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THE MOTI AFFAIR IN PAPUA NEW GUINEA

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The Moti Affair in Papua New Guinea

Itself a minor matter in international affairs, the arrest, detention and escape of Julian Moti in Papua New Guinea revealed something of the relationships between three nations, the subsequent inquiry in Papua New Guinea provided evidence of the performance of institutions and elected and appointed officers, and the affair's knock-on effects still reverberate.

As with previous occasional revelations – such as the Commission of Inquiry into Papua New Guinea Forestry, (the Thos Barnett Inquiry) of 1987-89, Ombudsman reports into violations of the Leadership Code, and evidence given before public accounts committee – the PNGDF Board of Inquiry into Moti's arrest and escape provides outsiders with frank information into the way the government works.¹ Given little research by social scientists on contemporary government in Papua New Guinea, the absence of sustained investigation by the media (but revealing immediate reporting) and few people engaged in serious public debate, the publication of insider testimony and informed scrutiny is all the more valuable. Understanding how the government works is basic to – and often missing in – debates about labelling the state 'weak', 'fragile', 'at risk' or 'failing'. Knowledge of government processes and the behaviour of officers is basic to any reform programs: it helps determine what needs to be done and what is possible.

In August 2006 a car owned by former Federal Court judge and current barrister, Marcus Einfeld, was photographed speeding in Mosman. Einfeld said that his silver Lexus was being driven by Teresa Brennan, a visitor from the United States. But when it was found that Brennan had died three years earlier, Einfeld was soon in trouble over other traffic offences and faced serious charges including perjury.² An apparent scandal in Sydney, and an engrossing matter within legal circles, had its impact on Solomon Islands where Einfeld was been appointed to chair an inquiry into the April 2006 riots in Honiara. When Einfeld withdrew, Solomon Islands Prime Minister Manasseh Sogavare moved to replace the attorney general, Primo Afeau, with Julian Moti, a Fiji-Indian by background and an Australian lawyer by training and citizenship. Sogavare was seen by his opponents in Solomon Islands and some Australian observers as attempting to use Moti to oversee the terms and conduct of his riot inquiry to shift blame to the Australian directed Regional Assistance Mission to Solomon Islands (RAMSI) and away from the two members of parliament (Charles Dausabea and Nelson Ne'e) who were gaoled for their involvement in the riots.³ In Solomon Islands there were reservations about appointing Moti who had been ordered out of the country for a previous engagement in politics and he was said he have a professional association with one of the gaoled members of parliament. Transparency Solomon Islands and the Bar Association opposed Moti's appointment as attorney general.⁴ After the Australian Federal Police issued a warrant for Moti's arrest for an

¹ Reports of inquiries are not, of course, representative: disasters, crimes and gross impropriety and neglect generate inquiries; success rarely.

² smh.com.au/national, 30 March 07.

³ radioaustralia.nat.au/pacbeat/stories/s1722243.htm.

⁴ Smh.com.au/news, 7 May 2007; radioaustralia.net.au/pacbeat.

alleged child sex offence in Vanuatu in 1997, Sogavare saw a deliberate plan by Australia to frustrate his attempts to set up a separate inquiry, and he appealed to arguments about Solomon Islands' sovereignty and prejudice against a big and distant Australian bully.

Acting on an Interpol alert triggered by Australia, the Port Moresby police arrested Moti on 29 September 2006 in the transit lounge of Jackson's airport when he was flying from Singapore to Honiara. The Central Province and National Capital District police chief, Tony Wagambie, said his officers had acted appropriately in carrying out the arrest and he was surprised when told to free Moti on bail. But before he could act, Wagambie said, Moti had already gone.⁵ He had been released on bail and was thought to have gone to the Airways Hotel. But he did not appear as required in court on Monday 2 October for the initial proceedings leading to his facing the Australian case for extradition. For some time the public did not know where Moti had gone, then it was learnt he was holed up in the Solomon Islands High Commission in Port Moresby. As reported by the National Broadcasting Corporation and the two national dailies, the Prime Minister, Sir Michael Somare advocated the release and transfer of Moti and punishing the police who arrested him.⁶ Somare's reported words were explicit: 'Let Moti go' and 'my view was to make sure that he gets past our system and goes through [to Honiara]'.⁷ On Monday 9 October the only operational PNGDF CASA aircraft took off from Jackson's airport and dropped Moti and Solomon Island officials at a disused airstrip on Munda Island.⁸ The aircraft and its PNGDF pilots and crew were back at Jackson's early on 10 October. The Civil Aviation Authority had no record of the flight, Michael Somare said he was setting up an inquiry in his department to find out who had ordered the flight and warned government officers against acting without proper written authority. The Solomon Island High Commissioner to Papua New Guinea, Bernard Bata'anisia, said he had no knowledge and only learnt of the flight after Moti reached Solomon Islands.⁹ Following a brief time when he appeared to be under arrest in Solomon Islands, Moti shifted to a Honiara Hotel.

After two tentative investigation, one instigated by the Prime Minister and the other by the PNGDF Commander, Peter Ilau, a more substantial and independent inquiry into the midnight flight of Moti was established as a PNGDF Board of Inquiry with Justice Gibbs Salika (chair), retired Brigadier General Anthony Huai (deputy chair), Daniel Liosi (member) and John Kawi (senior counsel assisting the Board). It was to report to the Minister for Defence, Martin Aini, member for Kavieng and a Pangu representative in the governing coalition. Evidence given to the Board has been the source of most public knowledge in Papua New Guinea, and some of the revelations have gone beyond the Moti affair. The late and unofficial release of the 100 page Report of the Defence Force Board of Inquiry with its clear and matter of fact evaluation of the evidence has added to the amount and credibility of the information on the public record.¹⁰

⁵ *National*, 12 February 07.

⁶ *National*, 9 February 07.

⁷ *Defence Board of Inquiry*, pp.29-30.

⁸ It may have been able to operate. It is not cleared as airworthy (*National*, 12 January 2007).

⁹ *National*, 11 October 2006.

¹⁰ *Australian*, 30 July 07, used the leaked Report in news and feature articles. It then released the full Report on its website.

While the Defence Force Board of Inquiry was limited in time, initially to just eight weeks, its terms of reference were broad, running to some nineteen items, including who financed the operation, what accounts were used and were those accounts being used appropriately. It is the breadth and detail of the Board's terms of reference that make its report revealing of government behaviour.

The Money Trail

In the process of finding out how K15,000 was released to buy fuel for the CASA, the acting first assistant secretary (finance) in the Defence Department told the inquiry that when officers asked for travel allowances for local and overseas trips, he was expected to approve them without question, and the returning officers rarely acquitted accounts.¹¹ Another witness from the Defence Department said that the highest cash advance he made to an officer was K10,000 for domestic travel and K20,000 for overseas, and the amounts were unrelated to the number of days spent travelling. He also said that claims officers were threatened and he agreed that they did not obtain acquittals.¹² Three other 'unbudgeted items' also 'popped up' before the Inquiry.¹³ In one, a cheque for K1 million was signed and sent to Intex International, an Australian company, for blank ammunition. But it seemed that Intex did not have a licence to export ammunition, none had been delivered, and in any case no blank ammunition was required as it had been supplied by Australia.¹⁴ Some of the key documents related to the unbudgeted items went missing in the course of the Inquiry and 'serious threats' were made against those who gave evidence. Huai said the Inquiry had unearthed 'just the tip of the iceberg' but would not expose more as these matters were outside the Inquiry's terms of reference.¹⁵ Four months later, Defence Department Secretary, Fred Punangi, revealed much of the iceberg. Before the Finance Inquiry he said that more than K26 million had been lost in fraudulent claims. Within the Department, Punangi said, 'illegal claims had become an industry for fraudsters'.¹⁶

In its Report the Board found that one of the relevant accounts, the Directorate of Air Operations Account, used by the Air Transport Wing of the PNGDF was set up illegally as it had never been approved by the Secretary for Finance, and it had no clear guidelines controlling its use. Substantial amounts have been shifted through the account, much of it unaccounted for and some of it for purposes outside any reasonable interpretation of the proper uses of the account – such as funding a meeting in Cairns, maintenance of houses and 'invalid expenses'.¹⁷ Another account, the Paymaster's Imprest Account, was used more carelessly. Not only was it exploited to buy the unwanted and unseen blank ammunition and provide the generous advances for overseas travel – on top of the normal travel allowance – but was also drawn upon for 'unforeseen contingencies such as when [personnel] run out of money or to do shopping'. Cash advances were 'never acquitted'.¹⁸ Following the money trail

¹¹ *National*, 23 January 2007.

¹² *National*, 24 January 2007.

¹³ *Post-Courier*, Weekend 26-28 January 2007.

¹⁴ *Post-Courier*, 22 January 2007

¹⁵ *Post-Courier*, Weekend 26-28 January 2007.

¹⁶ *National*, 16 May 2007.

¹⁷ *Defence Board of Inquiry*, pp.58-7.

¹⁸ *Defence Board of Inquiry*, pp.61-2.

disclosed much about failures in accounting, but little about financing the covert operation.

In the Department of Defence those determining where the money went (the departmental secretary, his deputy, the first assistant secretary, the cashier, assistant secretary accounts, and two budget officers in finance) were, the Board discovered, all from the one province and all related. The Board drew a reasonable conclusion: ‘These officers may have been appointed on their own merits, but the public perception could be that the Department of Defence is run by relatives from a certain province.’¹⁹ The Board also referred to another possible family connection: it was suggested that Joseph Assaigo, the Director-General of OSCAR asked a relative and colleague in the Office to drive Moti from the Solomon Islands embassy to Waigani and then a relative of his drove Moti to Jackson’s Airport.²⁰ The Board was unable to confirm that this family transfer of Moti had taken place.

A Conspiracy to Cover the Truth²¹

Witnesses before the Inquiry gave incomplete, wrong and contradictory evidence. Some of this was of minor importance. Assaigo was recalled to give the name of a ninth man on the flight to Munda. He said it was his fourteen year-old nephew who just happened to be present and was offered a free ride. Assaigo said he did not give the information when he first appeared before the Board because he had not been asked ‘directly’.²² A fortnight later the ninth passenger on the CASA was thought to have been a civilian government officer, but whether he was there with a bag of money to pay those on board for services rendered – as suggested by counsel assisting the Inquiry – was unclear.²³ The Board was unable to name the ninth – adult – on the flight.

On the critical question of who gave the instruction for the PNGDF to make the flight, Assaigo said that under ‘extreme political pressure’ and directed by the Prime Minister’s chief of staff, Leonard Louma, he had instructed Captain Tom Ur, acting commander of the PNGDF, to transport Moti to the Solomons.²⁴ He said Louma told him that the Prime Minister would speak to him later. Assaigo testified that he sought assurance that the Prime Minister and Louma would protect him should the mission fail, and Louma said that he would have the Prime Minister’s protection.²⁵ Ur said that when he received orders from Assaigo he asked if the Prime Minister was aware of the operation, and he was told that he was. After Moti had been delivered to Munda, Ur claimed that he told Somare of the operation, and the Prime Minister said to leave things to him ‘as it was all political’.²⁶ But the Prime Minister and all those around him gave vehement denials of any knowledge of the operation. Punangi, Defence Secretary, said he was ‘under no assumption’ that the Prime Minister had

¹⁹ *Defence Board of Inquiry*, p.62.

²⁰ *Defence Board of Inquiry*, p.51.

²¹ The Board suggested that all the main witnesses were in a conspiracy (*Defence Board of Inquiry*, p.84).

²² *National*, 17 January 2007.

²³ *National*, 8 February 2007.

²⁴ *National*, 17 January 2007.

²⁵ *Post-Courier*, 21 February 2007.

²⁶ *Post-Courier*, 24 January 2007.

given any direct or indirect order.²⁷ Winnie Kiap, secretary to the National Executive Council, said that the Council gave no orders.²⁸ Joshua Kalinoe, Chief Secretary, said he neither received nor gave any instructions about Moti's flight and had no prior knowledge of it.²⁹ Louma in evidence said he had given no order to Assaigo and to the press he denounced Assaigo for his untruths and his attempts to shift responsibility.³⁰ Although Somare himself declined to appear before the inquiry he provided a sworn statement and made several public statements to the press, in parliament and in advertisements.³¹ He claimed that he had told no one to have Moti flown to Solomon Islands, neither members of his own staff nor public servants. Somare asked that Assaigo be charged with perjury and attacked the Inquiry for being a 'platform' for the 'mischievous' who were 'disseminating lies'.³²

Given the false testimony about a fourteen-year old nephew on the Moti flight and much conflicting evidence, it was obvious that lies were being told. With the frankness that often marks public debate in Papua New Guinea, Justice Gibbs Salika said that after most of the main witnesses had been heard the Inquiry had 'not come an inch closer to the truth'.³³ His assisting counsel, Kawi, was more explicit: witnesses, he said, could be 'branded as liars of the highest order. Some of them would have qualified for Olympic gold medals for lying'.³⁴ Kawi thought government officers should be charged with contempt of court as well as perjury, and the police should think about laying charges of conspiracy. When the Board came to evaluate the conflicting evidence it decided that Assaigo was 'not truthful' on the ninth passenger, but that he had not acted alone 'as Louma, Kalinoe, Rongap [office of Prime Minister], Kasa [OSCA] and the Prime Minister would have all liked us to believe'.³⁵ The Board decided that ten people, from the Prime Minister down, should be 'investigated and charged' with lying under oath and conspiring to pervert the course of justice.³⁶

If the witnesses had a cavalier approach to giving evidence under oath, they also showed that Papua New Guinea public office holders could be aggressively independent. While this may be taken as evidence of disarray, it also demonstrated that government administration is far from dominated by any central authority within the public service or the Prime Minister's office. There has undoubtedly been a rise in the power of the Prime Minister's office, the executive in general and of ministerial staffers and public servants who owe appointment to current ministers, but this has not led to a controlled hierarchy of decision-making and suppression of the flow of information to the public. If there was a conspiracy to fly Moti out of Port Moresby, there was certainly no coordination of the response to the Inquiry. Government is open in the sense that much information is made public, but this is not the same – as Salika said – as getting at the truth or making people accountable. This is in contrast to those dictatorships in which conformity is ensured by the threat and reality of

²⁷ *National*, 25 January 2007.

²⁸ *Post-Courier*, 24 January 2007.

²⁹ *Post-Courier*, 29 January 2007.

³⁰ *Post-Courier*, 21 February 2007.

³¹ *National*, 16 January 2007; *Post-Courier*, Weekend edition, 22-5 February 2007.

³² *National*, 16 February 2007.

³³ *National*, 18 January 2007.

³⁴ *National*, 22 January 2007.

³⁵ *Defence Board of Inquiry*, p.21.

³⁶ *Defence Board of Inquiry*, pp.84-6.

immediate punishment for those who criticise government policy. What has emerged are public office holders – including those on the Board of Inquiry – who rarely feel any need to moderate blunt language. The exception to this is the solidity of the staff closest to the Prime Minister. It illustrates the coherence and strength of that group and their commitment to the Prime Minister; but it is possible that the appearance of solidity around the Prime Minister is a result that they all (or most) had one truth to express – they knew nothing of any order to get Moti out of Port Moresby. But that explanation was not one accepted by the Board.

Improper Procedures

In the reporting on the Inquiry and in the Board's final report there are references to numerous violations of laws and procedures. Some infringements were deliberate. They were the inevitable result of making a covert flight: no flight plan was submitted, no clearance was obtained from Solomon Islands, no lights were shown on the aircraft, no radio communication was maintained, no record of passengers was prepared before or after the flight, regulations concerning the carrying of civilians on military aircraft were ignored and Solomon Islands' quarantine and migration laws were broken. None of the special circumstances allowing a military aircraft to ignore civilian regulations – a state of war or emergency – were invoked. More worrying were the almost incidental violations that were revealed. The Acting Commander of the PNGDF at the time, Colonel Tom Ur, had not been appointed by the head of state acting on the advice of the National Executive Council and was therefore 'illegally occupying the position of Acting Commander'. The deployment of defence force personnel outside Papua New Guinea 'on active military service' required parliamentary approval. (It could not be argued that the defence force was engaged in a training exercise, a goodwill tour or a national emergency.) The procedures set down for the call-out of the defence force to support civilian power were ignored. The acting commander of the defence force failed to provide the required written order and he himself acted on the spoken authority of Joseph Assaigo and not that of the National Executive Council or Parliament. (Under Defence Force operating procedures a covert operation must be covered by a written direction.³⁷) The CASA aircraft was not airworthy and had not been so since 2002 when a major service was due. Senior commanders have no authority to over-rule the advice of technical officers.³⁸ There were several violations of Papua New Guinea and international law when Moti was removed while he was under the control of the courts and subject to extradition proceedings. The Legal Services Branch of the Defence Force failed to offer, and was not asked for, advice. Colonel Vagi Oala was said to command the Joint Operations Centre. But the necessary amendments to the Defence Act to establish the Centre had not been made or even gone before the National Executive Council, and consequently Oala and his staff were occupying positions and receiving salaries and allowances 'illegally'.³⁹ All these were in addition to the failure to comply with proper procedures in setting up, using, acquitting and auditing accounts.

Politics and Law

³⁷ *Defence Board of Inquiry*, p.52.

³⁸ *Defence Board of Inquiry*, p.68.

³⁹ *Defence Board of Inquiry*, p.54.

Almost from the start, the Board of Inquiry was under legal challenge. The Prime Minister and Punangi obtained legal advice that the Board was exceeding its powers and advised Defence Minister Aini to suspend the Inquiry immediately.⁴⁰ In a specific request, Punangi asked the Board to ignore witness statements on Defence Department administration and financial procedures as these were said to be outside the Board's terms of reference.⁴¹ The Prime Minister brought an action to have the Board wound up as its creation was not consistent with the Defence Act. The various legal attacks on the Board were unsupported by the courts, but on 23 February Somare instructed Aini to stop the Inquiry because, he said, it had failed to apply for an extension of time and consequently had been operating illegally since 11 February.⁴² Although it was soon revealed that Salika had in fact formally asked for an extension, by the time this was confirmed the Inquiry was already in the process of completing its work with a hastily written report.⁴³ But this did not stop the legal pursuit of the Inquiry. In parliament, Somare claimed that the Board had gone beyond what the law allowed, and his lawyers went to the National Court with an application to have the proceedings of the Inquiry declared void and to have its Report suppressed.⁴⁴ Also, Captain Ur and other senior PNGDF officers brought their own action claiming that Salika did not meet the legal criteria for appointment as chair of the Board.⁴⁵ Although the Board had presented its report in mid-March, the National Court continued to consider the case put by the Defence Force officers and Somare's claims that it was biased, but the mid-year national elections soon dominated the attention of politicians, public servants and observers.⁴⁶

Conclusion

The frequency and persistence of legal action that followed the assembling of the Board illustrates the extent to which the courts have become involved in political and administrative processes. Much of the recourse to law was not by citizens attempting to defend themselves from what they thought was an inquiry putting them at a disadvantage, but by one section of government against another: by the Prime Minister against an inquiry set up by the Defence Minister and by the Secretary of the Defence Department against the terms of the Inquiry. This is asking the courts to resolve what should be sorted out by the coalition politicians and their senior public servants. In most democracies it would be unthinkable for the courts to be engaged in such internecine detail. The result is that the court officials are increasingly seen as players in politics at a party and personal level and it is obviously in the self-interest of politicians to ensure that judges are sympathetic to their causes and that they get cases before courts and officials where they are most likely to get a favourable hearing. But while the Inquiry has been diverted and its report delayed by legal action,

⁴⁰ *National*, 18 January 2007.

⁴¹ *National*, 19 January 2007. The terms of reference (2.9-12) seem to say clearly that the Board would try to find out how the operation was funded, if there was any bribery and make a preliminary audit of two particular funds.

⁴² *Post-Courier*, 26 February 2007.

⁴³ *National*, 27 February 2007. At the start of its Report the Board set out a detailed chronology aiming to show that those who claimed the Inquiry had run beyond its allotted time were 'erroneous', (*Defence Board of Inquiry*, pp.3-4).

⁴⁴ *National*, 28 February 2007.

⁴⁵ *National*, 27 March 2007.

⁴⁶ *National*, 4 May 2007. On 4 May the election period officially began when nominations opened. Most electorates were decided by early August 07.

no one, including the Prime Minister, has had a quick and easy court victory. The courts which considered the cases generated by the Inquiry seem to have retained their distance and integrity. Justice Gibbs Salika of the Supreme Court was admirably independent in keeping the Inquiry open and the findings, expressed in plain language, certainly do not favour the Prime Minister who on the weight of probabilities rather than direct evidence was found to have given the order to 'to get rid of Moti'.⁴⁷

Having failed in the courts to bring about the immediate closing of the Inquiry and the voiding of its findings, Somare told the Defence Minister, Martin Aini, to disband it. Over the weekend of 24-25 February Aini told the press that he was 'pressured' to sign the document closing down the Inquiry.⁴⁸ On the Monday, Aini thought that he had been reprimanded for breaking the solidarity of the National Executive Council, but the Prime Minister's daughter and media adviser, Bertha Somare, informed the press that Aini had been relieved of his commission as minister, and later Aini himself learnt of his sacking. Somare took over the vacant defence portfolio. That meant that the Inquiry, already in the process of being wound up, had to submit its report to Somare by 28 February. The next day, Somare rejected the preliminary report as 'sub-standard' and gave the Board a verbal extension of ten days to revise and resubmit.⁴⁹ Huai assured the public that only the grammar and spelling errors were being corrected and that the general content would be unchanged.⁵⁰ A fortnight later the revised report was presented to the Prime Minister and the Board and its staff had their wind-up party in a Port Moresby hotel.⁵¹ The press claimed that the Report said that the Prime Minister through others had directed Joseph Assaigo to 'get rid of Moti'.⁵² Whatever the Report said, the public was not going to learn about it for a long time. The Report was in Somare's hands, he had the power to suppress or release it, and there was still the chance that the court would rule that the Board was biased or that Justice Gibbs Salika had not been qualified to chair its deliberations. Although rumours of the contents of the Board's report continued, it was effectively suppressed until after polling in the general election.

The setting up of a Board of Inquiry by a Pangu Minister, Aini, into events that involve or cross into the responsibilities of other ministers and then his sacking made public the problems of forming a united government from a broad coalition. Pangu was not prepared to make the loss of Aini's ministry sufficient cause to leave the coalition headed by Somare's National Alliance, but Sir Rabbie Namaliu, parliamentary leader of Pangu, spoke of his disappointment and his confidence that Aini had upheld Pangu's principles of 'honesty, integrity, transparency ...'.⁵³ Pangu president, Milo Timini, also praised Aini and he went on to criticise the fact and the manner of Aini's dismissal.⁵⁴ By then Pangu was positioning itself to have the option of entering a new coalition in the next parliament, but even so the openly expressed difference between two of the strongest parties in the parliament showed the extent to

⁴⁷ *Defence Board of Inquiry*, pp.47-8.

⁴⁸ *National*, 27 February 2007.

⁴⁹ *National*, 1 March 2007.

⁵⁰ *Post-Courier*, 7 March 2007.

⁵¹ *Post-Courier*, 19 March 2007.

⁵² *Post-Courier*, 7 March 2007.

⁵³ *National*, 28 February 2007.

⁵⁴ *National*, 1 March 2007.

which governments in Papua New Guinea are loose and expedient groups rather than alliances supporting an agreed policy and ensuring that public statements are coordinated.

Those advocating a 'whole of government' approach to reform may well be right, but they to have to accept the reality that the whole of government is made up of divergent parts. Securing the agreement and active cooperation of the prime minister is no guarantee that the rest of the government will fall into line, and a minister may have only partial control of a department.

It is also obvious that government operates in ways rarely complying with – and little influenced - by law or mandatory procedures. When Joseph Assaigo first gave notice of the operation to Colonel Tom Ur, acting commander of the Defence Force, he said: 'the issue is I got a direction to get rid of the copra bag'.⁵⁵ He had to explain that the 'copra bag' was Moti. That use of the casual spoken metaphor is about as far as it is possible to get from the requirements of the constitution and the Defence Act. Some of the violation of procedure is a result of the lack of officers who are competent and confident in their professional training – in law, accounting and auditing. Some is a result of people from the one place or extended family – as with Moti's drivers and the people controlling the accounts in defence. There is a need for better training, and the *wantoks*, so often found to be a distinctive characteristic of Melanesian governance and so often blamed for its deficiencies, can be a problem. But neither a lack of training nor *wantoks* explain much of the indifference to formal regulations. In his detailed evidence Assaigo listed a series of spoken communications – on the telephone, formal appointments and casual encounters in corridors - most with just vague suggestions about how to get Moti out of the country. The plan seems to have been gradually put together by eliminating the impossible (such as using the police 'eye in the sky' helicopter), committing almost nothing to writing on screen or paper, and people accepted direction because they knew the person and accepted his authority - or knew that he spoke for someone with authority.⁵⁶ For all the indifference to laws and procedures and the apparently casual planning, the covert operation was carried out successfully.

The manoeuvre that enabled the Prime Minister to receive and control the report may have been politically deft, but it also increased public cynicism. While there was no gross violation of law, the conventions that apply in democratic systems were stressed if not broken. In the same way other conventions are under pressure - such as the independence of the Speaker, the separation of the business interests of members from their parliamentary or executive deliberations, and the splitting of parties by the government taking in selected members of nominally opposition parties. In the next parliament, members will have to arrest the decline in the observation of those conventions essential to efficient and fair government while continuing to mould inherited practices so that they are more compatible with Melanesian ways and aspirations. If they don't then democratic elections will not ensure the existence of a democratic government.

⁵⁵ *Defence Board of Inquiry*, p.10.

⁵⁶ Given that this was an inquiry into senior office holders, the absence of documentary evidence before the Inquiry is revealing of operating procedures.

Once the Australian government learnt that Moti had been flown from Port Moresby to Munda, it complained publicly about both Papua New Guinea and Solomon Islands behaving badly. It certainly had a case, given a midnight flight in defiance of the laws and procedures of both governments. More relevant as far as Australia was concerned, planning and providing for Moti to break bail violated international agreements about the holding and extradition of people named in an appropriate arrest warrant.

Having denounced their behaviour, Alexander Downer, Minister for Foreign Affairs, proceeded to punish Papua New Guineans by banning visits by ministers to Australia and forcing the cancellation of meetings. Papua New Guinea responded by claiming the Australian reaction was 'childish and premature' and Somare, who said he was personally untroubled as he had no plans to go to Australia, asked why the head of a neighbouring state had to learn through the press about the ban put on him.⁵⁷ Downer was, Somare said, acting like a 'colonialist' and his statement was an 'outburst of a foreign minister who still thinks that PNG is a territory'.⁵⁸ Papua New Guinea recalled its High Commissioner to Australia, Charles Lepani, for consultation and the commander of the PNGDF, Peter Ilau, who had gone to Australia was told to return.

In the region, the Australian response appeared hectoring and moralistic. In Port Moresby and Honiara it increased support for Somare and Sogavare, strengthened their informal alliance and did nothing to bring about the results wanted by Australia. (The diplomatic note from Solomon Islands government to Papua New Guinea requesting the release of the 'Attorney General' made a flattering appeal to Melanesian brotherhood. It called on Papua New Guinea as 'the founding country of the Melanesian Spearhead Group and our region's largest nation that has pioneered the establishment of a capable and independent Melanesian identity'.⁵⁹) In the days immediately after Moti's flight and Australia's response, Melanesians and Australian critics used the ready-at-hand slogans. Australia was: big brother, neo-colonial, the southern bully, culturally insensitive, without respect for island nation sovereignty The same slogans will be used again, and while they imply no argument, they reflect perceptions which have been strengthened by the Moti affair.⁶⁰ After six months, the Inquiry had come and probably gone, Moti was still in Honiara where he was attorney general and strongly supported by Sogavare, the whole affair remained an irritant in Australia's relations with Solomon Islands and Papua New Guinea, and the bans on the ministers travelling to Australia had quietly disappeared.

Incidents such as the Moti affair - like the tearing off of Captain Jenkin's ear which precipitated war between Britain and Spain in 1739 - reveal other and stronger movements within and between nations. Much of what happened was disturbing. In Papua New Guinea, the officers who admitted involvement in the midnight flight were apparently unworried about the lack of a written instruction, the precise origin of the order or whether they were violating national and international laws. But those failures, easily mistaken for general incompetence, did not mean that the operation - inadequately funded and equipped - was itself incompetently carried out. The misuse

⁵⁷ www.abc.net.au/worldtoday/content/2006/s1765901.htm; www.australiandefencereport.com.au/10-06/government_recalls_officers.htm

⁵⁸ www.australiandefencereport.com.au/10-06/government_recalls_officers.htm

⁵⁹ *Defence Board of Inquiry*, p.39

⁶⁰ Hugh White wrote, Australia 'seemed petty, bullying and vindictive', *Sydney Morning Herald*, 19 October 2007.

of money – from petty to major corruption - in the Defence Department was rife; senior officers contradicted each other before the Inquiry so that it was obvious that some lied; the readiness of politicians and officials to resort to litigation resulted in delays, shifted the courts into the detail of government business and increased their importance and exposure to politicians; and conventions necessary for efficient and fair government were ignored. But the corruption, while widespread, is not dominated at the centre. Papua New Guinea is not a kleptocracy as that term is used of states where the leadership systematically robs its own citizens. In those states the leadership does not tolerate the competition of frequent, opportunistic diversion of state resources for private gain. The Papua New Guinea courts retained their independence in the face of many approaches and cases; the members of the Inquiry and assisting counsel were robust and frank to a degree that would surprise most observers from western democracies; many witnesses spoke freely (even if not always honestly); and the press reported evidence and speculation against the highest in the land. As with other inquiries, revelations of misconduct, even where it was blatant, rarely led to punishment that forced the guilty from public roles and brought few changes in the system.⁶¹ Openness may be a condition of good government, but openness does not necessarily lead to good government.

It is difficult to characterise this sort of government with its individuals and institutions of combative vigour; its many predatory elected and career officers; its inefficiencies and indifference to written and unwritten laws; and while it has a Melanesian egalitarianism of self-made men, it is also a government of several hierarchies and shifting alliances. Observers of governments in the Pacific have commented on the influence of patron-client relations and ethnicity. In *Pacific 2020* ‘developed’ by AusAID, the authors identify two main causes stultifying the efficiency of democratic governments: “‘clientelism’ and fragmentation’. The fragmentation is ‘ethnic fragmentation’.⁶² In what is known and part-known about the behaviour of the Papua New Guinea government in the Moti affair there is much evidence of fragmentation. The most obvious cases of fragmentation are of a minister, a prime minister and a judge heading a board of inquiry acting independently and senior officers contradicting each other in their statements to the Board. There is not much of this fragmentation that appears to be ‘ethnic’. Where there is evidence of closely associated people acting in concert – as in the accounts section of defence - the connection between them is one of family rather than ethnicity. The broader grouping ‘Sepik’ is mentioned in the Report and officers with their origin in one province connect people around the Prime Minister and in other sections of the bureaucracy. But to be ‘Sepik’ is to be defined by a place that encompasses several cultures, and two of the men who contradict each other, Joseph Assaigo, director-general, OSCAR, and Joshua Kalinoe, chief secretary, are both from the Sepik and were thought of as being ‘Sepiks’.⁶³ Some of the staffers and officers around the Prime Minister may be in a client-patron relationship, and it is here that there could be a case of a what the *Pacific 2020* survey sees as ‘Clientelism and fragmentation reinforce[ing] each other’.⁶⁴ But again this does not extend across much of

⁶¹ Assaigo lost his position, but the Board found him more credible on the main issue than most other witnesses.

⁶² *Pacific 2020: Challenges and Opportunities for Growth*, Pacific Affairs Group, AusAID, Canberra, 2006, p.94.

⁶³ *Defence Board of Inquiry*, p.46.

⁶⁴ *Pacific 2020*, p.94.

government and the coherence and stability of province and patron-client groups is open to doubt. One of the simple facts about government in Papua New Guinea is that the Prime Minister's party is likely to have at most a quarter of the seats in the parliament. To secure a majority he needs another thirty votes, and while members are keen to join the government and share in the prestige and spoils of office, they join the government after negotiating an agreement. They may not be equals in government, but the Prime Minister needs them. They are less than clients – they act with varying degrees of independence, they have their own family, regional and client support, and their alliances with the Prime Minister and other groups in the government are not permanent.

An observer of Papua New Guinea politics wanting to find examples of patron-client, ethnic, district and regional, and family and clan relationships (*wantoks*) can certainly find them, but all have limited explanatory value. These are governments with several centres, not of equal strength but allowing degrees of independence and with shifting alliances; of judges, public servants and media able to pursue their own lines of inquiry and action; and of important decisions and subsequent actions being taken without anything being written down and communication often being dependent on a chance encounter and instruction being conveyed in understatement or metaphor. If it is difficult to describe this sort of government, or to find precedents in Africa and Asia, then it is all the more difficult to be certain of its trajectory.