

Book Review: Findlay, M. Criminal Laws of the South Pacific IJALS, USP: Suva (1996).

BY TESS NEWTON

LECTURER
SCHOOL OF LAW
UNIVERSITY OF THE SOUTH PACIFIC

Title: Criminal Laws of the South Pacific

Author: Findlay, M.

Published by: Institute of Justice and Applied Legal Studies (USP), Suva (1996)

ISBN: 982-352-001-1

pp: 326

This volume is the first to have been published in the 'Laws of the South Pacific' series by the Institute of Justice and Applied Legal Studies. As such it not only provides an introduction to the development of Criminal Law and Procedure within the South Pacific region but also gives an insight into how the USP law degree has developed to date, some of its aims and objectives and some of the challenges (and even frustrations) that are faced by the students and academics who are working within the Law School.

The volume is designed primarily for students from the South Pacific as a much needed means of access to 'local' law. It covers a wide range of issues in reference to substantive criminal law and associated rules of criminal procedure. It is also a useful introductory text for anyone wishing to engage with the law of the region within the criminal field who might otherwise feel daunted by a combination of numerous jurisdictions and difficulty in obtaining primary source materials, not to mention a dearth of secondary source material in this area. It is particularly useful to those who come from a jurisdiction which does not have a codified approach to criminal law as all the jurisdictions of the USP region operate under a penal code of one sort or another.

The text deals primarily with the introduced and adopted law that operates in the South Pacific although mention is also made of some aspects of the impact of custom law and how, if at all, it might intersect with introduced law. In the earlier part of the book, some of the references to the various codes are inaccurate in terms of the section numbers that are cited and these need to be checked against the actual legislation. This is not necessarily a bad thing as it should highlight to students that this text is not to be read in place of the legislative provisions, but alongside them.

It is impossible to teach and study the law that exists within the South Pacific region without engaging at some level in a comparative exercise. This text should provide students with an introduction to how this might be done in one or more ways. Students are encouraged to compare the development of the law in differing jurisdictions within the region, rather than focusing solely on the law as it operates within their own. They should be aware not only that some jurisdictions have different starting points in terms of the basic legislative framework that is adopted but also that, even where two jurisdictions have penal codes that are formulated in exactly the same terms, it is possible that the jurisprudence of each jurisdiction will develop in differing ways as the legislation is subjected to localised judicial interpretation. Similarly, students are encouraged to note points of comparison between the codified approach to criminal law that pertains in the jurisdictions of the South Pacific and the non-codified approach that may exist elsewhere, particularly in England and Wales. A further area of comparison that is flagged for students' attention within this text is that of the scope and imperatives of customary law in relation to those of introduced law.

The text is more than simply a 'black letter' exposition of the criminal laws that exist in the various jurisdictions of the USP region. It grounds its examination of criminal law and procedure within a wider historical, political and social context that students should find pertinent and challenging. Similarly, the

author makes frequent references to issues of gender, sexuality, class and culture that may be considered contentious in any part of the world and raise questions that should stimulate and provoke all students of criminal law. The particular cultural dimension(s) that pertain within the context of the study of law in the South Pacific should be viewed as an enrichment of the debates and concerns that arise globally in conjunction with issues of criminal law and procedure.

In addition to considering the substantive criminal laws that pertain in the jurisdictions of the South Pacific, this text also serves as an introductory guide to aspects of the criminal justice systems of the region, with particular focus on the pre-trial and trial stages. The author acknowledges that much of this material is based on the work done by Prof. Don Patterson and Alan Marsh of USP in the development of materials for para-legal certificate courses that have been offered by USP for several years.

This text should be used alongside other texts that cover issues of criminal law principle and theory in more detail, in order that students can approach the material that this book contains (as well as the material that they will be directed to as a result of using it) with a thorough grounding in the concepts that form the core of 'classical' criminal law. This commentary will be welcomed by those who work in the field of South Pacific law as a much needed safety net to assist in the otherwise daunting task of identifying and analysing the criminal laws of the South Pacific region.

Tess Newton,
School of Law,
University of the South Pacific,
Port Vila, Vanuatu