

REVIEW ARTICLE*

Heads of State in the Pacific: A Legal and Constitutional Analysis by YP GHAI AND J COTTRELL (The Institute of Pacific Studies, University of the South Pacific, 1990) pp i-xiv + 1-276. Soft cover recommended retail price \$15.00, (ISBN 982-02-0017-2).

The authors of this text set out to produce primarily a formal study of the constitutional roles of heads of state in a number of Pacific Island communities, focussing on the constitutional provisions relating to the office of head of state and on the interpretation of those provisions. The heads of state discussed are those of Belau, the Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, the Marshall Islands, Nauru, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu and Western Samoa. The book sets out to be a self-contained study dealing with only this one aspect of constitutional organisation within the Pacific Island communities covered. However, as the authors themselves point out in the Preface, a study of the office of head of state "is to a large extent a study of government". Such a study cannot be undertaken in isolation from its political, governmental, and general legal and constitutional context, and indeed this context is an underlying thread throughout the work.

A discussion of the office of head of state in the Pacific, although confined to a specific topic and geographical area, in fact necessarily encompasses many different models, roles and functions. Hence the book is not narrow in coverage but ranges over a wide variety of constitutional offices and institutional arrangements. The necessity for this broad sweep derives in part from differences in the traditions of former (and current) metropolitan powers, and in part from differences in indigenous Pacific customs and organisations, while some unusual constitutional provisions have arisen as a consequence of a melding of these two sets of influences.

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Nor does the focus on just one aspect of constitutional organisation mean that the material addressed lacks depth or complexity. The topics considered encompass a broad ranging enquiry into an area of government and governmental relations and interactions characterised by diversity, fine distinctions and inter-woven themes and considerations. The work is made all the more informative by the rich use of comparative material, both to illustrate the likely effect of a Pacific constitutional provision, and to demonstrate differences between jurisdictions.

Many issues are addressed: the desirability or otherwise of the separation of the head of state from the head of government; monarchical contrasted with republican heads of state, and the differing roles, positions and functions of the head within each category; relationships with the executive and legislative branches of government; the role of the Queen as a Pacific head of state and the drawing of comparisons between her role here and her role as head of state in the United Kingdom and elsewhere; the rules governing the appointment, tenure and liabilities of heads of state; provisions relating to deputies and gap-filling; the powers and functions of heads of state - including differences in the requirements to act on advice, the symbolic role of the office and the relationship of its holder with the armed forces; the powers and roles of heads of state during emergencies, and questions going beyond constitutional provisions such as the consequences of successful coups and the ramifications of the doctrine of necessity.

Given the focus on the constitutional provisions relating to the office of head of state in selected political entities, it is perhaps not surprising that the book does not always provide flowing reading. It is, in effect, a compilation of the constitutional provisions relevant to a specific executive office in a number of places accompanied by explanation of their interpretation and impact. In parts the work would benefit from some tighter structuring - on occasion there is repetition, and a sense of dealing with lists of data, as in the section concerning the summoning and proroguing of legislatures.

Offsetting this, many of the discussions of the likely, or adjudged, impact and interpretation of some of these provisions, the explanations of the surrounding political context and the examination of some of the instances used by way of illustration, do bring the work to life. So, also, do the comparisons and examples which are drawn from other, non-Pacific Islands, jurisdictions, and the careful attention to factors of history, culture and politics. These, as is clearly pointed out, often make the constitutional realities in Pacific countries quite different to the situation in African, Caribbean, European and American states, however similar some of their constitutional provisions might appear to be.

In the authors' words, "it is important to remember that all constitutions are a product of place and period." The concept of the Pacific place and period which provides the context of the constitutional provisions studied here is instructively developed throughout.

The text usefully fills a gap in the information available about systems of government in Pacific Island political entities. The comprehensive coverage of the subject-matter, and the depth of knowledge about broader Pacific governmental matters (as well as the impressive familiarity with constitutional matters in other [largely, although not exclusively, Commonwealth] jurisdictions which permeates the text) makes this an interesting, and even essential, addition to any library collection addressing Pacific issues.

In view of the book's potential as a useful reference text it is disappointing that the timing of its publication was such that it went to press without awaiting the incorporation within its pages of the relevant provisions of the new (July 1990) Fijian constitution. The book discusses in the main part of its text not the current provisions but the provisions for the office of head of state contained in the 1970 Fijian constitution. However there is discussion in the concluding chapter of provisions of the 1988 government-proposed draft constitution, and a later discussion, in an Appendix, of the pertinent terms of a number of decrees which followed the revocation of the 1970 constitution. All this leaves the work unsatisfyingly incomplete given the general value of the information elsewhere contained in the book.