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Preface

Aloha kākou. At the opening ceremony we were taught that taro is a symbol of this conference because its spreading rhizomes are a model of how best to grow our community of Pacific historians. But this put me in mind of something else about taro: It doesn't keep. You must eat it when you pick it, or else it will go bad after just a day or two. I think this teaches us that the knowledge historians make, like the taro that comes out of our gardens, cannot sit, uneaten, on library shelves. The vitality of Pacific history is in the process of scholarship, not its products. As we say in my culture, when you finish reading something, you must commit to going back and rereading it, so that you do not forget it and it will be with you your whole life. On this account, there is no such thing as being learned, only doing the act of studying.

We were also reminded at the opening ceremony that it had been twenty five years since PHA has been to Guam, and these words sparked a sudden memory in me of being in graduate school and pulling down off the shelves in the library the conference proceedings of the PHA guam sessions. I don't know if you remember, it had a black cover with an engraving of someone, perhaps portrait. So today I'd like to thank the people of this place not just for hosting us now, but for hosting PHA before, because in doing so they helped plant the korms that would make me part of PHA's ‘ohana.
The Paper

Bernard Narokobi is best remembered as the author of "The Melanesian Way", a book of collected newspaper columns outlining his vision of Papua New Guinea's national future in the mid-seventies. One of the common critiques of Narokobi that circulates orally is that he refused to define the Melanesian Way, and that he too often presents it as a vague and abstract panacea [next slide] rooted in a spurious unity of Papua New Guinean cultures. In this paper, I will argue that this critique is incorrect because it does not take into account Narokobi's role as the first chairman of the Law Reform Commission of Papua New Guinea (LRC) between 1975 and 1978. Narokobi served on the LRC from 1975 to 1978, the same years that Narokobi was writing the newspaper columns that would make up the Melanesian Way. A full understanding of Narokobi's thought, I argue, requires that we attend not just to the Melanesian Way, but to his writings during the LRC.

Law Reform Commissions and the Beginning of the LRCPNG

1 Including Otto 1997 and Zorn 2006.

2 I am judging this by entries in the Post Courier selective index. Going back briefly through the microfilm, I think there is a quite a bit of editing in the process of creating the book Melanesian Way. It may even be that there are columns that were not included. This should be a topic for another day.
The LRCPNG was just part of a much wider trend of instituting law reform commissions across the world. Demands for reform of the law were part and parcel of the worldwide populist left trends of the mid-sixties to the mid-seventies. Law reform commissions were just one way in which progressive demands for change were accommodated, and they were in general relatively middle of road methods of reform. In the commonwealth, including Papua New Guinea's colonizer, Australia, law reform commissions were very popular\(^3\).

In Papua New Guinea's case, the Law Reform Commission was also part of its decolonization process. In 1973 work for a law reform commission began. Major players in it included the chief justice, Minogue, Secretary for Law W.J. Kearney, and J.R. Kaputin, who was the first Minister for Justice. An early version of the LRC was created when the Papua-New Guinea House of Assembly passed the Law Reform Commission Act in 20 March 1975, about a half a year before the country's independence\(^4\). When the country became independent, the Law Reform Commission was written into its constitution.

\(^3\) PNGLRC Annual Report 1975, p. 1
In its first year, the commission consisted of five commissioners and six staff. Narokobi, along with the other commissioners, was appointed in 5 May 1975. Narokobi was the major figure behind the LRC, and although much of the LRC’s official output is not signed, it is easy to identify his distinctive style of writing and thought in the pages of its reports. While I do not mean to underplay the amount of work that many people contributed to the LRC, in what follows I treat its work as especially reflective of his thought. Indeed, one of the hallmarks of his thought is its generosity – a generosity and sense of egalitarianism that once can see in the fact that all members of the LRC take credit for its reports.

The Work of the LRC, and Narokobi’s Vision of the LRC

In practice, the LRC developed a normal routine for reforming the law. First, it received references from the Department of Justice requesting that it make recommendations on how best to reform the existing law. The minister would write a brief request asking the LRC to consider a law. The LRC then produced a working paper outlining possible solutions. After a period of consultation with the public, it submitted a report to the NEC (the National Executive Council, or cabinet) with its recommendations for legal reform, and draft legislation. This legislation was then introduced into parliament, debated, and eventually enacted as law.

On paper, then, the LRC served as a policy shop and legal draftsman for parliament, a group of specialists at arms length from the political process. But in spirit, it seems that Narokobi imagined the LRC as the intellectual avant garde of the independence movement, the spiritual successor of the constitutional planning committee, complete with an extensive road show to teach out to grassroots Papua New Guineans.

5 ibid
"In order to widen involvement we have begun experimenting with ways of getting our proposals across to people so that they can comment on them and make suggestions to us,” Narokobi wrote, “we hope to involve a much wider segment of the population than we have managed to reach so far.” This was central because "Law Reform is not an isolated process, done in dark corners or under bright neon lights without regard to the pressing problems of our people... law must dare to set standards that are within the reach of our people... In a rapidly changing society, law reform should not be undertaken for its own sake. It should be done to give dignity to our people and to fulfill the goals determined through our democratic process."  

Although Narokobi hoped that over time legal precedent in PNG would establish a unique and culturally appropriate common law for Papua New Guinea, he felt "a truly Papua New Guinean legal system cannot result from the piecemeal repair and overhaul of the existing system. Instead the Commission sees as its eventual goal the overhaul of the entire system and the building up of an entirely new legal order which takes full account of our traditions, our customs and our approach to life." In this view, the LRC was the dynamic, active, avant-garde, technocratic spirit of independence pushing the parliament forward, translating the feedback of 'the people' into legal form.

**Adultery**

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6 LRC annual report for 1975 p. 4
7 LRC Annual Report for 1975 p 9
8 LRC Annual Report for 1975 pg. 10
A good example of the LRC's process is its work on adultery. The Minister for Justice originally requested that the LRC consider the best way of repealing the *Native Regulations of Papua* and *Native Administration Regulations of New Guinea*, which were among the most obviously racist and problematic parts of the law that PNG inherited from Australia. The LRC suggested their repeal, but suggested that they formulate new laws on the specific issues of adultery, will-making, and succession to property\(^9\).

Under the existing law, adultery was something only 'Natives' could be accused of, and it bore some penalty or other that I will have to get back to later. The LRC followed what would become its usual procedure and published a working paper in English, Tok Pisin, and Hiri Motu (p. 4 LRC annual report of 1975) on October 1975 and traveled around the country. The working paper included an a questionnaire that readers were meant to tear out, complete and mail back before 5 January 1976\(^10\).


\(^10\) Working paper, unnumbered front matter
There was also an ethnographic component to this project. In 1973 the Department of Law had asked a young anthropologist named Marilyn Strathern to canvas anthropologist's knowledge of 'sexual offences' in different parts of Papua New Guinea. The goal was to gain a broad sense of getting a sense of what sort of legislation “would be in line with Papua New Guineans' conception of what is unacceptable behaviour”\(^{11}\). The result was her "report on questionnaire relating to sexual offences as defined in the Criminal Codes". This report figured heavily in the working paper. Anthropology also figured into the final report of the committee, which cited Michael Young's *Fighting With Food*, Epstein's edited volume *Contention and Dispute*, and Strathern's *Women in Between*\(^{12}\). As Helen Gardner (personal communication) has pointed out, in some sense, PNG is the country “made by anthropology”. Drawing on this anthropological work was the empirical plank of Narakobi's platform, which held that

"It will be necessary to do a broad study of our Papua New Guinean customary law to find out how it can best be applied throughout our country and whether it follows the Constitution."\(^{13}\) In this case, Narakobi drew on a preexisting research project. In later years, the LRC would sponsor research which documented PNG customs and attitudes, including publication by the first anthropologist to work full-time at the law commission, Rick Scaglion, who put his George Murdock-inspired Ph.D. in the service of independence in PNG.

\(^{11}\) Strathern report on questionnaire p. 3


\(^{13}\) LRC Annual Report for 1975 p. 10
The working paper itself was brief, less than 20 pages (not counting the appendix). It was issued in October 1975\textsuperscript{14}. It presented the reader with four possible ways to approaches to adultery: To treat it as a civil matter, to treat it as a crime with jurisdiction in village courts, a crime with jurisdiction in local or district courts, or to leave thing as they were\textsuperscript{15}.

The working paper then laid out the results of Strathern's report, and reviewed the laws as they currently stood. Appendices included selections from the Native Regulations, Strathern's recommendations, and the questionnaire mentioned above.

Each member of the commission then held meetings to canvass popular opinion about adultery. In the end, meeting were held in Wewak, Madang, Lae, Rabaul, Arawa, Popondeteta, Mendi, Daru, Goroka, Mt. Hagen, Manus, Enga, and Port Moresby. In the case of Wewak and Madang, where Narakobi held the meetings, we have a list of who provided feedback. 23 'stake holders' (meaning individuals or groups) in Wewak and 13 in Madang, ranging from magistrates and representatives of women's groups to people listed as "John from Sepik river" and "Henry (a teacher from Kreer community school)". The report also lists 26 respondents to the questionnaire, including Marilyn Strathern, Brian Brunton, and John Minogue.\textsuperscript{16}

\textsuperscript{14} From front page of paper.
\textsuperscript{15} 1975 working paper, pp. 3-6.
\textsuperscript{16} From PacLii version of Adultery report 20 May 16
The final report was published on 28 Feb 1977\textsuperscript{17}. In it, the LRC proposed an adultery and enticement act. In the act, adultery and enticement can be heard as complaints in village courts. Only wronged spouses can bring a complaint (not relatives). If after mediation fails, the magistrate can impose a fine of up to K200, payable in cash or good (but not liquor)\textsuperscript{18}.

\textsuperscript{17} from adultery report, unnumbered front matter
\textsuperscript{18} adultery report, p. 3-8
The LRC had the report illustrated. The illustrations are not in the version on the PacLii website, but they are in the originals in Hamilton. Note the modern dress of the adulterous woman and the virtuous traditionalism of the wronged woman. Neither of the men involved are wearing traditional clothes, although the adulterous one is smoking in each picture.

19 The first image is from page 14 of the Adultery report. The second image is from page 15.
What happened to this law? According to the 1980 annual report of the LRC, it was “to be considered by parliament”\(^{20}\). As far as I know, Narokobi’s recommendation remained just that, a recommendation.

In sum, the adultery issue reflects all of the main approaches of the LRC: Popular consultation and an attempt to address the grassroots, reliance on professional expert knowers of the grassroots (in this case, anthropologists), and guided change in law with the LRC as driving force.

**Conclusion**

Many have read *The Melanesian Way* as an overly vague philosophy without concrete underpinning. But as I hope to have shown in this paper, most of Narokobi’s time was spent hammering out precisely these sorts of legal details of what the Melanesian Way would consist of. His columns in the *Post Courier* were just one part of his larger project of national renovation, a project in which it was the LRC was the most important component. In fact, they seem to me to be just a part of the LRC's larger project if public outreach. When we focus on the newspaper columns rather than his law reform work, we are putting the cart before the horse.

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\(^{20}\) LRCPNG Annual Report for 1980 , Appendix 3 p. 1 of that appendix
It may be more accurate to think of Narokobi not as a vague theorist, but rather a failed law reformer. The LRC's more radical attempts to indigenize the laws never got traction in parliament, and its efforts were underfunded – not surprising given Narokobi's grandiose desire to use the LRC as a law office, publicity shop, and research institute. As a judge, he pursued the slower path of developing a Melanesian common law through his decisions, only to find them reversed by more orthodox senior judges. As a politician, he managed to pass his underlying law act, which remains little-utilized despite the valient efforts of the contemporary LRC.

It is not surprising that Narokobi's exhortative work such as Melanesian Way and Life and Leadership in Melanesia are best remembered today – they were designed to reach a broad audience. And it is not surprising that in the second half of his life he wrote works like Lo Bilong Yumi Yet, which sought to define the elusive abstract principles which he insisted knit together PNG's diverse cultures. It was, logically, the next step after the Melanesian Way. But given the way he had been boxed out of concrete change in the civil service, the judiciary, and parliament, it was also the only game left to play. His cultural and literary endeavors are worthy of remembrance, but we should not allow them to overshadow his less-well known activities at the LRC. In this paper, I hope to have provided a more balanced account of Narokobi by bringing these activities, and in particular his time on the LRC, back in to view.
Golub: Narakobi and the PNGLRC For #PHA2016 Guam

Bibliography

