists along gendered and class lines.¹⁸⁵

I have outlined how the three significant colonial discourses (law, religion and medicine) have influenced the construction and regulatory control of the sexuality of the colonised by the colonisers. At Independence, some moves were made to create a new society based on ‘Melanesian’ ideals and customary law principles. But ultimately, elements of an already-stratified society developed and maintained their power base, in part through the perpetuation of sexual regulation.

Race, class and social stratification

‘White prestige’ is the concept, doctrine, and slogan which caps the caste structure in New Guinea today; any act or practice judged as tending to lower that prestige is regarded as a peril to white supremacy ... now that rights have been freely parcelled out to the natives and the use of armed force is condemned, the white man resorts to caste rules—taboos, prescriptions, and juridical sanctions—to assure his continuing superiority.

Stephen Winsor Reed, 1943.¹⁸⁶

I have referred earlier in this chapter to writers such as Stoler who transposed Foucault’s theories on the management of sexuality to the non-European world. In Stoler’s later work, she took issue with the students of colonial history who ignored Foucault’s thinking on race, while observing how Foucault himself, despite acknowledging that ‘the social body is basically articulated around two races,’¹⁸⁷ largely neglected the possibility that racial thinking may have been constitutive of the bourgeois order in Europe itself.¹⁸⁸

‘State racism’ is, for Stoler, an indispensable technology of rule in any kind of state, as biopower’s operating mechanism. The rhetoric of race is a tool for a wide spectrum of political agendas, as the epigraph above demonstrates, and

183 ‘High risk sexual activities at Bomana,’ *National* (online), 18 May 2007; ‘Gay sex rife in jails,’ *National* (online), 26 October 2007.

184 See e.g., ‘More HIV infection in the rural areas,’ *National* (online), 6 July 2009.

185 ‘Sex workers learn,’ *Post-Courier* (online), 12 November 2009.

186 Reed, *The Making of Modern New Guinea*, 245.

187 Michel Foucault, 1997 [2004], ‘Society Must be Defended’: *Lectures at the Collège de France, 1975–76*, London: Penguin Books, 60.

188 Richard Phillips, 2002, ‘Imperialism and the regulation of sexuality: colonial legislation on contagious diseases and ages of consent,’ *Journal of Historical Geography* 28(3): 339–62; Stoler, *Carnal Knowledge and Imperial Power*, 144.

can animate many different political themes.¹⁸⁹ And in fact, the present-day creation in PNG of outgroups based on criminalised sexualities does depend on an indigenous *élite* determined to defend itself through self-scrutiny and societal policing. This section tracks the deployment of racial discourse in the maintenance of colonial power in pre-independent PNG, and the part it played in underpinning the development of PNG's *élites* of today. This is true no matter how nearly or otherwise the discourse represents the realities of PNG societies past and present—discourses tend to lean towards simplistic binaries, and those of race, caste and class probably do so more than most.¹⁹⁰

Innate racial differences

The world of Papua's expatriate settlers before [World War II] was a dusty, lower middle class, Australian version of the British Raj. It lacked the grace and magnificence of the Empire at its zenith. Its security derived less from a sense of pride in its technological superiority and splendour than from a mean and pedantic insistence on the importance of innate racial differences.

Ted Wolfers, 1975.¹⁹¹

Ted Wolfers studied race relations in colonial Papua New Guinea because he considered that 'a knowledge of race relations in the past provides invaluable insights into the roots of the present tensions.'¹⁹² His book provides a comprehensive overview of the native regulations and other laws through which he traces the history of class, caste and discrimination in colonial PNG.

While considerations of race and ethnicity, class and caste, have underpinned studies of power relations in colonies, they have been largely disregarded in research into sexuality and gender, which, as Margaret Jolly and Lenore Manderson remind us, have until very recently been dominated by western traditions of thought—only the global threat of the HIV epidemic has prompted consideration of 'ethnicity and class as central to the terrain of gender and sexuality.'¹⁹³

189 Stoler, *Carnal Knowledge and Imperial Power*, 159–60.

190 I am reminded of excellent lessons to be learnt from Kalpana Ram's critique of 'western' sociological writing on 'the Indian' subject. See Kalpana Ram, 1992, 'Modernist anthropology and the construction of Indian identity,' *Meanjin* 51(3): 589–614.

191 Wolfers, *Race Relations and Colonial Rule*, 45.

192 *Ibid.*

193 Jolly and Manderson, 'Sites of desire, economies of pleasure,' 6.

The subtleties of division, definition and description of race and ethnicity are manifold and ultimately arbitrary.¹⁹⁴ But this did not concern the early European colonists of PNG, who experienced first-hand a glaringly evident racial divide and needed to deal with it on the spot. One of the initial tasks of their law was to define the ‘other’ whom they had come to rule. From the governing laws of the metropole down to the native regulations in the field, the Australians in PNG grappled with the definition of ‘natives’ as subjects juxtaposed to themselves, but were forced to resort to the assumed meanings and tautological, non-exhaustive definitions, for example: the “‘Indigenous inhabitant of Papua New Guinea’ includes a person who follows, adheres to or adopts the customs, or lives after the manner of, any of the indigenous inhabitants of Papua New Guinea.”¹⁹⁵

The peoples of the eastern half of the New Guinea island were as foreign to one another as were the newly arrived Europeans. More conflict usually erupted between colonised Melanesian groups than between them and the colonisers.¹⁹⁶ Nevertheless, European colonisers of the Pacific created the general category of ‘the native’ and attributed inferior qualities, needs, wants and habits to this invention.¹⁹⁷ In Papua, this approach was wholeheartedly embraced by Administrator Murray; and to a large extent was adopted in New Guinea when Australia assumed its administration, albeit somewhat tempered by the mandate/trusteeship arrangements.

After World War II, the assimilationist system was perpetuated by Paul Hasluck, Minister for Territories from 1950 to 1965, who asserted a right to determine all policy in the finest detail. Although ‘most Australians are very sure that Australian administration in New Guinea has been of outstanding quality, partly because governments have so often said so,’¹⁹⁸ policies in reality promoted contempt for the colonised peoples. So Charles Rowley in 1966 was prompted to remark on

194 Wolfers, *Race Relations and Colonial Rule*, 1–2; John Ballard, 1979, ‘Ethnicity and access in Papua New Guinea,’ unpublished, 1–2; Christine Jennett and Randal G. Stewart, 1987, *Three Worlds of Inequality: Race, Class and Gender*, South Melbourne: Macmillan, 1–2; Stoler, *Race and the Education of Desire*, 45–47; Bronwen Douglas, 2008, ‘Foreign bodies in Oceania,’ in *Foreign Bodies: Oceania and the Science of Race 1750–1940*, ed. Douglas and Chris Ballard, Canberra: ANU E Press, 3–30, 3, online: <http://press.anu.edu.au?p=53561>, accessed 31 March 2014. The chapters in this volume challenge the concept of ‘race’ as an ontological category, and chart the shift from a stress on climatic determination to innate biological difference in western thinking. See also Stewart Firth, 1997, ‘Colonial administration and the invention of the native,’ in *The Cambridge History of the Pacific Islanders*, ed. Donald Denoon et al., Cambridge and New York: Cambridge University Press, 253–88 on the construction of the colonised ‘native’; and Geoffrey Clark, 2003, ‘Shards of meaning: archaeology and the Melanesia-Polynesia Divide,’ *Journal of Pacific History* 38(2): 197–215 for constructed regional divisions.

195 *Papua New Guinea Act 1949* (Cth).

196 Firth, ‘Colonial administration and the invention of the native,’ 244–46.

197 *Ibid.*, 262–63.

198 Rowley, *The New Guinea Villager*, 7.

the inhumanity of the plural society, where each racial group uses the other for economic and political purposes of its own, with social contacts at the minimum.... '[N]atives' ... are partly a picturesque setting, and partly a vague but ever-present menace.... [E]xcept for a small minority, relationships are those of employer to employee, or are basically paternal in some other way.¹⁹⁹

As well as the division along racial lines, colonisation created new categories of the colonised. The extension of administration to a slow-moving frontier created artificial geographical boundaries and ethnic divisions more suited to the colonists' regime but irrelevant to the colonised thus divided. Patterns of migration attendant upon mine and plantation labour recruitment produced identities based on district or area of origin. But, as urban migration increased in the 1950s and 1960s, more complex social identities soon emerged. Formal associations such as churches and sporting groups tended to aggregate along ethnic lines of varying degrees of bandwidth (district, region, and at the highest internal level, Papuan versus New Guinean). Differentiation and ethnic stereotyping developed, based on perceived success or failure in achieving Australian-determined norms, a status-ranking of district and regional identities in positive or negative terms ('the educated Tolai,' 'the aggressive Chimbu,' etc.).²⁰⁰ Dinnen notes that even today, the police often use constructed cultural group attributes as justification for retribution, but when it suits, 'non-cultural stereotypes are simultaneously used to legitimate coercive actions against culturally heterogeneous marginal groups in the urban setting.'²⁰¹ And the police are not alone. A *Post-Courier* online editorial 'Motuan clash has surprised us all,' commenting on a violent inter-village fight near Port Moresby which saw five villagers dead, observes that

it sounds like the battle report from some other parts of the country, where such group clashes are part of the culture and fully expected when there is a row over valuables.... However for it to come from the traditional villages near to Port Moresby, it is entirely out of character. These people are renowned for their love and respect for a peaceful life and are generally law abiding citizens.²⁰²

In a colonial situation it is the externally imposed state, rather than market forces, which sets the boundaries and the parameters for success in access to these resources. In the PNG colony, qualifications for access to resources were determined by the Australian coloniser in terms of European concepts of the state. So the race-based social divide of colonial PNG ensured that the colonised

199 Ibid., 13.

200 Ballard, 'Ethnicity and access in Papua New Guinea.'

201 Dinnen, 'Criminal justice reform in Papua New Guinea,' 261.

202 'Motuan clash has surprised us all,' editorial, *Post-Courier* (online), 3 February 2010.

were excluded almost entirely from state activities and economic benefits. This was less evident in the towns, where ethnic identities were more complex and boundaries less distinct; where education started to establish the conditions for the conversion of racial caste divisions into those of class; and where indigenous entrepreneurs began to emerge and stake their claims to access to new tools, technologies and above all, cash.

Before World War II, the prospect of an indigenous *élite* in PNG was totally abhorrent to the colonial authorities. Higher education should not be made available until the colonised were capable of assuming a measure of responsibility equivalent to that of the colonisers, and that for the moment was 'out of the question.'²⁰³ But in the late colonial period, commentators noted the emergence of an *élite*, as 'the old discrimination along racial lines is being replaced by economic and other, subtler forms of social differentiation.'²⁰⁴ Class, which had for the most part been based on race in the colonial period, was beginning to emerge as the major division in indigenous society. The personnel may have changed, but the principles did not: the same systems of access were perpetrated, favouring those with education, urban residence and white-collar employment—positions increasingly filled by Papua New Guineans. A new ruling class was emerging, of those 'who had learned to play by Australian rules.'²⁰⁵

Many factors converged to produce this structural shift. Colonial legal and administrative policies emphasised individual rights at the expense of group solidarity. They also de-emphasised education, so that only a small minority had achieved anything resembling tertiary education by the time of Independence.²⁰⁶ Zoning and urban regulations initially excluded PNG immigrants and peri-urban villagers from towns. When they were allowed access, different standards of housing were implemented, firstly along racial lines and then according to occupational status. This emphasis on social and economic differences has increasingly stratified post-colonial society.²⁰⁷ Macintyre has noted how

the existence of a highly paid educated *élite*, fiercely protecting its jobs and urban living standards, perpetuates the division between haves,

203 Sir Hubert Murray, *Papua Annual Report for 1937*, quoted in Jinks, Biskup and Nelson, *Readings in New Guinea History*, 135–36; and see Reed, 'Contested images and common strategies.'

204 Wolfers, *Race Relations and Colonial Rule*, 146; see also Rowley, *The New Guinea Villager*, 202–03; Oram, *Colonial Town to Melanesian City*, 145–46; and particularly Narokobi, *The Melanesian Way*, 108, discussed in Gewertz and Errington, *Emerging Class in Papua New Guinea*, 3.

205 Ballard, 'Ethnicity and access in Papua New Guinea,' 13.

206 Meek, *The University of Papua New Guinea*, 65–68; Bulbeck, *Australian Women in Papua New Guinea*, 180–84.

207 David King, 1998, 'Elites, suburban commuters, and squatters: the emerging urban morphology of Papua New Guinea,' in *Modern Papua New Guinea*, ed. Laura Zimmer-Tamakoshi, Kirksville, MO: Thomas Jefferson University Press, 183–94.

have-nots, and hopefuls ... the villagers in areas remote from towns and the services or facilities linked to them see themselves as having failed in crucial ways.²⁰⁸

Writing in 1985, Epeli Hau'ofa, an intellectual of Tongan ancestry who grew up in PNG, was already describing the emergence of a 'South Pacific' society, of privileged groups across the region who shared economic, social and cultural ties. This social group emerged from the regional capitalist consumer economy promoted by the former colonial powers Australia and New Zealand, which promoted consumerism and the metropolitan way of life. By separating themselves from the struggling poor, they secure their own privileged access to the resources of this economy. This, he declared, is a very important development, because it is they who guide the destinies of island communities, while blaming the culture-bound and lazy underprivileged classes for their own straitened circumstances, telling them to preserve their traditions, and even obliging them to adopt 'the dead weight' of other traditions (such as chiefly systems and Christianity) in order to maintain social stability and preserve their own privileges.²⁰⁹ But, warned Hau'ofa, 'there is a strong reluctance on the part of the regional privileged, including academics, to recognise the emergence of modern classes in the island world.'²¹⁰ In fact, there was a strong reluctance by anybody to recognise Hau'ofa's warning.

Ten years later, American anthropologists Deborah Gewertz and Fred Errington studied the emergence of class in a small provincial PNG town, Wewak, where they found a number of representatives of a highly educated, comparatively affluent group who presented themselves as 'fundamentally superior' to their rural kin.²¹¹ This, Gewertz and Errington claimed, evidenced a middle class, juxtaposed to the remote 'international owners of capital' on the one hand and a lower class of both rural and urban poor, from whom they sought to distance and distinguish themselves, on the other.²¹² In the context of urban Port Moresby, David King describes them as *elites*, suburban commuters, and squatters, but cautions that the emerging middle class is by no means entrenched in its superiority.²¹³

But this tripartite hierarchical model has been challenged: a recent publication points to the absence of a 'middle class' in Melanesia able to promote democracy

208 Martha Macintyre, 1998, 'The persistence of inequality: women in Papua New Guinea since Independence,' in *Modern Papua New Guinea*, ed. Laura Zimmer-Tamakoshi, Kirksville, MO: Thomas Jefferson University Press, 211–30, 215.

209 Epeli Hau'ofa, 2008, *We Are the Ocean: Selected Works*, Honolulu: University of Hawai'i Press.

210 *Ibid.*, 22.

211 Gewertz and Errington, *Emerging Class in Papua New Guinea*, 1.

212 *Ibid.*, 7–11.

213 King, 'Elites, urban commuters, and squatters,' 193.

in the region.²¹⁴ Other writers, while perceiving various forms of sub-categories, nevertheless confirm the emergence of concepts of socially stratified groups, known in popular PNG parlance as *elites* and *grassroots*.²¹⁵

These emerging *elites* have become leaders in PNG politics, government, business and even in the underworld. They have led the nation towards forging a national identity,²¹⁶ and a citizenry focused on self-improvement along the lines of local adaptations of global modernity, increasingly nuanced by local versions of Christianity.²¹⁷ They assert their rights to own their own persons and capacities, make their own economic and social choices of action, immerse themselves in a growing consumer culture,²¹⁸ resist the claims of less fortunate kin. They are becoming, to an extent, the 'possessive individuals' of the Western Pacific.²¹⁹ But they are not merely turning their backs on 'custom' while still espousing the rhetoric.²²⁰ The performance of this 'incipient individualism'²²¹ may be only partial, their position of advantage still 'fragile.'²²² Competing and conflicting demands from kin on their property, their labour, their right to the private consumption of the commodities they have striven for, even their religious beliefs, may mean that at various points individualism must yield, or at least adapt to some form of co-existence.²²³ Customary social relations persist

214 Pacific Institute of Public Policy, 2011, *Youthquake: Will Melanesian Democracy be Sunk by Demography?* online: <http://www.pacificpolicy.org/>. accessed 23 March 2011.

215 Gewertz and Errington, *Emerging Class in Papua New Guinea*; M. Goddard, 2001, 'From rolling thunder to reggae: imagining squatter settlements in Papua New Guinea,' *Contemporary Pacific* 13(1): 1–32, 22–23; Anastasia Sai, 2007, '*Tamot*: masculinities in transition in Papua New Guinea,' Ph.D. thesis, Melbourne: Victoria University; Robbins, 'Afterword: possessive individualism and cultural change in the Western Pacific'; Sykes, 'Interrogating individuals'; Andrew Lattas and Knut M. Rio, 2011, 'Securing modernity: towards an ethnography of power in contemporary Melanesia,' *Oceania* 81(1): 1–21.

216 Countryside, 2010, 'Opportunity generation: *Time Blo Yumi*,' *ActNOW!* Blog, 13 July 2010, online <http://www.actnowpng.org/content/opportunity-generation-time-blo-yumi>, accessed 31 July 2010.

217 Robert J. Foster, 1992, 'Commoditization and the emergence of "kastom" as a cultural category: a New Ireland case in comparative perspective,' *Oceania* 62(4): 284–94; Robert J. Foster, 1992, 'Take care of public telephones: moral education and nation-state formation in Papua New Guinea,' *Public Culture* 4(2) 31–45; Hank Nelson, 2003, 'Dear Sir, ... Evidence of civil society in the media of Papua New Guinea,' paper presented at the USP/ANU/FDC Suva Symposium, Suva, 30 September–3 October; Christine Stewart, 2010, 'The courts, the churches, the witches and their killers,' paper presented at the Law and Culture: Meaningful Legal Pluralism in the Pacific and Beyond Conference, Port Vila, Vanuatu, 30 August–1 September.

218 Robert J. Foster, 1999, 'The commercial construction of "new nations,"' *Journal of Material Culture* 4(3): 263–82; Robert J. Foster, 2002, *Materializing the Nation: Commodities, Consumption, and Media in Papua New Guinea*, Bloomington and Indianapolis: Indiana University Press.

219 Foster, 'The commercial construction of "new nations,"'; Foster, *Materializing the Nation*; Keir Martin, 2007, 'Your own *buai* you must buy: the ideology of possessive individualism in Papua New Guinea,' *Anthropological Forum* 17(3): 285–98; Robbins, 'Afterword: possessive individualism and cultural change in the Western Pacific'; Sykes, 'Interrogating in individuals.'

220 Peter Sack, 1989, 'Law, custom and good government: the Derham Report in its historical context,' in *Papua New Guinea: A Century of Colonial Impact, 1884–1984*, ed. Sione Latukefu, Port Moresby: National Research Institute and University of Papua New Guinea, 377–97, 396.

221 Wardlow, *Wayward Women*, 19.

222 King, 'Elites, urban commuters, and squatters,' 193.

223 Wardlow, *Wayward Women*, 19–22.

and co-exist, and strategies for compromise, the privileging of one over the other, or the creation of new coping mechanisms, are adopted according to the needs of the situation.²²⁴

Conclusion

When Europeans settled in Papua New Guinea, they did not find a political vacuum on the shores and plains, and in the mountains of our islands. Our ancestors had well-organised, self-sufficient communities or *wanples*, clans and tribes, to meet the needs of their times. The price of the impact of Western colonisation has been the sapping of the initiative of our people.

Constitutional Planning Committee, 1974.²²⁵

In this chapter I have offered some theoretical and historical context to the materials on sex work and sodomy which I will present in subsequent chapters. I have outlined aspects of Foucault's work upon which Goodman based his research: namely, that power has come to be exercised through disciplines of the body which develop and maintain a moral stance, shaping modern society by a process of exclusion—of the criminal, the insane, the sexually deviant and so on. Of the four sexual objects of discursive knowledge, only the heterosexual procreative couple is the norm—such abnormal outcasts as the hysterical (or in the case of sex-sellers, wanton and amoral) woman and the psychotic pervert (the abominable homosexual) are constructed as criminals.

I argue further that this process is not restricted to western societies, but was exported to many non-western colonies. I describe how 'civilisation' along western lines was introduced into the former territories of PNG through administrative practice, supported by the introduction and adoption of discourses of Christianity and of western medicine. These discourses crystallised the concepts of licit and illicit sexual relations along Foucauldian lines, criminalising non-heteronormative sexuality in the state legal system. Post-Independence, Christianity has come to play an increasingly strong role in moulding social regulatory mechanisms, as has the bio-medical discourse, now fuelled by the impact of HIV. PNG police culture is mainly concerned with punitive law enforcement and the assumption of a modern version of the warrior-

224 Martin, 'Your own *buai* you must buy,' 288–95; Mary Patterson and Martha Macintyre, 2011, 'Introduction: capitalism, cosmology and globalisation in the Pacific,' in *Managing Modernity in the Western Pacific*, ed. Patterson and MacIntyre, Brisbane: University of Queensland Press, 1–29, 13–17; Wardlow, *Wayward Women*, 19–20.

225 *Final Report of the Constitutional Planning Committee* 2/12, quoting from the Second Interim Report.

protectors of the community rather than the individual.²²⁶ The post-colonial era has seen the emergence of a form of privileged class which has embraced western modernity, consumerism, individualism and, to an extent, such globally accepted discursive principles as human rights and the backwardness of traditional culture. They define themselves in contradistinction to the poor, persuading them to observe cultural practices and norms, including imported traditions, which serve to secure their own privileges and access to resources, while simultaneously upholding persistent patterns of customary socio-economic relations, and developing a myriad of differing, mutable forms of subjectivity.²²⁷ It is this privileged class of *elites* which constructs and promulgates the social norms of PNG society today, including norms of sexual behaviour, and which controls the fashioning of the nation's laws, including sexuality laws. So in the next chapter, I describe how these laws have been introduced, constructed and modified.

226 Nancy Scheper-Hughes and Margaret M. Lock, 1987, 'The mindful body: a prolegomenon to future work in medical anthropology,' *Medical Anthropology Quarterly* 1(1): 6–41, 7–8.

227 Patterson and Macintyre, 'Introduction: capitalism, cosmology and globalisation in the Pacific,' 16.

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