

Foreword

The law of civil procedure is a vital bridge connecting two disparate worlds - the substantive law that defines the rights and liabilities of individuals, on the one hand, and the day-to-day work of judicial officers and court officials who administer the law, on the other. Far from being a no-man's land packed with arcane and pedantic rules, civil procedure supplies the machinery essential to enable courts to apply the law in manner that is both just and efficient.

Yet, as many legal practitioners and advocates will vouch, the potential for justice and efficiency is not always realised in practice. Ari Jenshel's *Civil Court Practice* is certain to make a significant contribution to the administration of law in Vanuatu by narrowing the gulf between what the law promises and what it delivers.

The first and most important benefit of this work is its capacity to promote consistency and predictability in judicial decision-making. These attributes are the very hallmarks of the rule of law, and they are no less important in the realm of procedural law than in the realm of substantive law. Judges should aim to apply principles of civil procedure with reasonable consistency, and this task is made much easier if legal practitioners have a fuller understanding of the background of each rule and its application in prior cases.

This publication also has the merit of being specifically tailored to the unique features of the law and courts of Vanuatu. This places the book in a class of its own. It is rare enough to find a legal publication that focuses on the laws of South Pacific jurisdictions as a group. It is rarer still to find one that addresses the law in a single Pacific Island country in such detail. It is a significant achievement that this book collects and analyses local jurisprudence on civil procedure, in so far as it is available.

Any new work on civil procedure these days is necessarily written in the shadow of the encyclopaedic works on civil procedure in other jurisdictions, of which the *White Book* in England is the foremost example. Yet, for all the impressive detail of the progenitors, few lawyers would advocate that these "corpulent" publications should be replicated for Vanuatu. When the language of the local rules is clear, it deserves to be applied, unadorned by the judicial excrescences developed half a world away. But when there is uncertainty or ambiguity, or when the local rules have been modelled consciously on the rules of other jurisdictions, it is simply good sense to have regard to how these rules have been interpreted elsewhere.

Civil Court Practice is due to be widely distributed, free of charge, to judges, legal practitioners and others by AusAID as part of its international development assistance in the law and justice sector in Vanuatu. The importance of thus promoting access to the law cannot be underestimated. While institutions like the Pacific Islands Legal Information Institute (PacLII) have made great strides in facilitating access to legislation and judicial decisions in the Pacific, true access to the law requires more than this. It demands that all who are engaged in legal processes - whether they be litigants, counsel, judges or others - be given the means to understand the law as it operates in practice.

The author of *Civil Court Practice* has provided a great service to Vanuatu in producing a revised edition of his 2007 work. In addition to its annotations on the Civil Procedure Rules, the new edition addresses constitutional procedures, electoral petitions, probate and administration, and the Court of Appeal rules.

It gives me great pleasure to commend this work to the legal profession in Vanuatu and to other Pacific Island countries, which will also profit from its currency, comprehensiveness and accessibility.

Professor Brian Opeskin
University of the South Pacific
Port Vila, Vanuatu.

October 2008