

SECTION 6

REBUILDING NATION STATES

14. BUILDING BRIDGES – LAW AND JUSTICE REFORM IN PAPUA NEW GUINEA

Sinclair Dinnen

15. CONSTITUTIONS AS LIMITS ON THE STATE IN MELANESIA: COMPARATIVE PERSPECTIVES ON CONSTITUTIONALISM, PARTICIPATION AND CIVIL SOCIETY

Anthony Regan

16. LEGAL PLURALISM AND THE PROBLEM OF IDENTITY

Robert Hughes

The final section of this book expands on some of the ideas introduced in Graham Hassall's chapter on the links between governance, legitimacy of the state and corruption. His argument is that a lack of constitutional legitimacy has created a situation in which the order embodied within the constitution is not respected. This disorder can be expressed in multiple ways or on multiple levels. Often countries will experience disorder on multiple levels at the same time, with, maybe, disorder on one level encouraging a lack of respect for order on other levels. To address this seemingly endemic problem of disorder it appears that we need to fundamentally reconceive our notions of the state and of the key institutions operating within it. The three chapters within this section examine different aspects of the problem of disorder in the Pacific.

This section begins with a chapter by Sinclair Dinnen that discusses the problem of lawlessness and crime in Papua New Guinea, which of all the Pacific island countries, probably has the longest history of problems of social order. Dinnen places this issue into the wider context of governance and legitimacy, pointing out that even if individual institutions are reformed the law and order problem will not be solved unless the underlying issues relating to governance and legitimacy that have arisen from the uneasy relationship between 'modern' conceptions of the state and indigenous cultures are addressed.

The next chapter, by Anthony Regan, examines constitutionalism and the actions of government in Melanesia. As well as comparing different Melanesian countries this chapter makes comparisons with constitutionalism in Africa, a region that is generally noted for its post colonial difficulties in the area of governance. The fairly recent development of constitutionalism in western history is also noted. This comparative approach provides us with a perspective on why difficulties with constitutionalism in Melanesia exist that sites the region within a global context.

Finally the chapter by Professor Hughes offers us a somewhat radical position on the theory of the state. He argues that modern constitutionalism requires a unitary conception of the state and identity that is false. In order for modern states to gain legitimacy within this pluralistic environment, the state must be reconceptualised so as to allow for recognition of this plurality. Possibly this theoretical perspective offers us a way to approach the (re)building of Pacific island states in such a way that constitutional legitimacy, and thereby order, will be established.