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'Now is the Time to Make their Own Law': The Development of Papua New Guinea's Independence Constitution, 1972-1975

Jonathan Ritchie*

‘Papua New Guinea is a speaking culture’

- Stephen Pokawin

‘Telling stories is the only way that you spread the word out’

- John Waiko

‘What has become of those dreams?’

- Bernard Narokobi

Introduction

At midnight on 15 September 1975, the Australian Papua New Guinea Act, which had given authority to Australia’s administration of its colonial territory since soon after the end of the Second World War, ceased to operate. It was replaced by the Constitution of the Independent State of Papua New Guinea. From then on, Papua New Guinea was no longer tied legally or constitutionally to Australia.

The story of how Papua New Guinea got its Constitution is one that I believe should be known to every Papua New Guinean, if it is not already. It is a story of ordinary women and men in their villages, schools and missions, on islands and in the Highlands, and how they made a very real contribution to the way that the country came to be constituted. The years between 1972 and 1975 in which it was developed were, in the words of one of these ordinary Papua New Guineans, the time for them to make their own law.

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This paper has three objectives:

- to explain how and why it is that a non-Papua New Guinean like me is telling Papua New Guineans about your own history;
- to do just that: tell about a part of Papua New Guinea’s own history, of the time between 1972 and 1975 before Papua New Guinea became independent; and
- to think about how to evolve this history of living democracy further.

My involvement

I was fortunate in being born in Port Moresby, in what was then the new Port Moresby General Hospital in Boroko. My father and mother had both lived in Papua New Guinea since just after the end of the War, and my father’s father had first arrived in Papua in 1924. So I do feel a lot of affection for the country of my birth, and I hope that this alone might permit me to speak about Papua New Guinea as ‘my country’ and to explore some aspects of its history.

Being born, and growing up, as a European in a Melanesian country such as Papua New Guinea left me as a child with some big questions. The biggest of these was, and remains: why was I here? In fact, why were all of us Australians here? Searching for the answer to these questions has led me into the study of Papua New Guinean and Australian history more generally. I found that I was particularly interested in the time that I remember most clearly, from the late 1960s when the movement towards independence was gathering momentum.

Many years later, through family connections, I was privileged in being able to examine some of the papers belonging to the Special Legislative Counsel in the days before independence, C.J. (Joe) Lynch. Reading the documentary material that Joe left behind, following a career in the law in Papua New Guinea spanning three decades, I was alerted to what for Joe was a central element of the story of how this country gained its independence: the autochthonous, or home­grown, nature of its Constitution. As Joe himself remarked in a paper published five years after Papua New Guinea’s independence in the Journal of Pacific History, ‘the basis of its Constitution is unique’ – being home-grown, in both a strictly legal sense and in a very real and practical sense (Lynch 1980: 175). Such a conclusion has led me to still more questions, ultimately inspiring me to complete a PhD
thesis on the subject of how Papua New Guineans developed their 'unique' Constitution (Ritchie 2003). This, in turn, led me to spend many weeks in the Papua New Guinea National Archives (hereafter PNGNA), reading the extensive records left over from the constitutional development exercise, and, in particular, the documents that arose from the large consultative programme that accompanied the exercise from late 1972 until the middle of 1974. It is this aspect that this paper addresses.

The Constitutional Planning Committee

In the months that followed the House of Assembly elections in April 1972, a coalition was formed between the Pangu Pati, Julius Chan's People's Progress Party, and several smaller parties, allowing Michael Somare to take office as Chief Minister. This permitted the House's attention to be turned to the business of developing a constitution for self-government and eventual independence. In June, Somare proposed the establishment of a committee from the House, to be called the Constitutional Planning Committee (CPC), representing all parties and regions, with the task of developing a constitution for self-government. He began by affirming that it was the 'right of the members of this House, as representatives of our people, to decide on the date for self-government.' But 'whatever date is finally agreed upon', he continued,

it is important that the fullest consideration be given to the type of future government we shall have. It is for our people that a constitution will be made. It is our people who shall have to live under the system of government that is established. We must ensure therefore that the constitution is suited to the needs and circumstances of Papua New Guinea and is not imposed from outside. In short, it should be a home-grown constitution (House of Assembly Debates [hereafter HAD], Third House, Second Meeting of the First Session, 23 June 1972: 279).

To ensure that the CPC was representative, Somare proposed that the members should be himself, as ex officio chairman, another Pangu member, Father John Momis, as deputy chairman, two other members of the Pangu Pati, five members of the United Party, a member each from the People's Progress Party, the National Party, and the Mataungan Association, one independent member, and the chairmen of the two previous Committees on Constitutional Development, Sir
John Guise and Paulus Arek. The CPC was to be given greater flexibility than these previous Committees in both its reporting arrangements and the range of its enquiries. It was not to be constrained from seeking public reaction to sections of its draft proposals before its final report was completed, and it could consult with the Australian Government and the Administrator’s Executive Council, to whom it would be able to show sections of its draft proposals for comment. Any comments received by the CPC could be incorporated or left out, according to its wishes. The CPC’s final report would be tabled by the Government, which was bound to ‘accept whatever decisions are reached by this House’ regarding the report. Although he would be chairman of the Committee, Somare did not envisage that he would play a very active role; John Momis, as deputy chairman, would take over the day-to-day running of the Committee’s work (HAD, Third House, Second Meeting of the First Session, 23 June 1972: 279-280).

As it was to turn out, the Committee’s membership was, in the words of the last Australian Administrator, Les Johnson, a tail, ‘likely both to wish, and be able, to wag the dog quite vigorously’ (Johnson 1983: 152). The inclusion of some of the leading members, especially Momis and the Mataungan Association’s John Kaputin, meant that the CPC played an active and, at times, controversial part in the unfolding story of Papua New Guinean independence over the coming years.

The terms of reference for the Committee were:

- To make recommendations for a constitution for full internal self-government in a united Papua New Guinea with a view to eventual independence.

- Without limiting the power of the committee to make any investigation or recommendation, which it deems relevant to this objective, matters to be considered by the committee for possible incorporation into the constitution or related documents should include the following:
  
  (a) the system of government; executive, legislature and judiciary;

  (b) central - regional - local government relations and district administration;

  (c) relations with Australia;
(d) defence and external affairs - transitional provisions;
(e) the machinery of government - control, organisation and structure of the Public Service;
(f) a Director of Public Prosecutions and the Public Solicitor;
(g) an ombudsman and tribunals of administrative review;
(h) protection of minority rights;
(i) a Bill of Rights;
(j) emergency powers;
(k) citizenship;
(l) procedure for amendment of the constitution; and
(m) judicial review - the power of a court to decide whether or not any action by the Government or law passed by Parliament is in accordance with the constitution.

- In addition the committee should be asked to consider the mechanism for implementing the constitution, including the possibility of holding a constitutional convention, and to make recommendations (HAD, Third House, Second Meeting of the First Session, 23 June 1972: 385).

The CPC was to be aided by administrative and advisory staff, selected not just for their competence but also for their 'commitment to the concept of a home grown constitution'. It was asked to invite submissions from people throughout the Territory, and to conduct visits to every district so as to consult widely with the people. The people were to be kept informed of the Committee's work by the Political Education Branch of the Administrator's Department, with a view to 'encouraging the widest possible public discussion' of the constitutional proposals ((HAD, Third House, Second Meeting of the First Session, 23 June 1972: 281).

After prolonged debate, the motion to establish the CPC passed by a margin of twenty votes on 27 June (HAD, Third House, Second Meeting of the First Session, 27 June 1972: 385).

Somare's intention in establishing the CPC resulted from his concern that 'the strong emotional reactions amongst politicians to the words 'self-government' and 'independence' would mean that 'the House would waste all its time arguing about the date of self-government without tackling the mammoth task of planning a constitution' (Somare 1975: 98). At the time, it is doubtful whether he, or anyone else, could have envisaged just what a mammoth task this would prove to be.

From the first meeting of the CPC, in September 1972, until its Final Report was tabled in the House of Assembly in August 1974, the nature of the CPC's job changed drastically from the original intentions. Although at the time of the first meeting it was envisaged that the CPC's task would be concluded by the end of 1973, in time for self-government, by December 1973, the Committee had decided that a programme of consultation, far wider than first thought, was necessary. At its meeting of 4 December, it completely endorsed the plans that had been drawn up by the Government Liaison Branch (part of the Chief Minister's Department) for a programme that entailed:

- The setting up of local Discussion Groups, consisting of 'councillors, village leaders, church and business groups, public servants, and any other interested bodies or organizations'. These groups were to be asked to discuss and report to the Committee their views on the range of constitutional issues put to them.
- The distribution of educational material to public servants, teachers, mission personnel, 'and other suitable persons', who were to explain and further the CPC's work.
- The use of the radio network to disseminate material on the CPC's program.
- The encouragement of written submissions to the Committee with people's views on issues (Government Liaison Branch).

The CPC's decision meant that the job of consulting with the people, and consequently of developing a constitution, would take a much longer time than had been allowed at the start of the exercise.

There were other themes that contributed to the eventual outcome, including the complications brought about by the transfer of power and authority from the Australian administration to the Papua New Guinea government, the forces of regional separatism (in particular, in Bougainville, but also in many other parts of the country), and the
political and personal relationship between Somare and other Papua New Guinean politicians over contesting visions of the country's future. But the most fascinating and important story for Papua New Guinean history remains the active and enthusiastic participation by the Papua New Guinean people in an exercise that was described at the time as the opportunity when 'we can make our own law' (Mr Bono Azanifa, Adviser to the Kesavaka Discussion Group, 9 March 1973, PNGNA).

The Consultative Programme
When the news spread in the middle of January 1973 that people would be asked their views on the full range of subjects under consideration by the CPC – from 'the system of government; executive, legislature and judiciary' to 'judicial review' ('Government wants earlier report on constitution', Post-Courier, 17 January 1973) – it is doubtful whether anyone was ready for the wealth of responses, information, opinions, and advice that would be directed at the Committee. An Australian journalist, John Stackhouse, suggested in February that 'the way the answers will emerge from the groups will be, hopefully, an indication of the political awareness of the people of Papua New Guinea as they head into a future which even optimists can believe is uncertain' ('PNG on a tight rope between decentralisation or disintegration', Australian Financial Review, 12 February 1973). The accuracy of his prediction was proved as responses and submissions began to pour in.

The Committee intended that public consultation would take place in response to its directions, and would therefore have a clearer focus than might otherwise have been the case. The mechanism for providing direction allowed for six Discussion Papers prepared by the Committee and its staff. Once agreed, the Papers were to be distributed to Discussion Groups for their comments. The first of these addressed citizenship, the constitution, and the system of government; the second looked at relations between different levels of government; later papers examined (in order of release) the legislature and executive, the courts and law officers, the public service and ombudsman, while the last was an omnibus paper covering human rights, directive principles, and emergency powers.

The first discussion group meetings took place in Katulusae, New Ireland, and in Poroma, Eastern Highlands, on 19 February 1973, and more than 800 meetings, across Papua New Guinea, followed
during the next two years. In addition, more than 60,000 people were estimated to have attended the series of public meetings held by the CPC from May to September 1973, and more than 2,000 written submissions were received. On one day – 25 May 1973 – 12 meetings took place, and the average attendance at meetings during March (at the consultative programme’s height of business) was 50 people.

People attended Discussion Group meetings, and the CPC’s public meetings, often with a great degree of difficulty. In Highlands Districts, transport was usually on foot, and people living in coastal or island Districts were often dependent on boat transport. At Dreikikir in the East Sepik, members were required to ‘walk one or two days to get to the station’, while elsewhere in the District, at Gau in the Sepik River, problems arose because there was only one official boat operating, and it was often in use for other purposes (Kas Kauri, Government Liaison Officer to District Government Liaison Officer, Wewak, 1973, PNGNA). In Aseki, 5,000 feet up in the mountains of the southern Morobe District, it was reported that ‘the villages are too far for the people to walk to the place where the meeting is going to be held’ (Gray Tukmensi, Adviser to the Aseki Discussion Group, Morobe District, 15 March 1973, PNGNA). At Kaiapit in the valley of the Markham River, the Discussion Group’s Adviser despaired that ‘the transport problem up here is too great ... the ADC [Assistant District Commissioner] in Kaiapit Sub-district has only one small Toyota [with] which to do his work’ (Peru Nabo, Adviser to the Kaiapit Area Discussion Group, Morobe District, 9 March 1973, PNGNA). On Mapua Island, 50 km offshore from New Ireland, transport to the meeting place was rather hard here, because the members are so scattered in the islands, Big Tabar, Tatau, Simberi and sometimes bad weather permits no meeting. We don’t live together and we have to cross the sea to another place to attend the meeting (Camillus Saivur, Adviser to the Tabar-Mapua Discussion Group, New Ireland District, 24 February 1973, PNGNA).

When it came to assembling people for the CPC’s public meetings, the cost of doing so proved to be substantial. For example, in Morobe District, this was estimated to be between $1,272 and $1,544, depending on the agreed itinerary - with $200 set aside for rations for those who ‘have to walk long distances and must overnight before returning’ (District Government Liaison Officer, Lae, to the
Assistant Secretary, Government Liaison Branch, 26 April 1973, PNGNA). The total cost of ‘transporting and accommodating representatives of Discussion Groups and others to various centres within each district to meet the CPC’ was thought to be between $6,000 and $8,000, a substantial part of the budget for the tour (of $45,000) (Ryan to Avosa, 3 May 1973, PNGNA; CPC, Financial Estimates, n.d., PNGNA).

Later in the course of the Constitution’s development, in March 1974, Momis declared that ‘neither the Cabinet nor anyone else has consulted the people on constitutional matters. The committee has gone to great trouble to do so’ (Post-Courier, 29 March 1974), and the sheer size of the consultative programme underpins at least the latter part of his assertion.

With so many Discussion Group meetings, written submissions, and even questions and comments put directly to the CPC at public meetings, it is hard to attempt to draw meaningful conclusions as to what ‘the Papua New Guinean people’ thought in relation to issues put to them in the Discussion Papers or otherwise. This did not stop the Committee from doing so, however, and this is hardly surprising given that this was its stated intention in undertaking such a wide programme of consultation.

In September and November 1973, the CPC produced two Interim Reports in which the consultative program was described as ‘an important exercise in democracy’ (CPC 1973: 2916), that gave the Committee ‘great encouragement and support’ (CPC 1974: 1/1). Despite the volume of opinions and comments it had received, in its First Interim Report the CPC felt able to discern support for single citizenship, a system of district government, and opposition to the continuation of regional electorates and optional preferential voting, in favour of a ‘first-past-the-post’ system (CPC 1973: 2917). In the Second Interim Report, tabled only days before self-government arrived on 1 December, the CPC expanded its recommendations, grouped under the four headings of:

- The social goals of our new nation
- Citizenship
- A new tier of government at district level which we are calling provincial government
- The legislature (HAD, Third House, Tenth Meeting of the First Session, 27 November 1973: 3214).
Under 'Social Goals', the Committee made several recommendations, including enshrining 'fundamental social goals' and 'the basic philosophy of the people of Papua New Guinea' in the Constitution. Under 'Citizenship', there was only one recommendation – against dual citizenship – but with the promise of more when the Final Report was presented. Under 'District Government', the Committee recommended provincial governments, and proposed how these should be composed and conduct themselves. There were several recommendations under 'The Legislature', including that the method of voting should be changed to first-past-the-post, and the abolition of regional electorates (HAD, Third House, Tenth Meeting of the First Session, 27 November 1973: 3214-7). Following the tabling of this Interim Report, Somare moved that further debate be adjourned until the next session of the House in the new year, by which time the Members would have had the opportunity to consider the interim recommendations and, it was hoped, would also be able to see the Final Report.

Discussion Groups continued to meet into 1974, particularly those concerned with the later Discussion Papers that dealt with more esoteric matters. The fourth round of Discussions addressed the issues of the Courts and Law Officers, with the last meeting in January 1974, while the fifth concerned the subject of the Public Service and the Ombudsman. The last Discussions concerned the important matters of Human Rights, Emergency Powers, and Directive Principles (which included the establishment of the National Goals of Integral Human Development – Liberation and Fulfilment, Equality and Participation, National Sovereignty and Self-Reliance, Natural Resources and the Environment, and Papua New Guinean Ways), and the remarks arising from these last meetings were collated in May 1974 for inclusion in the CPC's Final Report (1974).

In the face of much criticism over the length of time it had taken, the Committee submitted a draft of its Final Report to the House of Assembly on 27 June 1974, and the final version was tabled on 20 August. The months that followed were taken up by debates and contests over the final form of the Constitution that would arise from the work of the CPC. By this time, however, the chapter in which the Papua New Guinean people contributed directly to determining the nature of their future independent nation had concluded.
The people speaking

The records of Papua New Guineans who met during 1973 and 1974 to discuss how the new nation should be constituted are held in the National Archives, in Waigani, Port Moresby. Sixteen boxes contain nearly 100 files full of reports of Discussion Group meetings, submissions from individuals and groups, and related correspondence. In these boxes, one can gain a real sense of what people believed about the new state: young and old, farmers, teachers, students, public servants, women and men, in towns and villages, from Bosset, close to the Indonesian border in the west, to Kieta in Bougainville to the east, and from Manus in the north to Bwagaoia in the south.

In many cases, the documentary material is constrained in what it is able to illustrate about people’s views by the requirement to respond to the direct questions put by the CPC. Nevertheless, there is still a considerable amount of free expression contained in the reports, submissions, and other correspondence. Many Discussion Group members felt that they had a direct line of communication to the CPC, Somare and his Government, and even the Australian Government in Canberra; indeed, many believed that they were themselves members of the CPC, contributing to the way that the new nation would be constituted. As Meg Taylor (2001: 353) has remarked, ‘anybody who went to a CPC meeting ... was a constitution-maker’. It was similarly the case with writers of submissions and speakers at public meetings. This was an opportunity to be seized with both hands, a chance to speak in a discussion group that spanned the entire country.

While there is much evidence that people chose to use the consultative programme as a means of expressing views on a range of subjects, for the most part Discussion Group members were often content to simply let the Committee know what they thought in response to specific questions. Some of these concerned extremely practical matters, for example, the series of questions in the second Paper, on ‘Relations Between Different Levels of Government’, which asked which level of government should be responsible for delivery of a range of services (CPC1973a). Questions of a similar type appeared throughout all six of the Papers, even the last, perhaps most sophisticated, documents that asked for responses on ‘The Public Service and the Ombudsman’ (Paper Five) and ‘Human Rights, Directive Principles and Emergency Powers’ (Paper Six).
Unfortunately, it was often by no means an easy matter to ascertain a majority view on various questions, even those that sought a simple 'yes/no' response. A good example of this can be seen in the responses to the important question in the paper on relations between levels of government, 'Should the system of government at district level be changed?', where opinion was divided between groups and indeed, in some cases, within groups. In the Nabak Discussion Group, in Morobe District,

about 137 people said that it must not be changed. It must stay as it is but some of the things like dividing budget to sub-districts and so on must be changed. About 127 people said that it must be changed, and a new district government must set up.\(^1\)

Despite this, there was certainly sufficient evidence that most Discussion Groups favoured the establishment of governments at the District level, giving support to the CPC's early recommendations on provincial government.

In many other cases, though, Discussion Groups took the opportunity to provide to the CPC their considered views on subjects that encompassed far more than simply allocating responsibility for services and other more functional issues.

An early example of this propensity can be seen in the responses from the Irelya group that met to consider the first paper, on Citizenship, on 10 March 1973. This Highlands group was not in favour of self-government, and took the opportunity to reflect on their experiences that spanned the pre-colonial times. As the Adviser reported,

Mr Nakipane said that before the white men came to Papua New Guinea there were leaders for each tribe. Mr Rinao said that before if there was a trouble of any kind, the leaders stopped them by talking and killing pigs etc. But nowadays there is a lot of troubles. Mr Minalyo said that there were traditional rules which were to be followed...\(^2\)

The responses showed something of the group members' understanding of the process by which Papua New Guinea was to develop its Constitution and achieve its independence, as well as their views of the larger society of which their small group was to be part. The exercise revealed some of the debates that were going on at the time – and continue to this day – concerning the importance
of economic development and customary ways, and this was perhaps most evident in the discussions on citizenship requirements. The Amaiyufoa Group in the Eastern Highlands believed in discarding old customs in favour of the new, telling the CPC that ‘we must forget about old custom of killing pigs and giving to other people freely. Instead we must kill our pigs and sell it for money’. On the other hand, the Kiunga group believed that, to be granted citizenship, a person must first learn the customs of the people of this country and secondly like the customs of the country because we don’t feel like seeing a person disliking and talking bad about the customs of this country and wanting to be a citizen of this country.

A more even-handed approach was taken by the Wassissi Group, who welcomed as citizens

(1) A man who shows great interest in our country and wanted to be our citizen (2) A man who assists in the development of our country (3) A man whose parents gave him/her birth in Papua New Guinea (4) A man who has good background and has been living here for 5 or more years.

The tour of the country that the CPC undertook from May to September 1973 demonstrated a similar range of views, both on this topic and on the others raised during the public meetings. This exercise was perhaps the most exhaustive – and, given the fullness of the programme, exhausting – component of the consultative programme in terms of the opportunities it afforded the CPC members to hear from many thousands of Papua New Guineans. Probably the most influential of the submissions and responses the Committee received as it made its way around the country was that from the Bougainville Special Political Committee (1973: 74-5), which began

Hear our cries, hear our shouts, take notice of our feelings, take notice of our strong thoughts and our thinking. All our opinions and all our thoughts; you must listen to them thoroughly and put such thoughts and opinions in the new constitution so that this constitution can become law; can become the basis of our country.

The submission went on to call for ‘District Government as a first step’, and retained the right of the Bougainvillian people to
'determine that, if some time in the future it wishes to remain within Papua New Guinea or independent, it must have the right to decide its own future' (Bougainville Special Political Committee 1973: 74). Such an outcome is, as we know, still being determined, more than three decades after the CPC’s work had concluded.

By the end of the consultative phase of its work, it seems fair to agree with Momis’ conclusions, that the CPC had ‘gone to great trouble’ to consult with the people – more than any other group of the country’s leaders. Although the months that followed the ending of the consultation exercise saw the process of developing the Constitution move into the domain of politics and lawyers, it also seems fair to say that the process of involving the people in decision-making – by making them, as many believed, members by extension of the CPC itself – was integral to their acceptance and indeed embracing of the new nation when it arrived on 16 September 1975.

**Conclusion**

It is possible to draw at least six conclusions about the place occupied by the consultative programme in the history of Papua New Guinea’s achievement of independence.

It meant that the Constitution really was ‘home grown’: thousands of people gave their ideas and views.

It has been noted that Papua New Guinea’s Constitution ‘is based on the assumption that it reflects the real concerns and goals of the people as discerned by the CPC’ (Regan 2001: 2).

The work undertaken by the CPC, the Government Liaison Branch, and the thousands of people who contributed to the exercise from its commencement to the tabling of the Final Report, attests to the Constitution’s ‘home-grown’ nature. The process by which concepts were developed within the CPC, put to the people for consideration, and returned to be interpreted by the CPC before their inclusion in the Report was geared to fulfil to the best practical extent the commission that the CPC was given in 1972. The most compelling evidence, however, of the ‘home grown’ nature of the Constitution can be seen in the extent to which people participated in the Discussion Groups, provided submissions, and attended CPC meetings. The Committee was greatly encouraged by the willingness of the people to participate in the exercise, and did as much as it could to incorporate the sentiments expressed by them into its Report.
It helped to persuade people to accept the concept of an independent future as a unified state.

In 1969, when the previous committee on constitutional development led by Paulus Arek toured the country, it received a strong message that the people did not see themselves as ready for self-government. Four years later, however, the large-scale participation by people in the process demonstrated great interest in the outcome.

While resistance to the ideas of self-government and independence did not dissipate rapidly, especially in some of the Highlands areas, this can be contrasted with the willingness of people to come and contribute to the meetings, to write submissions, and finally to attend the CPC's meetings on tour. The large numbers that participated showed that Papua New Guineans felt strongly about what was happening in their country. So, too, did the growth in regional movements. It appeared from the level of interest there was in the CPC's activities, as well as in the more localised events, that many Papua New Guineans had by this time come around to the view that independence was inevitable.

It helped to define Papua New Guinea's national identity.

The National Identity Ordinance in 1971 established the name, flag, and emblem of the new nation, but, as the Australian Administrator, Les Johnson said when introducing them, these were 'the symbols of a nation, but in themselves they cannot create a nation' (Johnson 1983: 62).

The consultative exercise, on the other hand, succeeded in bringing together ideas of what the independent state should look like. The people were asked to ponder such questions as how citizenship should be defined, how tensions between local concerns and those of broader national relevance should be resolved, and, especially, the philosophical tenets that would underpin the new nation - the Five National Goals contained in the CPC's Final Report. By its conclusion, the consultation program had allowed competing opinions on these, and a host of other, subjects to be aired, and a truly Melanesian consensus to be reached.

It failed to get everything right.

While the consensus that was reached brought with it the promise of a peaceful acceptance of the outcome of independence, there was, of course, no guarantee that the decisions that were made at the time would be the right ones for the future. An example of an
outcome that many Papua New Guineans – together with the CPC, and the new nation’s parliament – favoured that was later to prove problematic was the introduction of first-past-the-post voting in national elections.

In 1974, the CPC considered that the first-past-the-post system was ‘easier to understand, easier to run, and the results become known much more quickly’; as well, ‘a clear majority of those who have made submissions’ was in favour of this, it concluded (CPC 1974: 6/16). However, by the 2002 election, this outcome had led to the situation where it was ‘statistically possible for a candidate to win with a little over 1,000 votes’. The situation has been at least partially rectified since then with the introduction of Limited Preferential Voting, but this remains an example where the opinion of the majority, as expressed through the consultative programme, may not have yielded the most positive outcome.

It wasn’t exhaustive.

The sheer amount of material provided to the CPC through its consultative programme meant that it would have been impossible to properly analyse and address all the concerns raised by the people who did contribute to the process (especially in an essentially pre-computer age). As one CPC member has acknowledged, ‘to be honest, in the end we abandoned the idea of analysing all the submissions that came in, because there were too many’ (M. Daugi in ‘Transcript of Discussion by Panel of Constitution-Makers’: 361). Additionally, there was a far greater number of Papua New Guineans who either chose not to contribute or who were wholly or partially unaware of what was going on at the time and their potential role in it.

The time that was allowed for the constitutional development exercise was always going to be too short, particularly when, in late 1972, it was decided to dramatically expand the consultative programme. From then on, there was unremitting pressure to complete the CPC’s work and quickly produce a constitution, and, as a result, much was left incomplete.

It was a major accomplishment, nevertheless.

The Committee’s members, its staff, and its advisers committed an enormous amount of time and energy to realize their mission. With the pressing need for a constitution in time for independence, the CPC delivered a report that was made far richer and more complex from the insights it had gained through consulting with the Papua
New Guinean people. The consultation programme itself proved to be an integral part of the achievement of independence, as people in every part of the country were exposed to concepts and understanding of themselves as constituent members of the new nation, and, for this alone, the exercise should be praised. That this was carried out at a time when the pressures to move to independence, as a unified state, and with an at times still reluctant population, is a testament to the achievement of all who participated in this exercise.

And Now?

Captured like an old photograph, the records of the consultative programme illustrate a society that was simultaneously very old and very young, afraid of and excited by the future, and clinging to and distancing itself from the past.

The time during which Papua New Guineans became involved in 'making their own law' was one of great turmoil, but it was also one when a utopian future based on Melanesian traditions of consensus and peace beckoned.

Now, more than thirty years afterwards, the real history of this time is still there to be written.

By 'real history' I mean a people's history - not simply the story of the dealings between governments and politicians, and not the kind of history that I have done that is based on the records kept in the National Archives.

The thousands of people who participated in Discussion Group meetings, wrote submissions, and attended public meetings of the CPC are the true founding fathers and mothers of this nation. They should be asked, before it is too late, and while they are still with us, about their experiences of this time.

His Excellency Bernard Narokobi has asked 'what has become of the dreams' expressed at the time of independence? I think the dreams are still there, and it will be a great gift to the future citizens of this country for them to be recorded and kept so that our children, their children, and so on, can remember the optimism and positiveness that was in the air when Papua New Guinea became independent and achieved its Constitution.

I leave this as a challenge to be taken up. This is a story only half told. The best bit is still to come.
Footnotes
1 M.J. Yang, Chairman of the Nabak Discussion Group, Morobe District, 19 May 1973, PNGNA
2 Mr Tambai, Adviser to the Irelya Primary School Discussion Group, Western Highlands District, 10 March 1973, PNGNA
3 Suki, Adviser to the Amaiyufa Discussion Group, Eastern Highlands District, 13 March 1973, PNGNA
4 Smike Tetre, Adviser to the Kiunga Discussion Group, Western District, 22 February 1973, PNGNA
5 Yoseph Mirek, Adviser to the Wassissi Discussion Group (Aitape Sub-District), West Sepik District, n.d., PNGNA
6 Momis in Post-Courier, 29 March 1974, p. 2
7 May 2003: 7

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‘Bougainville Special Political Committee submission to the Constitutional Planning Committee’ 1973, in Mamak et al. 1974
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'Transcript of Discussion by Panel of Constitution-Makers', in Regan et al. 2001, pp. 345-365
Democracy, Rule of Law and *Mama Lo* in 21st Century Papua New Guinea: Retrospect and Prospects

*Tony Deklin*

Preamble
Will Papua New Guinea's (PNG) young democracy survive not only the next three decades but at all? There were, as there still are, pessimists on the one hand and optimists on the other. The focus of this paper is on the role a constitution, as the society's fundamental law, is designed to serve in the life of a nation-state.

Our *Mama Lo*, as our fundamental law, is designed to protect three fundamental values: we, the People of Papua New Guinea, our Democracy, and the Rule of Law. This involves meeting two matter-of-life-and-death challenges simultaneously if society is to survive. A constitution must, on the one hand, provide stability, and, on the other hand, facilitate change in the basic social order. This requires a gymnastic act of balancing two weights: stability at one end and change at the other end of the scale. The fulcrum which does the weighing is the government and its people. This is not easy to achieve at the best of times, as can be gauged from the disintegration in recent years of federations and some nation-states much older than ours.

Ultimately, in a modern democracy, this juggling act of balancing constitutional change with constitutional stability will depend on two decisive factors: the personality of the people themselves who have created the constitution and give it its legitimacy as their fundamental law; and the quality of the political elite who use that law as the basic tool for the governing of the society. In the end, it is not the rules and institutions that determine the dynamics of

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