

Glossary

Key terms

Languages

There are well over 800 distinct languages in Papua New Guinea (PNG), with significant variations in the number of speakers of each. Several *linguae francae* have developed, or been developed. Foremost today is English, the 'official' language used for business and governmental purposes, as well as being spoken in a myriad other situations. But as it has done in so many English-speaking ex-colonies, English itself has now taken on a PNG national form, with its own accent and some of its own unique vocabulary.¹

A multiplicity of statutes is frequently termed 'legislations,' nouns become verbs (I heard a teenage boy once declare that he was expelled from school 'because I homosex with another boy,' and so on. I have retained these features in my reproduction of interviews.

Each of the two Territories developed its own *lingua franca*. In New Guinea in the north, this was 'neo-Melanesian,' 'Melanesian Pidgin' or most recently, 'Tok Pisin,' derived from the original Chinese trade Pidgin, with an admixture of terms from Malay, German, and Kuanua (the language of the Tolai people, of East New Britain, where the Germans established their principal plantations). In Papua to the South, a 'pidgin' version of Motu, the language of one of the peoples dwelling around Port Moresby, was adopted by the administration and known first as Police Motu, now as Hiri Motu.² Tok Pisin had not been adopted by Papuan people even by the time of Independence, although that has changed, with it now being spoken nation-wide, while Hiri Motu is now spoken by many non-Papuan residents of Port Moresby and environs.

'Custom' and 'customary law'

In an endnote to her chapter on custom in a recent volume *Passage of Change: Law, Society and Governance in the Pacific*, Jean Zorn discusses the various ways in which scholars and writers have used and distinguished the terms 'custom'

1 For example 'tuckerbox' in Chapter 2, which refers specifically to a small locally-run store carrying a limited range of foodstuffs and other household items.

2 'Pure' Motu is distinguished, among other things, by a far more complex grammar, notably a detailed set of noun and pronoun inflections and verb-tenses. These were stripped from Hiri Motu.

and ‘customary law.’³ The most significant of these is the approach which treats ‘custom’ as referring to the norms and usages of indigenous peoples, which become ‘customary law’ when they are recognised and applied by the formal courts of law. This however is resented by others who consider that this demeans ‘custom’ if it is not ‘law’ with the same force as the system which was introduced by colonisers. More recently, however, Miranda Forsyth in her analysis of *kastom* and state justice systems in Vanuatu has preferred the term ‘non-state justice systems’ as more accurately describing the collectivity of substantive norms, non-formal judicial processes and non-state institutions.⁴ She then adopts the terms ‘state justice system’ and ‘state law’ to refer to the corollary of the introduced legal system. I have taken a hybridised approach, and use the terms ‘state law/legal system,’ ‘custom’ when referring to situations of everyday usage in PNG, and ‘customary law’ where describing that which is defined and used in the state legal system.

Legal forms and terms

Act, Bill, Ordinance, Regulation, Statute

These terms all refer to various types of written laws, referred to generically as ‘statutes.’ In PNG, an Act is a law made by the National Parliament. Before enactment by Parliament, it is a Bill. During the colonial period, laws made by the local legislature (first the Legislative Council, then the House of Assembly) were termed Ordinances. At Independence, all Ordinances were repealed and re-enacted as Acts.⁵ Regulations are laws made under and in accordance with Acts or Ordinances: they amplify and provide detail to the governing statute.

PNG Acts and Regulations are cited in italics with the year of passage un-italicised. Where the statute appears in the *Revised Laws of Papua New Guinea* with a Chapter number, that is usually given instead of the year, although with the updating of Chapter numbering having ceased, the year of passage is often cited, even for statutes with Chapter numbers. Divisions of statutes (sections, Parts etc.) are usually named in full for ease of understanding by non-lawyers, using PNG style regarding capitalisation. Where abbreviations are used (as for example in footnote references) the abbreviations follow PNG citation style.

3 Jean G. Zorn, 2003, ‘Custom then and now: the changing Melanesian family,’ in *Passage of Change: Law, Society and Governance in the Pacific*, ed. Anita Jowitt and Tess Newton Cain, Canberra: Pandanus Press, 95–124, 113n3.

4 Miranda Forsyth, 2009, *A Bird That Flies With Two Wings: Kastom and State Justice Systems in Vanuatu*, Canberra: ANU E Press, 29, online: <http://press.anu.edu.au?p=49351>, accessed 28 July 2014.

5 *Constitution* Schedule 2.4.6.

Repealed Acts and Ordinances are usually not italicised. However, where it is more appropriate in the context (for example, in narrating the history of legislation) I have italicised repealed laws.

Case referencing

Not all court decisions are written down. A decision may be so straightforward as to require no more than the judge's oral delivery and the court clerk's record. Or a judge may decide to write down his decision (and his reasoning). This written decision may go no further than distribution to the Court Registry, judges and other interested parties. It will bear identifying details such as the place, the date, the judge, etc. In PNG this is known as an Unnumbered, Unreported decision.

A decision may be considered important enough that it should reach a wider audience. If so, it is given a number in the Court Registry. In PNG, that number will be preceded by letters indicating the court: N for National Court, SC for Supreme Court, DC for District Court, FC for pre-Independence Full Court. In PNG, this is an 'Unreported' case decision, and is cited by the court letter and the number. Citation of Unreported cases follows PNG citation, as (Unreported)/Judgement Number/date of judgement.

Each year, the most significant cases are gathered together in a law report for the year, as 'Reported' decisions. The PNG reports are referred to as PNGLR and the year is indicated in square brackets [] which identifies the volume. I have used the referencing styles appropriate to PNG legal materials, with cases being cited by their Reported reference (*case name* [year of reporting] PNGLR first-page), or Unreported numbered reference (*case name* (Unreported) court initial number place date). Where a case is Unnumbered, judge's name, place and date are added. Judges themselves are referred to as [surname] J or CJ (Chief Justice), DCJ (Deputy Chief Justice) or AJ (Acting Justice) as appropriate, and JJ in the plural.

Otherwise, case and statute citation styles follow those given in the *Australian Guide to Legal Citation* (AGLC).⁶ All references to statutes and cases are to those of Papua New Guinea unless otherwise indicated, and in that case they are cited according to the style of their jurisdiction.

⁶ Melbourne University Law Review Association Inc 2010, *Australian Guide to Legal Citation* [3rd ed.], Melbourne: Melbourne University Law Review Association Inc.

Other referencing

I have not however followed the legal style of citation of law journal articles, which relies on a somewhat obscure (especially to the non-lawyer) system of abbreviated journal names. All journal articles, whether appearing in law journals or otherwise, are cited using the full journal name. Pinpoint page numbers normally appear, both in legal journals and in cases, without a preceding 'p,' so I have followed this practice throughout for the sake of consistency, and have made other minor variations in punctuation.

I have made extensive use of the online postings of PNG newspapers. In this case, I have omitted the full URL, as it often tells little more about the article than I have noted for myself. For some years, these online versions of the newspapers gave no indication of date, either in the text or the URL.

International treaties and the like are cited according to the format used by the University of Minnesota Human Rights Library at www.umn.edu/humanrts.

Presentation and format

Gendering language

The language of PNG law is not gender-neutral, and 'words importing the masculine gender include females.'⁷ No implications of gender bias should be read into any quotation in which such a word appears, unless there is a clear intention indicated in the text.

Italicisation

Italicisation has generally followed the principles of the AGLC. As well as italicising foreign terms, I have italicised the terms *grassroots* and *elites*, and dropped the 'é' from the latter, to indicate that I am using these terms in a non-English sense to refer to a perceived dichotomy in social class in modern PNG. Italicisation in quotations has been retained.⁸

⁷ *Interpretation Act 1975* Section 6(a).

⁸ In this I follow Tom Boellstorff in his italicisation of *gay*, *lesbi* and *normal*, to indicate that they are Indonesian terms, not English: Tom Boellstorff, 2005, *The Gay Archipelago: Sexuality and Nation in Indonesia*, Princeton and Oxford: Princeton University Press, xv.

'Tales'

A brief note on my use of the word 'Tale' to introduce many of the case and interview summaries. I have been urged to substitute 'story,' but to me the term *stori* in Tok Pisin (and hence in PNG English) is used to indicate a leisure-time chat with friends, as opposed to a purposeful narrative. In this I am supported by Dr Ruth Saovana-Spriggs, teacher of PNG Tok Pisin in the Pacific Studies course at ANU. So I have retained 'Tale,' and cite in support Geoffrey Chaucer and Charles Dickens.

Acronyms and abbreviations

AFAO	Australian Federation of AIDS Organisations
AGLC	<i>Australian Guide to Legal Citation</i>
AIDS	acquired immune deficiency syndrome
ak	Askan
ANU	The Australian National University, Canberra, Australia
<i>askan</i>	lit. arse-cunt, a highly derogatory term for the recipient partner in anal sex, or gays in general
AusAID	the former name for the Australian Government's overseas aid program, absorbed in 2013 into the Department of Foreign Affairs and Trade and renamed 'Australian Aid'
<i>bilum</i>	net carry-bag, traditionally slung behind from the head, and thereby capable of carrying loads of considerable weight. The <i>bilum</i> is a standard accessory (and gender signifier) for rural women in most of PNG, and particularly in the Highlands region
<i>boihaus</i>	domestic quarters built in the colonial era, usually in the back yards of high-covenant houses allocated to expatriates at the time
Boroko	suburb of Port Moresby, originally developed for expatriate residence
<i>boss-boi</i>	foreman or similar
<i>buai</i>	betelnut, chewed with lime and mustard of various kinds, very popular, sold in markets and from small stands on the streets of Port Moresby, and responsible for the red stains of expectorant which colour streets, walls, buildings and roads
CEDAW	<i>Convention on the Elimination of All Forms of Discrimination Against Women</i> ⁹
CJ	Chief Justice (and see J)
CLRC	Constitutional and Law Reform Commission
CPC	Constitutional Planning Committee, the pre-Independence body responsible for preparing directions for the <i>Constitution</i>
CRC	<i>Convention on the Rights of the Child</i> ¹⁰
DCJ	Deputy Chief Justice (and see J)
<i>Derham Report</i>	Report made in 1960 to the Australian government on the administration

9 *Convention on the Elimination of All Forms of Discrimination against Women*, GA res 34/180, 34 UN GAOR Supp (No. 46) at 193, UN Doc A/34/46, entered into force 3 September, 1981 (CEDAW).

10 *Convention on the Rights of the Child*, GA res 44/25, annex, 44 UN GAOR Supp (No 49) at 167, UN Doc A/44/49 (1989), entered into force 2 September, 1990 (CRC).

	of justice in the Territories of Papua and New Guinea, which gave rise to widespread reforms to courts, applicable laws, etc. ¹¹
discourse	historically produced, loosely structured combination of concerns, concepts, themes, and types of statement which establish systems of knowledge
distinguish	in relation to a legal decision: to identify a point or points by which two cases differ
<i>elite(s)</i>	term used to describe the emerging middle class, juxtaposed with <i>grassroots</i>
European	term used mainly in colonial times to denote white expatriates, who at the time were mostly of Australian origin
expatriate, expat	non-indigenous, foreigner—used to denote both Europeans and foreigners from other regions, such as Asia
flower	term used in the gay community for a non-heteronormative man—divided into ‘closed flower’ (closeted) and ‘open flower’ (out)
FSVAC	Family and Sexual Violence Action Committee
FSW	internationally accepted acronym for ‘female sex worker’
GBH	grievous bodily harm
<i>grassroots</i>	term used in contrast to elites, variously describing rural village-dwellers, urban settlers, unemployed, operators in the informal sector, the ‘man/ woman in the street,’ etc.
HALC	HIV/AIDS Legal Centre, Sydney, Australia
<i>hauswin</i>	lit. air-house—an open, roofed raised sitting platform in a house yard, used for daytime living
HB	slang for Hanuabada, the ‘Great Village,’ located next to the original township of Port Moresby
HRW	Human Rights Watch, an international NGO ‘dedicated to protecting the human rights of people around the world’
HIV	human immunodeficiency virus
HIV/AIDS	term used globally when PNG management legislation was introduced. Despite subsequent changes at international level, this term is still used widely in PNG
ICCPR	<i>International Covenant on Civil and Political Rights</i>
ICESCR	<i>International Covenant on Economic, Social and Cultural Rights</i>
ICRAF	Individual and Community Rights Advocacy Forum, a PNG human rights NGO specialising in upholding women’s rights, providing legal advice and assistance
IDLO	International Development Law Organization
IMR	Institute of Medical Research, PNG
J	Judge (of the National and Supreme Courts). It is PNG citation practice to place this abbreviation (or CJ, DCJ, as appropriate) after the name of the judge
<i>kaikai, kai</i>	food; to eat
<i>kiap</i>	patrol officer (by various names); the means by which the colonial Administration maintained a presence and extended the ‘rule of law’ throughout the colony
<i>kina</i>	basic unit of PNG currency, currently worth approximately 40 cents Australian; symbol K, as in K2.00, K50.00

11 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*).

Koitabu	ethnic group dispersed throughout villages around Port Moresby, intermarried for generations with Motuans
Lae	PNG's second-largest city, a port town on the north-east coast of the mainland, the coastal endpoint of the Highlands Highway which runs west through the Highlands Range of the mainland
landowner	term for village-dweller (supposedly) who is receiving royalty payments for a resource extraction project on his customary land
<i>laplap</i>	sarong, cloth worn around the waist, usually of a brightly coloured tropical-theme print
LMS	London Missionary Society
<i>luluai</i>	administration-appointed village leader in the territory of New Guinea
MDGs	Millennium Development Goals
<i>meri</i>	woman, wife
<i>meri-blouse</i>	a loose-fitting short-sleeved top worn throughout PNG, related to the 'mother hubbards' worn by women throughout the Pacific. The fabric (usually colourful cotton print) is gathered to a yoke and the blouse is capable of concealing breasts, pregnancies and other female bodily identifiers
Motu	ethnic group in villages around Port Moresby, intermarried for generations with Koitabuans; also, the name for their language, used in simplified form as Hiri Motu, a <i>lingua franca</i> in Papua
MP	Member of the National Parliament
MSM	internationally accepted acronym for 'men who have sex with men'
MSW	internationally accepted acronym for 'male sex worker'
NAC	National AIDS Council
NACS	National AIDS Council Secretariat
national	Papua New Guinean citizen
NCD	National Capital District, located in but not of Central Province, where Port Moresby the capital is situated
NCDC	National Capital District Commission
NGO	non-government organisation (including here international organisations)
NHASP	AusAID's National HIV/AIDS Support Project 2000–2005
<i>nolle prosequi</i>	a legal term used in criminal proceedings when a prosecution is suspended. It is not the same as an acquittal, it is merely an acknowledgement that no further action will be taken for the time being, thereby permitting the prosecution to be resumed at a later date
NRI	PNG National Research Institute
OV	PSP outreach volunteer
PAC	Provincial AIDS Committee. These committees have been established by the National AIDS Council for each province and the NCD, in line with the government policy of the decentralisation of powers
<i>palopa</i>	gay or transsexual, particularly one who exhibits effeminate behaviour
<i>pamuk</i>	slut, prostitute (derogatory)
Papua	although this is the term currently used for the Indonesian territory known at various times in the past as West Papua, Irian Jaya etc., it is used herein to refer to the former Australian colony constituted by the southern part of the eastern half of the island of New Guinea

<i>pasinja</i>	lit. passenger; person in transit or visiting who relies on others for shelter and sustenance ¹²
<i>pasinja-meri</i>	lit. passenger-woman, one who has left home and (usually) engages in transactional sex or casual relationships for survival
PLHIV	People living with HIV
PMV	lit. passenger motor vehicle; bus
PNG	Papua New Guinea
PNGLR	Papua New Guinea Law Reports
<i>poro</i>	friend
PSP	Poros Sapot Project
<i>raskol</i>	criminal, member of a criminal gang
Simbu	or Chimbu, a Highlands province
STD	sexually transmitted disease (now replaced by STI)
STI	sexually transmitted infection
<i>stori</i>	chat, hang out, tell stories
Tok Pisin	a <i>lingua franca</i> originating in New Guinea and now used throughout the country. Its use, together with that of English and Hiri Motu, another <i>lingua franca</i> used in Papua, is encouraged in the Preamble to the Constitution
Tolai	ethnic group in East New Britain
TP	abbreviation used for Tok Pisin
<i>tukina, (K2.00)</i>	lit. two kina, slang for prostitute. Two kina (originally £1) was the standard price charged in and even after colonial times
UDHR	<i>Universal Declaration of Human Rights</i>
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNGASS	United Nations General Assembly Special Session on HIV/AIDS
UNICEF	United Nations Children's Fund, active in PNG
UNSW	University of New South Wales, Sydney, Australia
UPNG	University of Papua New Guinea, Port Moresby, PNG
VD	venereal disease (former term for STI)
<i>wantok</i>	literally 'one language.' Refers to a friend, relative, or simply someone from the same culture group or area
WWII	Second World War

12 Alan Rew, 1974, *Social Images and Process in Urban New Guinea: A Study of Port Moresby*, St Paul: West Publishing Co.: 43; Joan Drikoré Johnston, 1993, '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, 66n27.

This text taken from *Name, Shame and Blame: Criminalising consensual sex in Papua New Guinea*, by Christine Stewart, published 2014 by ANU Press, The Australian National University, Canberra, Australia.