LEGAL RESEARCH IN NEW GUINEA
SOME AIMS, PROBLEMS AND TENTATIVE ANSWERS

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CONTEXTS AND PROBLEMS OF LAW

At a date within the next five to ten years the first independent New Guinean Government could be faced with the problems of maintaining a durable rule of law through the country. What kind of legal system is a self-governing New Guinea likely to inherit?

One thing seems clear. Whatever might happen after that date, before it no Australian Administration is likely to yield to pressure—however insistent—to do away with the entire established legal structure and countenance its replacement with the existing mosaic of traditional (and neo-traditional) rules and procedures. Any expectation that custom could be forged into an exclusive uniform jurisprudence geared to the needs of the new nation would be foolishly misplaced; as misplaced as that which might now envisage a life of perfect accommodation for the native peoples under what they have come to call "lo bilong Gavmen".

The only realistic course seems to be one that will lead (with decent haste) toward some kind of working association or synthesis between what is worth preserving of the "western" system and the on-going jural *Real-politik* of native life.

As a statement of aim this may sound rude and restricted. After all, the Territory is a veritable laboratory of law in which any number of fascinating jurisprudential exercises could be carried on. I am not oblivious to the possibilities of this or to its legal-historical and comparative law value. But in the present political context I see the investigation of by-ways as justifiable only where they may be expected to lead into the main road. Five or ten years is little time in which to begin constructing that road. The legal engineer must plan across a broad vista, but he will have to work in blinkers.

The chief areas of problem and inquiry can be boiled down to these:

1. In the sector of legislation and case law (and their procedures)—What is the Australian record to date? To what extent is the Territory's western-inspired law suitable to present and future circumstances?

2. What is the nature and content of native customary rules? What future is there for them? Are they capable of adaptation and reorientation which is necessary for their survival? *Is it possible to achieve a serviceable cohabitation of the two? How—with the greatest expedition and least human anguish —can this be done?*

These questions have been asked before, in regard to another continent.[1] Some of them have been asked of New Guinea and of Papua—by a German

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1 See Phillips, "The Future of Customary Law in Africa", (1955), *Journal of African Administration*, p. 151.

governor and periodically by Australian officials and lawyers. Attempts have been made to answer them, though of those on which I consider a fairly satisfactory solution could be based, few have been implemented in a fulsome way, several have not got past the drawing-board, others have been set in motion, though, for want of Administration support, often in a piecemeal and rather clandestine fashion. But that may be beyond the mischief of this article. Let us look at the law as it is, and at the problems of research.

BASIC LAWS AND BASIC PROBLEMS

From the earliest times of British and Australian control, two main categories of jural rules have co-existed in Papua and New Guinea. One, for the sake of convenience, may be termed "western". This purports to be a comprehensive, if not exhaustive, set of statutory, common law and equitable rules governing relationships in both the public and private law spheres. Under the second, *native custom*, may be subsumed the agglomerate of tightly localized, often ephemeral, "regular" practices and usages of the aboriginal inhabitants.[2] Here difficulties of collection and collation are compounded by a failure as yet to detect anything comparable with emergent patterns in the equally diversified (and possibly related) sectors of languages and socio-political organization generally.[3]

Up to very recent times, little or no direct legislative action had been taken in Papua to encourage the fusion of these two bodies of rules, though in practice judges and magistrates paid heed to native custom, especially where rights to land were in issue. In New Guinea tribal institutions, customs and usages have been expressly saved by statute so long as they have not conflicted with ordinances and have not been deemed to be repugnant (*quaere* in a European sense) to the "general principles of humanity". Yet, with the possible exception of land, it is broadly true to say that native usages in both Territories played no more significant role than a fairly minor interstitial one. Then in 1964 the *Native Customs (Recognition) Ordinance* became law in both Territories. By spelling out the areas of custom which are deemed amenable to evaluation and how such evaluation should be carried out (and not least by purporting to define "custom"), the ordinance does fasten the attention of courts on to the need to seek it out. Whether or not this legislation is likely to strengthen the position of native customary usages in the courts is discussed below.

THE "KNOWN LAW" LEGISLATION

Although s. 8 of the *Papua and New Guinea Act* 1949-1971 recognizes the separate statuses of the two Territories, s. 4 of that Act and Article 5 of the Trusteeship Agreement (relating to New Guinea) provide for an adminis-

2 I stop short of calling this "traditional law" because one suspects that a substantial part of the whole is still changing as a result of the communities' increasing contact with European culture (colonial style), e.g., with agencies of the Government, with the various missions, traders, and by association with specific innovations such as the transformation of a village's economy from one of subsistence gardening to cash-cropping, improved communications, plantation contract labour, etc.

3 That there is a failure "as yet to detect . . . emergent patterns" may be due to the fact that there has been little concerted effort by lawyers to assemble and classify the available anthropological material. As mentioned later there is a large amount of ethnographic writing which should help us understand how the native societies with closely integrated political, economic and magico-religious systems are organized. These studies contain detailed accounts of a number of pertinent institutions, notably marriage, inheritance, adoption and land rights.

trative, fiscal and customs union. Recent law reform legislation has been directed at bringing the statute law of the two Territories into line but a few divergencies still exist.

Apart from difficulties arising from the adoption at different times of the Criminal Code, no serious practical problems have resulted from discrepancies in the "basic law" formulae which import statute law to Papua and New Guinea. Finding the principles and rules of the "applicable" enacted law poses no very serious problem to the lawyer, or, for that matter, to anyone conversant with the workings of digests of legislation and the semantic freemasonry of legislative draftsmen. This branch of the law is, however, in sore need of a second consolidation. At an official level, experiments are being conducted as to the desirability and feasibility of drafting ordinances and subordinate instruments in simpler, clearer English.

A new consolidation and simplification (including investigation of the merits of translating certain enactments into Pidgin, Motuan or both) should be treated as urgent priorities. I would like to see these matters dealt with as part of a much broader reappraisal of the corpus of enacted law. A major overhaul needs to be carried out by a commission comprising distinguished Australian and overseas scholars with first-hand experience of "transitional" situations, together with native leaders, anthropologists and senior local lawyers. Its chief work should be to produce a general restatement of legislation having effect in the Territory and this should involve them in a consideration of what is, and what is not, appropriate to Territory circumstances.

COMMON LAW AND NATIVE CUSTOM

Perhaps the main area of concern to Territory lawyers and legal researchers is that of the mechanics of integrating custom and the "applicable" rules of English common law and equity.

By Ordinances of New Guinea and of Papua, the principles and rules of the latter are adopted;[4] so far as they are deemed applicable to the circumstances of the Territory in question. In practice, they have been applied almost automatically.

The *Native Customs (Recognition) Ordinance* 1963 tends to restrict the scope within which native "usages" etc. may be evaluated as "custom" by the various courts. Section 8 spells out the sectors in which custom may be taken into account in non-criminal cases.[5] Custom will not be recognized and enforced where it is inconsistent with legislation in force in the Territory or where it is "repugnant" or where it would result in injustice or would not be in the public interest. The Ordinance leaves much of the future of custom (and hence of integration) with the judiciary, especially on the test of public interest. In the case of clash between a regularly observed local practice and a rule of English common law, the bench could well develop a philosophy that to enforce a regular practice enjoying limited application

[4] In New Guinea, such principles and rules as were in force in England on 9 May 1921; in Papua such principles and rules "that for the time being shall be in force and prevail [in England]". Both formulae raise the question of what happens where the English rules have been modified or abolished by English statute of which there is no New Guinean or Papuan counterpart. The High Court considered the New Guinea formula in *Booth* v. *Booth* (1934-35) 53 C.L.R. 1.

[5] Understandably, the area in which custom may be relevant to criminal cases is much narrower—except in the matter of sentencing.

would not be in the interest of a law common to the country as a whole.[6] Although a genuinely integrated system will be long in the fashioning, such an attitude would largely derogate from any chance of a fair start being made.

The courts' general ignorance of custom remains unremedied. The 1963 legislation may serve as a constant reminder to the courts to dig for it, but one is left to ponder how often the spade will be blunted against old obstacles. Custom in Papua and New Guinea is highly variable in terms both of place and time of observance. A particular usage may obtain in a single hamlet or small group of hamlets only. The earnest collator may find that it holds for that place in July 1968 and, on his next visit in 1970, learn that it has been superseded by some very different one. Custom can be as fickle as Cleopatra and not nearly as accessible.

Before 1963 and since then, the various courts—especially the Land Titles Commission—have had cause to adduce and evaluate evidence of alleged customary rules but, with some notable exceptions, no adequate record has been kept. Since the evidence of custom is initially adduced at the lower levels of the courts system, for want of careful recording it is there that much of it gets buried. The machinery of mediation—as conceived in the *Local Courts Ordinance*—adds to this waste. Cases percolating upwards to the Supreme Court in which the consideration of custom may be critical are very rare. In their process and composition, the present courts may not be the best possible tribunals to engage in this important work. The existing mechanism for making appeals is highly unsatisfactory.

Granted reforms in these matters, the flow of authoritative decisions on custom would still prove too thin to afford reliable evidence for the detection of "patterns"—in the course of our lifetimes at any rate.

Should the courts be left to hammer out an indigenous common law case by case at their own pace? Or could the process of fashioning be hastened by means of a set of national and/or local codifications of custom?

The latter would require either a battalion of highly-trained field-workers (ever alert to recent "developments" and "modifications" of custom in all parts of the country), or sanguine reliance on the digesting and analytical skills of existing local machinery—probably the Local Government Councils. Either way, the codifier would be pushed into drawing some arbitrary lines.

Courts, however constituted, will continue to hear cases involving customary practices and the more readily ascertainable western rules. Local Councils will be encouraged to make collections of certain kinds of custom. While this is going on, how can the researcher help?

Without eschewing those "sources", he can begin laying foundations for a general Restatement (in effect a "First Statement") of custom in the Territory. Before he sets about the work of collection and classification, the researcher must have in his mind some firm (though not rigid) notion of what he is looking for, also of how to find it.

As well as being most difficult to frame, a *definition* according to the unexceptionable, innate qualities of custom (in the western jurisprudential sense) would probably narrow the New Guinea field of research near to vanishing point. Section 4 of the 1963 Ordinance is realistic in its treatment

[6] Between them, s. 8 and a consistently "western" construction of the various disqualifying clauses, could cause the candle of custom to burn at both its ends. (See also on this question O'Regan, R. S., *The Common Law in Papua and New Guinea*, Law Book Company, 1971—Ed.)

of the "time immemorial" consideration as legally irrelevant in a Territory setting, but—doubtless by design—addresses the seeker's attention to no very positive intrinsic indicia. In its remarkable flexibility the statutory definition may be well-tailored for the courts but it is of little help to researchers.

Pending an authoritative statement on s. 4 by the Supreme Court, a possible rule-of-thumb *delineation* could be made in the following terms: Foreseeably regular or frequent conduct, the breach of (or deviation from) which carries social disapproval by way of regularly applied, firmly settled attitudes of censure in the community in question.

Obviously the legal research worker would have to view this statement in the circumscribing context of other sections of the Ordinance. But will he get this far?

At present he is one of a tiny band. Temporal urgency and a small budget compound his problems. He must make the best use of inadequate resources. Obviously he must collaborate with New Guinea anthropologists and capitalize on the steadily growing literature on their subject. This could be attended with its own problems.[7]

Two factors underline the desirability, perhaps necessity, of this reliance on anthropology. First the limitation of time. Lawyers are latecomers in the field of custom and have ahead of them too much work on specifically jural matters to permit them more than a few months in any one community. The general ethnographic research must either be already available in published form or be well under way when they join with anthropologists in the field.[8]

A lawyer's account of custom in a community will not be worth the ink without his sound knowledge of the social, economic and political life that goes on there. In most instances this knowledge will have to be culled from anthropologists (and, one hopes, vindicated by his own first-hand experience). His understanding of these matters is essential for, from them, he should be able to extract a set of organizing principles or jural norms[9] which hold for the particular group in a more permanent way than do the individual rules of local "custom". He could move from that community with a series of guidelines (one hesitates to call them its legal presuppositions or jural postulates) with the knowledge that while a dozen rules may be "waggling along the norm", the norm itself will keep relatively stable. Barring extraordinary accidents, the tree should outlive the fruit that ripens on its bough.

To what extent does this one piece of research advance the aim of making a compendious Statement of the Customs of New Guinea? By no more than a pin-prick—and there is a large map before us. The next problem is to make correct decisions on where the pins should be stuck. My guess would be in societies each of whose recorded ethnography suggests that it "typifies" a different form of social, political and economic organization (including differences in the degree of "modification" by contact with European influences).

If the guess is right, in ten years some headway could be made. If wrong, then "patterns" will remain elusive and other, better educated, guesses will have to be made. At the worst, there will be a decade of total error. (Though, in mitigation of a charge of wasted effort, there would be produced for the

[7] See *infra*.

[8] The latter would be preferable because of the language difficulties. It is estimated that there exist more than 750 distinct languages in the Territory.

[9] Including the generally accepted variations and deviations from those norms.

courts a dozen compilations of the guiding jural principles of unwisely chosen communities—together with the fast falling fruit of their individual customary rules.)[10]

WAYS OF WORKING

Lawyers and Anthropologists

In a recent paper Bohannan laments the fact that almost the only anthropological book that appears on the "Dean's list" in many Law Schools is Malinowski's *Crime and Custom in Savage Society*.[11] Presumably, he speaks of Law Schools in the U.S.A. In Britain, Australia, New Zealand and Malaysia, I cannot recall finding anything more ethnologically exotic for "recommended reading" than *Ancient Law*. No Gluckman, Hoebel, Radcliffe-Brown, Pospisil, no Malinowski, no Bohannan.

In joining this lament one is curious to learn how often students in our departments of anthropology and sociology are referred to the works of Ehrlich, Pound, Stone, Seagle, Allott and Elias. Probably the answer is "irregularly". But the question is hardly fair. Social anthropologists have produced a small legal literature of their own which in quality—and quantity also—exceeds the ethnological and ethnographical contribution by lawyers. The reason for this discrepancy should not surprise the university teacher of law. If his experience is like mine, he will have worked in faculties where students were actively discouraged from mixing law with anthropology—and seldom encouraged to study certain other of the younger sciences germane to legal administration. Until fairly recently, even "crime" —which any second-year LL.B. student can see as inseparable from the matrix of social relationships—was taught solely as an entity in law.

The moral is plain and it runs beyond the cram-reading of jurisprudence by non-lawyers and of nut-shells about anthropology by persons like me. (At best, this sweated erudition leads to the adoption of unreal, overly "pure" stances in the seconded discipline.) There must be made available university training in both subjects. Not as two discrete intellectual exercises, but ideally as a gap-spanning single course: name it jural ethnology, legal anthropology, ethno-jurisprudence, or what you will. At the University of Papua and New Guinea there is a strong case for this kind of training for all students aiming to graduate in law and for most local students of social anthropology. In some of the Australian universities it should be offered as an optional course for undergraduate and post-graduate study. At least one university—in Australia or the Territory—should teach the subject to certificate or diploma level—with an eye to the practical needs of New Guinea-bound lawyers (including judges) and Territory lawyers and magistrates attached to that university for this training.

Professor Peter Lawrence discussed this topic in an article in the first issue of this Journal and I will not dwell on it here. I am faced with the more immediate problem of whom to recruit as legal researchers—and how to recruit them—pending the graduation of the first crop of jural ethnologists.

[10] Of course, as evidence of custom, it would be subject to the same rules of ascertainment as testimony derived from other sources: see s. 5 of the Ordinance. That section provides *inter alia* for the ascertainment of a native custom as a matter of fact. (It is difficult to see how any particular custom which receives the consistent recognition of the courts can fail to avoid hardening into a rule of law.)

[11] See "The Differing Realms of Law", 67 *American Anthropologist*, no. 6, part 2, 33 at p. 36.

Suffice to say here that the best academically qualified law graduates will be very difficult to entice into what most of them might regard as an academic and professional cul-de-sac. The less well qualified might find the prospect of post-graduate study attractive, though it is problematical whether the universities would view them with comparable interest. Under close supervision I believe they could do useful work of an essentially descriptive nature. High calibre graduates in other disciplines (especially anthropology and sociology, also economics, geography, political science, psychology etc.) could prove valuable as members of team projects providing opportunity for employment of their specialist skills.

Problems in Combination

To the best of my knowledge, at present there is only one researcher working on questions bearing *inter alia* on jural relations in New Guinea who possesses formal qualifications in both law and anthropology. In addition, this scholar has behind him substantial field experience in Africa. In 1969 there were three full-time researchers in New Guinea law[12] none of whom would pretend to expertise in anthropology. So far as their teaching duties permit, members of the Law Faculty at Port Moresby and lawyers on the staff of the local Administrative College engage in research. Their forays into the field can be sporadic only. A few lawyers have written (or are writing) LL.M. theses at the university. Again none of these men has any considerable formal training in anthropology or much experience of ethnological work in New Guinea or in comparable conditions.

As averred earlier there exists a strong case for collaboration with anthropologists. But is collaboration—especially that away from armchairs—a feasible proposition? Four years ago I put the same question to a senior member of the Administration in Port Moresby. His answer was no. It may be instructive to look at the kind of reasoning he employed:

(a) Anthropologists and lawyers have aims which are incompatible. The measure of their disagreement on the role of law in society—and on the definition of concepts fundamental in that role—reduces the area of rapport to a point of no, or few, returns. "Together you'll not get past first base. You won't even start to agree on the meaning of 'law' or of 'custom'."

(b) Their research methodologies are irreconcilably at odds. In the contemporary context of New Guinea politics they have to be basically different and these differences would lead to strife.

True, there appear to have been few collaborative enterprises. But it is significant that the scholars involved—and their results—testify to the advantages of working together. The best known example, and perhaps the most successful, is Llewellyn and Hoebel, *The Cheyenne Way* (1941). It was to this book and more particularly to the early chapters of Hoebel's *The Law of Primitive Man* that I turned for counters to my sceptical administrator's arguments.

Not all anthropologists agree with lawyers on major conceptual and functional definitions. (By way of palliation it should be remarked that lawyers and anthropologists disagree among themselves.) However, I know no anthropologist—and have read but few—whom I regard as so fixed in his

12 Two are Ph.D. scholars; one at Melbourne University, the other at the Australian National University. Between 1966 and 1969 I was Fellow in Papua-New Guinea Law at the latter institution.

opposition on ideological grounds that nothing constructive could emerge from extended or brief dialogue. (In New Guinea, I suspect joint endeavour would be more profitable in the sector of custom and its variations than in that of the received, or imposed, western law.) In what is likely to prove the most vital area of legal research—investigation of the twilight zone between and overlapping the "traditional" and the western—the frank disagreement of anthropological colleagues has been responsible for much revision and modification of my views. There needs to be a dynamic element in New Guinea research and this can best be fostered by a larger, stronger and more articulate legal voice.

On the second point, methods of research, Hoebel, Epstein and other anthropologists give prominence to a path that has been travelled by surprisingly few lawyers. This is the *trouble case* approach which relies heavily for its broad view of law in a community on a search for instances of "hitch, dispute, grievance; and inquiry into what trouble was and what was done about it".[13] This, with its stress on the individual case and procedures, is the very stuff of the common law process and ought to have an attraction for the enquirer trained in law. However, among lawyers and administrators, there seems to be a preference for the long-running account or quasi-narrative text from which cases of hitch are absent or appear only incidentally.[14] This *descriptive* approach, it is alleged, runs the danger of preserving what Frank called the pseudo standards and pretend rules of the subject community. It backs away from the fact that ideal norms are mouthed but "oft-times honoured only in the breach". Of course "it is part of the rules of any group to break some of its own rules".[15]

Much of this "descriptive" activity has come from colonial administrators or at their behest.[16] As Allott and Epstein have noted, these works appear to have arisen out of a felt need for the accurate recording of custom and for getting a consistent account of it into the hands of magistrates and advocates. In an article "The Case Method in the Field of Law",[17] Epstein goes on to make the valid comment that the authors' preoccupation with comprehensiveness and uniformity could lead them into accepting some dubiously formed opinions. On the basis of his research in African communities he states: "I found that court members could expound the points involved in a case they had just been hearing with great command and infinite patience, but they were much less at home in the discussion of hypothetical issues which I would sometimes have to put to them" and ". . . the rules of law they expounded were not conceived as logical entities; they were rather embedded in a matrix of social relationships which gave them their meaning."[18] I suspect his more recent experiences in the Gazelle Peninsula will bear this out.

The critics of the descriptive approach do not wholly eschew it. In most societies, and especially in those with strong oral traditions (e.g., Malays

13 Hoebel, *The Law of Primitive Man*, 1954, p. 29.
14 See e.g. Barton's early work (1919) on *Ifugao Law*, and Malinowski, *Crime and Custom in Savage Society*, 1926.
15 "Lawlessness", in *Encyclopedia of the Social Sciences* (1933), Vol. IX, pp. 277-8.
16 e g , Rattigan, *Digest of Civil Law of the Punjab Chiefly Based on the Customary Law* (first published 1880, 13th ed. 1953); Schapera, *Tswana Law and Custom*, 1938; and Cory on the *Haya*, 1945 and the *Sukuma of Tanganyika*, 1953.
17 In *The Craft of Social Anthropology*, ed Epstein, 1967, pp. 205-30.
18 *Ibid.*, at p. 210.

living under the Minangkabau adat,[19] and Gluckman's Lozi[20]), it would be foolish and wasteful to ignore it, even though in comparison with trouble case law its pretend qualities are plainly shown. (Indeed, Gluckman's serviceable "reasonable man", like his English and Australian cousins, is largely the creation of avowed standards of community behaviour.[21]

My short flirtation with both approaches leads me to lodge a caveat on undue emphasis of the case method at the expense of a thoroughgoing examination of a people's ideal jural values. The latter may be honoured chiefly in the breach, but they continue to serve as signposts of right or good conduct. A survey which relegates them to an inessential role tends to present the same misleading picture as one which shunts the trouble case and its resolution into a back siding.

Realities

With our present limited resources it would be unrealistic to spend anything like the anthropologist's normal amount of time in any one community. Thus, the most valuable evidence of the case—presence at the scene and opportunity to observe the hitch, the procedures employed and the outcome—is available only if one happens to be "passing through" and is told about it. We have to make do with "second-bests"; perhaps a month in a district and close to total reliance for the norms and their variations on informants (including Europeans) whom one takes on trust as "expert and authoritative spokesmen". This is hearsay talk and "evidence" that has reduced anthropologist friends to a fearsome and uncharacteristic silence. For the same reason, we see some practical virtue in the questionnaire, but have not yet succeeded in gaining the support of those friends in what, I believe, most anthropologists regard as the ultimate heresy in research. Of course, this makeshift approach is full of dangers. One has to agree with Lind that the precise penetration of the unknown cannot be hurried; that one should only incidentally interest himself in the immediate problems and action towards their early amelioration.

Yet, for the few full-time legal researchers, the time outlook in New Guinea must be different and, fashioned to that, their methods relatively rude. One sees the urgent need for "improvements", and one must become peripatetic to get a general view of problems and the suspected repercussions of possible answers. The compilation of hastily researched reports for the government department assumes greater importance than a "scholarly" monograph because it sets the issue directly before those who can do something about it, and who, one hopes, will take the recommended action. With much better resources of money and staff (and their proper training), mutually beneficial collaboration with anthropologists over a respectably broad area could become a reality. Until then, we must get to know the main dangers of research, try to achieve something useful without falling prey to them, plan for the future, and learn to live with our frustrations.

My long-suffering Port Moresby sceptic who continues to wince at the prospect of lawyer yoked with anthropologist, has charted two supplementary areas of snag:

1. Both disciplines have developed their own vocabularies of technical

19 Brown, "The Adat Perpateh" in *Papers on Malayan History*, ed. Tregonning, 1962.
20 *The Judicial Process Among the Barotse of Northern Rhodesia*, 1955.
21 *Ibid.*

jargon. Each has chosen to deal with its soft data in a hard way—but in terms incommunicable to the other.

2. Collaboration means not only working together, it also involves results (if, in view of the incompatibility of goals and methodologies, there *are* results), and decision as to their *publication.* If that is to be done separately, there could be further conflicts. At law, there is no copyright on ideas; in anthropology there is an embarrassing allegation of plagiarism.

As theoretical difficulties, these may look minor. In practice, they will sometimes seem insuperable. With patience, the knots of jargon may be unravelled. In extreme cases of over-indulgence the author is probably not worth reading anyway. To the other difficulty, I can see only one answer—the inculcation of anthropologists with lasting terror of the lawyer and his legal defence mechanisms: *aliquot animalia aequiores quare sunt.*

CONCLUSION

I have laboured the terms "traditional" and "western" in regard to bodies of rules. Over-simplification of that order can produce a false overall picture. These terms were intended to delineate the extreme outside margins of Territory law and it is only seldom that the "case"—wherever it arises and however it is resolved—fails to raise questions from within the vast intervening, and encroaching, range of jural "greys". I have called this a twilight zone, though in legal-political fact it is where the sun is beginning to rise, not set. Unless our research is to lack pertinence to administrative problems and their solution, I believe it is here (and especially on procedures) that the main effort must be concentrated.

There seems to be no irreconcilable difference between what social anthropologists are already doing with law in New Guinea and what, with their co-operation, lawyers would like to do. While the primary aim of "pure" research may be the systematic discovery of new facts or the verification of old, in a society experiencing rapid social changes, there is a place for undertakings which can utilize scientific methods in the survey and resolution of acute problems. These undertakings, which should be collaborative, would set sights on the immediate rather than the distant future.[22]

For some years, legal researchers might have to work within a different time frame to anthropologists and with less refined methods. These and other factors may cause friction in team work. Yet, paradoxically, team work can reduce friction. The very business of hammering out a combined programme necessitates the discarding of old prejudices and the reaching of broad agreement on main conceptual issues and the strategy (if not the technical detail) of research.

Formulae must be sought and tried to achieve the smooth functioning of interdisciplinary teams (whose composition wherever necessary and possible should include scholars drawn from other sciences like economics, linguistics, geography, political science, psychology). Above all should be recognized the importance of a co-ordinating body such as the Legal Research Council. By providing the meeting place for different scientists with different backgrounds, that institution holds out the best chance of steady growth for New Guinea legal research as a specialized hybrid discipline.

22 A broadly analogous problem is discussed by Anderson, "Welfare and Research: Complementary or Contradictory" in *Australian and New Zealand Journal of Criminology*, no. 1, pp. 26-34.

I had hoped to say more in this article about specific "subject areas" of legal research and the question of priorities. This is an urgent matter and one that should be considered with due regard for the teaching programme of the Faculty of Law in Port Moresby.[23]

[23] (This article is based on a paper delivered at the 1968 Seminar held by the New Guinea Legal Research Council in Canberra The comments made are, in general, still very relevant. Much research has been done by the teaching staff of the Faculty of Law in relation to their courses· much remains to be done The arrival at the Faculty this year of Peter Fitzpatrick as Research Fellow and Commonwealth Foundation Scholar is the direct result of the 1968 Seminar. He has already commenced detailed research into the legal aspects of indigenous business enterprise under the general supervision of the Legal Research Council—Ed)