

## INTRODUCTION TO SOUTH PACIFIC LAW



# INTRODUCTION TO SOUTH PACIFIC LAW

Jennifer CORRIN  
Don PATERSON

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## PREFACE

Like the earlier editions of *Introduction to South Pacific Law*, the fourth edition is intended to provide an introduction to the legal systems of the South Pacific. The book is written mainly from a state law perspective, but also examines aspects of customary laws.

The book concentrates on laws of the member countries of the University of the South Pacific, that is, Cook Islands, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Samoa (formerly 'Western Samoa'), Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu. There is also some reference to the laws of Papua New Guinea. The law of Marshall Islands is not comprehensively discussed, as the influence of the American legal system takes it outside the parameters of this text. In the context of these South Pacific countries, *Introduction to South Pacific Law* commences with a chapter on the origins of South Pacific legal systems and their embryonic jurisprudence. It goes on to give an overview of a wide range of substantive areas of law, including constitutional, administrative, criminal, family, contract, torts and land law. It also contains a chapter on courts and procedure.

This edition includes extensive revision to cover the changes that have occurred in the law stated in the last edition, which was published in 2011. There is also additional discussion on some interesting aspects of the laws of Papua New Guinea. In the legislative field, the most important changes have been the amendments to the Constitution of Tonga made between 2010 and 2013, and the enactment of the Constitution of the Republic of Fiji in 2013. Others include the Crimes Act 2013 (Samoa); Custom Land Management Act 2013 and amendments to the Land Reform Act (Vanuatu); and legislation in Marshall Islands, Tonga, Solomon Islands amending the constitution of courts. There have also been a large number of noteworthy decisions by the courts.

Whilst there have been considerable regional changes in the law, some of the reforms predicted in the last edition of the book have not entered the statute book. In particular, the federal constitution and Tribal Land Dispute Resolution Panels Bill are still in the consultation stage in Solomon Islands. More broadly, the expectation that a regional, sub-regional or at least national jurisprudence would begin to emerge has not been fulfilled. Whilst interest in South Pacific law has been on the increase, evidenced by the number of books, articles and reports dedicated to the subject, the area is still under-researched.

The predecessors of this edition were primarily designed to meet the needs of the University of the South Pacific's (USP) law students. Next year will mark the 20th anniversary of the first graduation of law students in the LLB programme, which commenced in 1994. Some 700 students have now graduated with law degrees and have dispersed to their various countries to join the legal professions, and also government administrations and business organisations of those countries. It is hoped that these students' successors will also benefit from reading and studying this book.

In addition to USP students and alumni, *Introduction to South Pacific Law* is aimed at overseas students, and at practitioners, academics, members of the judiciary and others interested in acquiring a foundation in South Pacific law or more detailed research. Through these avenues, it seeks to promote the development of law and local jurisprudence in the region, reflecting the indigenous values proclaimed in many independence constitutions. Some success in this regard can be gleaned from the fact that past editions have been cited in a number of court decisions, including the Court of Appeal's decision in the *Pitcairn Case* in 2006, and in reports of the Law Reform Commissions of Samoa and Solomon Islands and the New Zealand Law Commission. It is also hoped that this book will stimulate interest in the laws of neighbouring small island states, such as the Federated States of Micronesia and Palau, and the francophone countries of French Polynesia and New Caledonia.

The authors would like to thank Intersentia for publishing this fourth edition of *Introduction to South Pacific Law*. They would also like to thank Mr William Lee for his research assistance and Professor Tony Angelo of Victoria University of Wellington, New Zealand, for his advice regarding aspects of the law in Cook Islands, Niue and Tokelau. Finally, we should both like to thank our colleagues at Emalus Campus and within the Centre for Public, International and Comparative Law at the TC Beirne School of Law for their support.

Jennifer Corrin  
Don Paterson

22 April 2016

**Authors' Note:**

Where reference is made to overseas legislation which has been applied or adopted in counties of the region, the country of origin is indicated by the abbreviation in brackets after the name of the statute. However, it should be borne in mind that in some cases such legislation may have come to differ from the original Act, due to reform in the originating or in the adopting country, or both.

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## ABBREVIATIONS

AC	Appeal Cases
BCR	British Columbia Reports
Civ App	civil appeal case
Civ Cas	civil case
CLB	Commonwealth Law Bulletin
CLR	Commonwealth Law Reports, Australia
Crim Cas	criminal case
Crim App	criminal appeal case
Cooks	Cook Islands
Fiji	Fiji Islands
Fiji LR	Fiji Law Reports
FSM Intrm	Federated States of Micronesia, Interim Reports
IPS	Institute of Pacific Studies, USP
JPacS	Journal of Pacific Studies
JSPL	Journal of South Pacific Law
LN	Legal Notice
MLR	Melanesian Law Journal
NZ	New Zealand
PCC	Pacific Contract Code
Sch	Schedule
SI	Solomon Islands
SILR	Solomon Islands Law Reports
SPLR	South Pacific Law Reports
Tonga LR	Tonga Law Reports
Tongan LR	Tonga Law Reports (second series)
UK	United Kingdom
UCQB	Upper Canada (Ontario) Queen's Bench Reports
USP	University of the South Pacific
Van	Vanuatu
Van LR	Vanuatu Law Reports
WSLR	Western Samoan Law Reports
WWR	Western Weekly Reports, Canada





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