

# VALE PROFESSOR EMERITUS PATERSON: THE END OF AN ERA!

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## INTRODUCTION

Before there was Paclii, before there was even email or Google, there was Professor Don Paterson. In the distant days, when access to Pacific law materials, both primary and secondary, was restricted by short print runs, limited photocopying facilities, expensive and sometime unreliable transport, and slow postal services, Professor Emeritus Don Paterson, better known to his students as ‘Papa Don’, spent a good part of his life gathering primary Pacific materials to share with his students and colleagues, and teaching and writing about the issues they raised.

Don commenced his legal studies at Victoria University of Wellington (VUW) in New Zealand. After completing an LLM and a JSD at Yale University, he returned to New Zealand and taught at VUW and Otago universities. In 1979, he moved to Fiji to take up a position as professor of public administration at the University of the South Pacific (USP). In 1985, Don was appointed as the Foundation Professor of Law and Head of USP’s newly established Pacific Law Unit and it was in that capacity that I first met him. This article discusses the author’s long standing association with the late Professor Paterson and the legacy that he has left for future generations of lawyers. It explores and contextualises some of his major contributions to teaching and learning and to Pacific legal scholarship.

## A LONGSTANDING ASSOCIATION

My first encounter with Don was in 1985 on a research trip to Vanuatu. As Head of USP’s Pacific Law Unit and the sole academic, his domain was essentially a timber hut, but with a million vatu view, on a ridge in Port Vila.<sup>1</sup> From the first, Don was generous with his time and willing to share his expertise with a fledgling Pacific researcher, characteristics that he displayed throughout our long association. I met him again a little while later when I went to Port Vila for a conference entitled ‘Lawyers in Paradise’! The name belies the fact that there were some serious sessions, without which I doubt whether Don would have agreed to be involved.

My next encounter with Don was at a four day Curriculum Workshop meeting, held in Vanuatu in March 1991 to advise on the curriculum for USP’s new Law degree. This involved 24 people, including representatives of USP; and Judges, Government lawyers and legal practitioners representing member countries of the University, including myself, as nominated representative of Solomon Islands Bar Association. Additionally, there were a number of consultants from outside the region, including four professors from Commonwealth Law Schools, two professors from the French University of the Pacific, and two lawyers from the

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<sup>1</sup> See further, Don Paterson, ‘The Pacific Law Unit’ in Guy Powles and Mere Pulea (eds) *Pacific Courts and Legal Systems* (1988) 286.

United Kingdom. The workshop was chaired by the inimitable Mr Neroni Slade, then Assistant Director of the Legal Division of the Commonwealth Secretariat. There were some strong personalities and opinions present and Professor Paterson, who was the local USP host, had the unenviable task of shepherding participants, which he did with his trademark patience and courtesy. It is a credit to Don and the Chair that the Workshop produced a curriculum proposal and a syllabus for each subject which were accepted by all present and later approved, with only minor modification, by the responsible USP Board.

When the Law School was established in 1992, Don was one of the foundation professors and remained on staff, actively teaching and researching for the rest of his life. In 1997, he had the well-deserved honour of being awarded the School's first Emeritus Professorship. From 1996 to 2000 I was a member of the Law School staff and had the opportunity to work more closely with Don and so began an era of collaboration on our areas of shared interest, which lasted right up until early 2021. This was also a time when our working relationship developed into a friendship. It cannot be said that we always agreed, but our differences of opinion were always respectful. On such occasions, Don would give me a rueful smile, and I can still hear him saying 'Jennifer, Jennifer, Jennifer'!

## **A LEGACY OF TEACHING AND MENTORING**

The Pacific Law Unit's initial course was a certificate in law, to which was soon added a Diploma in Legal Studies. When these courses were reviewed in 1992 they were deemed to be of high quality, as was the teaching of the courses in Fiji.<sup>2</sup> In other countries, the courses were mainly delivered remotely, which is one of the reasons why Don's collections of materials were so important. To accompany these 'Readers', he wrote comprehensive Course Books in a straightforward style that made them accessible to students throughout the region, many of whom spoke English as a third or fourth language. As USP is a dual mode university, this work continued after the establishment of the Law School.

As mentioned above, USP's Law School was established in 1992. It was to deliver a 4 year LLB Program from a new campus in Port Vila, provided by the government of Vanuatu. In 1994, the School admitted its first cohort of undergraduates. Through his work in the School (which later became part of the Faculty of Arts, Law and Education, and more recently a discipline within the School of Law and Social Sciences) Don played a vital role in educating and training local lawyers, which contributed to the localisation of Pacific Benches and Bars. This training has also extended, both inside and outside the university, to lay adjudicators, court administrators, paralegals, and government officials, providing an essential ingredient in the development of independent Pacific nations.

Don also played an important supervising and mentoring role. Over the years, Don has supervised a vast number of research projects, including those undertaken by undergraduates and by students in the Masters' and PhD Programmes. Outside this formal role, Don took an unfailing interest in students and their welfare and was always available to offer advice. In the early days of the LLB programme, when the largest class was about 75 students, he knew all

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<sup>2</sup> AH Angelo and J Goldring, 'The Study of Law at the University of the South Pacific', (1994) 24 *Victoria University of Wellington Law Review* 107.

of the students by name and, even when numbers increased,<sup>3</sup> Don knew the students in all his face to face classes.

## A LEGACY OF RESEARCH

### The early days

During his time of single-handedly running the Pacific Law Unit, Don somehow found the time to research and write. In the early days he concentrated mainly on filling the void, writing materials specifically designed for Pacific Island students who were usually studying as part of training for para-legal purposes. In that capacity he began his lifelong task of gathering primary materials and secondary materials and annotating them to make them accessible to students studying law throughout the Pacific region. The importance of these materials cannot be underestimated, given that access to primary materials is an essential element of access to justice and, more broadly, to the rule of law.

### Later work

When the Law School was founded, Don continued his work of compiling a comprehensive set of materials for a broad range of legal courses, providing a solid foundation for the newly appointed staff of the School, some of whom arrived with little knowledge of Pacific Law or culture.

Across his lifetime, Don also found the time to publish a diverse range of articles and chapters, including a contribution to Michael Ntumu's 'South Pacific Legal Systems';<sup>4</sup> a tribute to another great Pacific scholar, Ron Crocombe, in 'Ron Crocombe: E Toa! Pacific Writings to Celebrate His Life and Work';<sup>5</sup> and a detailed analysis of the application of common law and equity in the South Pacific.<sup>6</sup> He also presented at numerous conferences<sup>7</sup> and workshops,<sup>8</sup> not only for students and academics, but also for government bodies and civil society.

Don's books include, 'South Pacific Property Law',<sup>9</sup> co-authored with Sue Farran. He was also co-author of 4 editions of 'Introduction to South Pacific Law'.<sup>10</sup> This book is now heading for a 5<sup>th</sup> edition, which still relies heavily on Don's earlier contributions.<sup>11</sup>

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<sup>3</sup> In first semester 2022, the largest online course had 323 students; the largest face to face undergraduate class on Laucala Campus had 269 students; the largest face to face class on Emalus Campus had 62 students: email from Acting Discipline Coordinator, Discipline of Law, USP to author, 17 May 2022.

<sup>4</sup> Don Paterson and Stephen Zorn, 'Fiji' in Michael Ntumu (ed), *South Pacific Legal Systems* (1993) 26; Don Paterson, 'Vanuatu' in Michael Ntumu (ed), *South Pacific Legal Systems* (1993) 365.

<sup>5</sup> Don Paterson, 'Ron Crocombe's Contribution to the Promotion of Law at the University of the South Pacific' in Linda Crowl, Marjorie Tuainekore Crocombe and Roderick Dixon (eds), *Ron Crocombe: E Toa! Pacific Writings to Celebrate His Life and Work* (2013) 167.

<sup>6</sup> Don Paterson, 'The Application of the Common Law and Equity in Countries of the South Pacific' (1997) 21 *Journal of Pacific Studies* 1.

<sup>7</sup> See, eg, Don Paterson, 'The Constitutionality of Land Dealings In Vanuatu' (Presented at the Australasian Law Teachers Association Conference, Victoria University of Wellington, 7-9 July 2016).

<sup>8</sup> See, eg, World Bank, 'Vanuatu Chief's Legal Education Pilot Program', in which Professor Paterson was a partner: <<https://worldjusticeproject.org/our-work/programs/vanuatu-chiefs-legal-education-pilot-program>> (Accessed 10 May 2022).

<sup>9</sup> Don Paterson and Sue Farran, *South Pacific Property Law*, (2004).

<sup>10</sup> Jennifer Corrin and Don Paterson, *Introduction to South Pacific Law* (4th ed, 2017).

<sup>11</sup> The 5<sup>th</sup> edition has been revised by Jennifer Corrin and Justice Vergil Narokobi.

Don also edited the work of others and for many years was the editor of this journal and a long serving member of its editorial board. In 2016, he co-edited a special issue of the journal as a tribute to the late Guy Powles.<sup>12</sup>

It is not possible to review all Don's work in a piece of this size, but his work in three areas where he made a particular contribution, that is customary laws; customary laws and human rights; and customary land laws, will be contextualised and discussed in the following sections.

## Customary Laws

In addition to writing about State law, Don wrote extensively on customary laws and their relationship to State law. Customary laws raise complex issues for Pacific Island countries. In Cook Islands, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tuvalu and Vanuatu, the written law makes express provision for customs or customary law to be applied as part of the law of the country by all courts. In Vanuatu, for example, it is provided that 'Customary law shall continue to have effect as part of the law of the Republic of Vanuatu.'<sup>13</sup> As commented by Professor Paterson, '[t]his does not expressly state, however, what the relationship of custom is to the other components of the legal system: Does custom override the laws which article 16 of the Constitution states that the Parliament of Vanuatu may make?'<sup>14</sup>

Courts in Vanuatu are given little assistance in solving the question Don had posed, but instead are faced with the following cryptic mandate:

If there is no rule of law applicable to a matter before it, a court shall determine the matter according to substantial justice and whenever possible in conformity with custom.<sup>15</sup>

As noted by Professor Paterson, this does not make it clear whether the term 'law' includes the rules of common law and equity, leaving us with the question, '[d]o the unwritten rules of law also override custom?'.<sup>16</sup> Given that 'customary law' has been expressly stated to be part of the law in an earlier article, it is also arguable that it is itself a 'rule of law', distinguishable from mere 'custom', and thus, at the very least, on a par with common law and equity.

This is followed later in the Constitution by another controversial provision:

Until otherwise provided by Parliament, the British and French laws in force or applied in Vanuatu immediately before the Day of Independence shall on and after that day continue to apply to the extent that they are not expressly

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<sup>12</sup> Jennifer Corrin, Sue Farran and Don Paterson (eds), (2016) 1 *Journal of South Pacific Law* (Special Issue).

<sup>13</sup> *Constitution of Vanuatu 1980*, art 95(3).

<sup>14</sup> Don Paterson, 'Two Recent Cases of Abuse of Chiefly Powers in Vanuatu' [2019] *Journal of South Pacific Law* 5. See also, Morsen Mosses, 'Custom as a Source of Law in Vanuatu: A Critical Analysis' [2017] *Journal of South Pacific Law* 2.

<sup>15</sup> *Constitution of Vanuatu 1980*, art 47(1).

<sup>16</sup> Don Paterson, above n 14.

revoked or incompatible with the independent status of Vanuatu and wherever possible taking due account of custom.<sup>17</sup>

This raises another question posed by Professor Paterson, '[d]oes custom override, or is it subordinate to, British and French laws'.<sup>18</sup>

The provision in the Constitution of Samoa is equally opaque. Art 111(1) states that:

'law' means any law for the time being in force in Samoa; and includes ... any custom or usage which has acquired the force of law in Samoa, or any part thereof, under the provisions of any Act or under a judgment of a court of competent jurisdiction.

This might mean that only those customs which were endorsed by legislation or judicial decision when the Constitution came into force are part of the law, or, if the Constitution is regarded as always speaking, then customs subsequently endorsed by the State would also form part of the law.<sup>19</sup>

The position in Solomon Islands is less problematic. The Constitution states that 'customary law shall have effect as part of the law of Solomon Islands'.<sup>20</sup> This is qualified by the subsequent paragraph, which states that this provision 'shall not apply in respect of any customary law that is, and to the extent that it is, inconsistent with this Constitution or an Act of Parliament'.<sup>21</sup> Whilst this is not as cryptic as the Vanuatu provision, an uncertainty has arisen as to the meaning of the term 'Act of Parliament'. Does this mean that customary laws are invalidated only if they are contrary to an 'Act of Parliament' of Solomon Islands, or are they also outlawed for conflicting with an Act of Parliament of the United Kingdom? In *R v Ngena*<sup>22</sup> and *K v T*<sup>23</sup> it was held that the term referred only to Acts of Solomon Islands Parliament. From *K v T*,<sup>24</sup> it appears that United Kingdom statutes of general application stand on a par with customary laws. The Constitution also makes it clear that the principles of common law and equity are not to apply 'if they are inconsistent with customary law applying in respect of the matter'.<sup>25</sup> Accordingly, customary laws are subordinate to the Constitution and to Acts of Parliament of Solomon Islands, but override common law and equity to the extent that they apply 'in respect of the matter'.

Don wrote extensively about these types of issue, including co-authorship of a chapter on customary law exploring many of the issues that have confounded Pacific scholars.<sup>26</sup> He also co-authored a work on hybrid courts in Melanesia for the World Bank.<sup>27</sup> His recent publications on customary laws include a commentary on two important cases relating to

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<sup>17</sup> *Constitution of Vanuatu 1980*, art 95(2).

<sup>18</sup> Don Paterson, above n 14.

<sup>19</sup> See further, Jennifer Corrin and Don Paterson, above n 10, 59.

<sup>20</sup> Sch 3, para 3(1).

<sup>21</sup> Sch 3, para 3(2).

<sup>22</sup> [1983] SILR 1.

<sup>23</sup> [1985-86] SILR 49.

<sup>24</sup> [1985-86] SILR 49.

<sup>25</sup> Paragraph 2(1)(c) of Sch 3

<sup>26</sup> Jennifer Corrin and Don Paterson, above n 10, chap 3.

<sup>27</sup> Daniel Evans, Michael Goddard and Don Paterson, 'The Hybrid Courts of Melanesia', (Working Paper No. 13, World Bank Justice and Development Working Paper Series, 2010).

chiefly powers in Vanuatu.<sup>28</sup> Don's pioneering work in this area has doubtlessly been invaluable to his contemporaries and current researchers, and to members of Pacific societies grappling with these issues.

The other question relating to accommodation of customary laws in the State sector is how to discover their content and scope. The Constitution of Vanuatu, like many other Independence constitutions in the region, leaves the means of ascertainment of rules of custom for Parliament to provide,<sup>29</sup> something which it has never done, except in relation to customary land.<sup>30</sup> Only Cook Islands, Papua New Guinea, Kiribati, Nauru, Tokelau, Tuvalu and Solomon Islands have ventured into this hostile territory, and the legislation in Solomons has not been brought into force.<sup>31</sup> Further, such forays have thrown up new issues. For example, the insertion of Art 66A in the Constitution of the Cook Islands, which has been held to provide 'an alternative to the common law approach of recognising and integrating custom into a legal system',<sup>32</sup> has raised the question of who is included in the 'Aronga Mana'. The opinion of this body on matters relating to 'custom, tradition, usage or the existence, extent or application of custom' is provided to be 'final and conclusive' and not to be questioned in any court. However, the Privy Council has commented that, 'it is highly unsatisfactory that there should be no legislation identifying it, determining its composition, or declaring how its acts are to be recognised as such.'<sup>33</sup>

In countries without any guidance on how to ascertain customary laws, the courts have been left with the unenviable task of trying to decide what method of proof should be employed. Their approach has been inconsistent, often resorting to treating custom as if it was foreign law<sup>34</sup> or as a question of fact, rather than law, akin to the concept of custom in English law.<sup>35</sup> Where courts have taken a more constructive attitude, this initiative has sometimes been thwarted on appeal.<sup>36</sup>

The problem of how to ascertain customary laws is exacerbated by the scarcity of empirical work. Don's last works on customary laws were quite different to his earlier publications. They consisted of a three-part collection: 'Traditional and Contemporary Customs and Practices of Vanuatu', which was published in 2018, and a two volume collection of Vanuatu Custom Stories, the second volume being published posthumously. Quite rightly, Don saw these books as part of his legacy to Vanuatu, and they were intended to be presented as a gift to the nation of Vanuatu during the 40th Independence Anniversary Celebrations.

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<sup>28</sup> Don Paterson, above n 14.

<sup>29</sup> *Constitution of Vanuatu 1980*, art 51.

<sup>30</sup> See *Custom Land Management Act 2013* (Vanuatu), which provides a scheme for determination of custom 'owners' and resolution of disputes over customary land tenure rights.

<sup>31</sup> *Customs Recognition Act 2000* (Solomon Islands).

<sup>32</sup> *Framhein v Attorney General* [2017] CKHC 37, [139].

<sup>33</sup> *Browne v Munokoa* [2018] CK-UKPC 1, [34].

<sup>34</sup> See further, *Hunt v De Miguel* [2016] CKCA 2, [55].

<sup>35</sup> See further, *Browne v Munokoa* [2018] CK-UKPC 1, [16].

<sup>36</sup> See, e.g., *Banga v Waiwo* [1996] VUSC 5; *New Britain Oil Palm Ltd v Sukuramu* [2008] PGSC 29, [18].

## Customary Laws and Human Rights

Another area of particular interest to Professor Paterson was the intersection between customary laws and human rights, which brought together two of his areas of expertise.<sup>37</sup> Whilst there is no doubt that human rights and customary laws are sometimes complementary, a number of decisions of regional courts reveal a tension between the two. The approach of the courts has not always been consistent, with some cases upholding human rights at the expense of customary laws and others promoting customary laws over human rights. The differences are sometimes due to the relevant constitutional provisions and sometimes to the approach of the particular court. An example of the former can be found in *Lafaialii v Attorney General*,<sup>38</sup> where the Samoan Supreme Court of Samoa held, on the basis of the words of Art 11,<sup>39</sup> that the *Alii ma Faipule* were acting in breach of the Constitution when they banished from the village four families involved in running bible classes. An example of the latter can be found in *Pusi v Leni*,<sup>40</sup> where the court refused to grant constitutional relief to the plaintiff, who alleged that he had been banished from the village by the chiefs. The Chief Justice held that the plaintiff's individual rights had not been contravened, as he had not established that he was subject to a banning order. Rather, His Lordship considered that the plaintiff's reluctance to go to the village was due to the fact that he had not yet atoned for his serious breach of custom.

In some cases, where the relevant constitutional provisions are open to different interpretations, the divergence of approach is due to both the sections in question and the way they are interpreted. Thus for example in *Tanavulu v Tanavulu*,<sup>41</sup> the Court of Appeal of Solomon Islands upheld the High Court's refusal to outlaw a customary law which prevented a wife from obtaining a share of her late husband's provident fund contributions, on the basis of a broad interpretation of a constitutional provision, which they considered shielded customary law from human rights provisions.<sup>42</sup> This can be compared with *Re Willingal*,<sup>43</sup> where the National Court of Papua New Guinea managed to uphold human rights whilst carefully balancing these rights against customary laws. Injia J distinguished, '[b]ad customs [which] must give way to the dictates of our modern national laws' from other 'customary beliefs, rules and actions' which statutes and constitutional laws allowed, 'to play a part in the modern courts'. It is worth noting that the position in Papua New Guinea is more straightforward, as the Basic Rights provisions in the Constitution are clearly stated in Sch 2.1 to prevail over customary laws and this is underlined by the Underlying Law Act 2000.

A relatively recent Vanuatu case which bears some similarity to *Re Willingal* and graphically illustrates the continuing conflict between customary laws and human rights is *Public Prosecutor v Nawia*.<sup>44</sup> On sentencing for reckless driving causing death, the Supreme Court of Vanuatu was asked to take into account a customary reconciliation ceremony that the

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<sup>37</sup> In 2000, Don Paterson published an edited collection, *Selected constitutions of the South Pacific* (2000).

<sup>38</sup> [2000] WSSC 18.

<sup>39</sup> *Constitution of Samoa 1960*.

<sup>40</sup> [1997] SBHC 100.

<sup>41</sup> [1998] SBCA 8.

<sup>42</sup> *Constitution of Solomon Islands 1978*, s 15(5)(d).

<sup>43</sup> [1997] PNGLR 119.

<sup>44</sup> [2010] VUSC 52. See also, *Public Prosecutor v Kuao Sasia* [2010] VUSC 8.

defendant had performed to the chiefs and relatives of the deceased and which had been accepted by them. The list of goods presented, set out in full in the judgment, was as follows:

1. 15 stampa kava VT79,000
2. 17 bundle banana VT4,400
3. 60 bundle taro VT24,000
4. 3 basket kumala VT1,300
5. 3 buluk VT120,000
6. 5 pigs VT62,000
7. 15 mats VT11,500
8. 6 baskets VT1,800
9. 216 yard calico VT41,040
10. 1 linen bedsheet VT510
11. 5 x 18kg rice VT18,000
12. 2 x 25kg bag salt VT6,000
13. 1 young girl ...?
14. Cash money VT2,000,000

On the basis of this, the court decided not to award further compensation, but expressed ‘the gravest concern’ about the inclusion of the young girl as part of the compensation. Fatiaki J considered that,

this is somewhat like child trafficking. In this instance, a young girl was offered as part of the presentation of gifts in a custom ceremony of reconciliation. Even accepting that there was the loss of two lives in the accident and that the presentation of a young girl might be seen as a form of reparation and replacement for the loss, such a practice in this day and age objectifies and devalues the women of Tanna and denies them their fundamental rights to humane and equal treatment, to life, liberty and security of the person. Young girls must not be treated as mere objects or commodities that can be swapped or exchanged under any circumstances and for whatever reason, and a customary practice that treats them in that abject manner is inhuman and cannot be founded on Christian principles. Such practices should not be sanctioned by the law which exist for the protection of all.

It was ordered that the girl be returned forthwith to her parents.

Obviously, reconciliation of fundamental principles of human rights and customary laws is a complex task. Don wrote extensively on these issues, including leading co-authorship of a section in a book chapter on constitutional law.<sup>45</sup>

### **Customary Land Laws**

Don made a particular contribution to the development of the law relating to customary land. The constitutions or legislation in Cook Islands, Fiji, Kiribati, Nauru, Niue, Samoa, Solomon Islands, Tokelau, and Vanuatu provide that customary land is to be governed in accordance

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<sup>45</sup> Jennifer Corrin and Don Paterson, above n 10, 89-93.

with customary laws,<sup>46</sup> but fail to provide bridges to deal with the problems that arise when that land is used for commercial purposes.

As in the case of his research on customary laws and human rights, Don's knowledge of constitutional law added an extra dimension to his work on customary land. Don's recent publications in this area include sections of the co-authored book mentioned above, 'South Pacific Property Law',<sup>47</sup> leading co-authorship of a section in a book chapter on land law,<sup>48</sup> and numerous articles.<sup>49</sup>

Don also played a major consulting role in the development of the Customary Land Tribunals of Vanuatu.<sup>50</sup> Whilst these forums have been replaced by other bodies,<sup>51</sup> the early work was a valuable enterprise, testing the possibilities for resolving customary land disputes that have been so problematic for Vanuatu and other Pacific island Countries. In 2014, Don was appointed as the Chair of the Land Management Planning Committee of Vanuatu, which had the onerous duty of considering all applications for the issuance of a negotiator's certificate under the Custom Land Management Act 2013. In 2015 alone, it received 2015 applications.<sup>52</sup>

## CONCLUSION

As commented by Don himself, 'it is apparent that there are a number of challenges facing small island countries of the South Pacific ... They are not insurmountable challenges, but they are serious and persistent, and it will require determination and perseverance to overcome them.'<sup>53</sup> Both determination and perseverance are displayed in Don's work, which has contributed to nation building in Pacific Island States, both in the form of human capital and Pacific jurisprudence. Whilst this article has discussed some of the most notable of Professor Paterson's achievements, it must be said that his contribution to the Pacific is more than the sum of its parts. So what was it that made Papa Don a national treasure in Vanuatu and endeared him to so many across the Pacific Islands? Apart from determination and perseverance, patience and courtesy are words that have appeared above and come straight to mind when thinking about Papa Don.

Today, the era of postal and personal collection of legal materials is largely over; many documents can be sourced by email and from the Internet. However, there is no doubt about

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<sup>46</sup> *Cook Islands Act 1915* (New Zealand), Art 422; *iTaukei Lands Act 1905* (Fiji), s 3; *Magistrates Court Act* [Cap 52] (Kiribati), s 58(1); *Custom and Adopted Laws Act 1971* (Nauru), s 3(1); *Niue Amendment Act 1968* (No 2) (New Zealand), s 23; *Constitution of Samoa 1962*, art 101(2); *Land and Titles Act* [Cap 133] (Solomon Islands), s 239(1); *Constitution of Tokelau 2006*, Rule 15; *Native Lands Act* [Cap 46.20] (Tuvalu), s 122; *Constitution of Vanuatu 1980*, art 73.

<sup>47</sup> Don Paterson and Sue Farran, above n 9, 13, 16, 30-31, 36-37, 41-43, 88-89, 145, 160-162, 189-190, 197, 199, 200, 251-252.

<sup>48</sup> Jennifer Corrin and Don Paterson, above n 10, 325-326.

<sup>49</sup> See e.g., Don Paterson, 'Exploring some Fundamental Assumptions in the Constitution about Customary Land' [2015] *Journal of South Pacific Law* 12; Don Paterson, 'Some Recent Interesting Cases Relating to Land in Vanuatu' [2019] *Journal of South Pacific Law* 4; and Don Paterson, above n 7.

<sup>50</sup> See *Customary Land Tribunals Act 2001* (Vanuatu), repealed by the *Customary Land Tribunal (Repeal) Act 2013* (Vanuatu).

<sup>51</sup> See *Custom Land Management Act 2013* (Vanuatu), Parts 4, 6, 7 and 8.

<sup>52</sup> See further Sue Farran and Jennifer Corrin, 'Developing Legislation to Formalise Customary Land Management: Deep Legal Pluralism or a Shallow Veneer?' (2017) 10(1) *Law and Development Review* 1.

<sup>53</sup> Don Paterson, 'Legal Challenges For Small Jurisdictions In Relation To Privacy, Freedom Of Information And Access To Justice' (2000) 4 *Journal of South Pacific Law* 4.

the value of Don's pioneering work, tracking down the pages relied on by his students and colleagues in their teaching, learning and research, and by the courts and lawyers in the application of the law. Similarly, his enterprises, teasing out the issues arising from these sources and the relationship between them, provided a foundation for a great deal of the scholarship that ensued. Professor Emeritus Don Paterson has left a lasting legacy to current and future generations of South Pacific scholars and lawyers, including those who have contributed to this issue, and this ongoing work is something of which he would be justly proud.