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Introduction

This book discusses the topic of social control and women in four cultural groups in Papua New Guinea; the Bena Bena, the Arapesh, the Tolai and the Orokaiva. The term social control used in this book is the one defined by Cohen (1985, pp. 1-3). His conception of social control includes the 'organised ways in which [a] society responds to behaviour and people it regards as deviant, problematic, worrying, threatening, troublesome or undesirable in some way or another'. This definition has been used since it is general enough for it to account for both formal and informal mechanisms of social control.

Using a focused ethnography it will be shown that the system of social control imposed by the colonial power and continued since Independence was inappropriate to Papua New Guinea because it did not fully take account of traditional values and systems of social control. However, the imposed system nevertheless had the effect of increasing the status of women within the system of social control and dispute settlement as compared to their status prior to contact.

A focused ethnography has been defined by Otterbein (1977, p. 10) as an approach which is:

... 'problem-oriented' in the sense that the ethnographer desires to explain the culture trait which he has focused upon. He solves his problem, so to speak, by including in his report topics which he believes, or other anthropologists believe, are causal factors. He will also usually include a description of the subsystem (economic, social, political, or belief system) in which the focus topic is embedded. Most ethnographies written today are focused, but much contextual information is also provided.

In order to illustrate that the status of women within the system of social control was raised through contact with the imported system, it is important to first establish that status in traditional society, especially within the traditional system of social control. This is done in chapters three, four, five and six. Lawrence (1970, p. 44) describes the approach used by the social anthropologist when investigating social control in traditional Papua New Guinean societies as follows:

He starts with a broad description of the society's social structure, showing that the individual is not an indistinguishable transposable citizen-isolate but is tied to a network of prescriptive relationships—as a tribesman, clansman, kinsman, etc.—each with its specific expectations from and obligations to other people. He then lists the specific types of wrong action that are likely to

occur: those against the religious code (non-observance of taboos, women witnessing the male cult, etc.) and those against human beings (neglect of social obligations and positive wrong actions such as theft, incest, adultery, homicide, etc.). It may be believed that gods and spirits rather than human beings punish offences against religion, bringing ill-luck, illness, deformity, or death to wrongdoers. This appears to ensure considerable conformity in this sphere.

Chapter One goes on to examine the changes experienced by women generally within their societies and specifically, within the introduced system of social control during the period of colonial administration. In chapter two a comparison is made between two institutions of social control in the post-Independence period of Papua New Guinea to demonstrate that women fare better under the imported system of social control than they do under custom. The two agents of change examined in the post-Independence period are the Probation Service and the Village Court system.

Any work which attempts to describe the traditional features of a society which has been influenced by contact with other societies faces the problem of whether or not the resource material chosen to describe these features is based on the information of older informants within those cultures.

This book relies on the works of Mead (Arapesh), Williams (Orokaiva), Langness and Read (Bena Bena) for traditional accounts of the respective cultures. Each ethnographer was a trained anthropologist and made use of older informants to gather data. In the Tolai culture, records were made by missionaries, traders and settlers, all of whom were untrained ethnographers. Since the earliest sources were used whenever possible there is more chance that the works were based upon the actual traditions of the people, since pacification of the Tolai was not achieved until the turn of the century. These works become more credible in light of the fact that there was much agreement in their content about the various aspects of culture being studied (although the interpretations of the traditional practices often reflected the cultural biases and particular purpose of the ethnographer concerned).

The ethnographers used to describe the four groups are secondary sources. In some cases primary document sources (or testimony of an eyewitness who was present at the events) were used, particularly in the discussions covering the colonial period. Patrol Reports were written by each Patrol Officer after he had completed his patrol using his diary notes kept during the patrol. These are primary sources because the Patrol Officers observed the people themselves and particularly noted cultural change. The reliability of these journals in demonstrating culture change is high since 'reliability is . . . inversely proportional to the time-lapse between event and recollection, the closer a document is to the event it narrates the better it is likely to be for historical purposes' (Gotterchalk,

Kluckhohn & Angell 1945, p. 16). The reliability of these Patrol Reports is further enhanced by the fact that they were written by trained and experienced reporters (the Patrol Officers were trained by the Australian School of Pacific Administration where they were given some instruction concerning the traditions and customs of the people prior to being sent into the field (Downs 1980, p. 117). Oral primary sources were also used to collect information for the colonial period. Interviews were conducted by the author with two individuals who were present in Papua New Guinea during this period.

Anecdotal evidence was used to support assertions made about women and social control systems. This is legitimate in Melanesian custom since 'storying' is a universal tradition in Papua New Guinea. In 'storying', the onus is placed on the listener to interpret the message of the story, as compared to the western tradition where the teller interprets for the listener. Stories are the building blocks of social control because they relate what happens when there is a violation of custom.

To gather the information dealing with the post-Independence period, field trips were made to each of the four groups. Interviews were conducted with members of the Probation Service, Village Court Magistrates, villagers, District Court Magistrates and other members of relevant community agencies and groups. When interviewing Probation Officers about the cultural traits and about the activities and experiences of women, an effort was made (where appropriate) to limit the questions asked to the particular village where the officer was born. Officers were also interviewed regarding particular female case files.

An examination was made of all the probation case files of women from each group. Details of the offence, the circumstances surrounding the offence, the Court disposition, what sort of assistance was provided by the Probation Officer to the client and her family, and whether or not the probationers had successfully completed their probation period were noted. Whenever the documented information in the files was inadequate or raised questions, the Probation Officer was questioned.

With regard to women who go before the Village Court, Probation Officers, as well as Village Court Magistrates and villagers (both male and female) were questioned about women from their home village since it was believed that they would know more about the problems faced by women from their own group than elsewhere.

The particular four groups were chosen in an attempt to ensure that language, system of descent and groups from each of the country's four regions were represented and discussed. Both Austronesian and non-Austronesian language groups are present—one is matrilineal and three are patrilineal. In addition, selection was influenced by the fact that a probation office was located in the vicinity of the group, and according to the availability of academic literature on the group studied. Although it might be argued that the groups are not necessarily the most representative

of their respective regions there is enough similarity between cultural groups within the regions that representativeness is assured in terms of the position of women and the system of social control. Collectively, the four groups allow an examination of the full range of traditional social control techniques available within Papua New Guinea.

The Arapesh especially were chosen because of the author's personal ties with the Chief Probation Officer who is an Arapesh. The Melanesian system of building relationships and obligations assisted with this choice because of the obligations that have been built up through the author's four years of living in Papua New Guinea and her association with the development of the probation system in Papua New Guinea.¹

Commonalities of Culture

The Melanesian nation of Papua New Guinea is made up of many small fragmented societies. There exists a great diversity of language and culture within the country and some 750 language groups have been documented encompassing a quarter of the world's languages (Laycock in Wurm 1982). Since the societies are fragmented, customs, beliefs and practices, descent and kinship systems and patterns of residence differ widely. Nevertheless, even within this diversity, it is possible to isolate and identify certain commonalities within the different cultures (Epstein 1974, p. 25).

In Papua New Guinea, each traditional culture shares a similar technology and economy and is composed of groups, the members of which carry out similar tasks and are interdependent by virtue of kinship, affinal and descent ties (Epstein 1974, p. 25; Lawrence 1969, p. 21). Yet even within the group and especially outside the group there are those persons with whom a man has no relationship and no dealings. Usually there is no system of rank within the society since such a system would greatly disrupt kinship ties. The social fabric remains generally stable and relationships between the groups and individuals are not subject to any dramatic variations (Lawrence 1969, p. 21).

Papua New Guinea is made up of patrilineal and matrilineal societies. Lawrence (1969, p. 21) outlines three types of matrilineal societies within Papua New Guinea. The first includes small local groups of matrilineages whose members reckon their system of descent from one common ancestress. In the second, slightly larger type, a number of matrilineages claim one further common ancestress for them all. The third includes matrilineal groups who base their ancestry on a dual organisation by dividing themselves into two moieties (or halves). This type consists of many matriclans, divided into matrilineages. Each matriclan belongs to

¹ In 1985 the author and another Canadian Probation Officer were recruited by CUSO (the Canadian Volunteer Organisation) to work as Probation Advisers with the Justice Department of Papua New Guinea and design and implement a Probation system relevant to Melanesian culture.

one of the two moieties. This type tends to have higher populations than the first two. Lawrence further divides those Melanesian societies using the patrilineal system of descent into three major types which correspond to the three matrilineal types already described only using the patrilineal system of descent and claiming one common ancestor instead of ancestress (1969, p. 22).

The relationship between the sexes in the social systems of traditional Papua New Guinean societies has been in place for hundreds of years and is related to the fact that the Melanesian people have traditionally been horticulturalists. The choice of matrilineal or patrilineal systems of descent is related to the availability of resources (Martin & Voorhies 1975). Matrilineal descent corresponds with societies who reside on fertile land that have the capability of supporting small, stable groups of people. Control over resources is placed in the hands of women. This therefore, negates the need for competition over resources and the groups tend to be stable and cooperative in their economic systems. Patrilineal systems of descent correspond with less fertile ecological systems where competition over available resources is necessary for group survival and where control over production and allocation of resources is placed in the hands of men. The systems of residence after marriage are also affected by these ecological and economical factors. If there is a scarcity of resources there is also an increase in the prevalence of competition and warfare between groups. Therefore male solidarity is essential in the survival of the group. In patrilineal societies the patrilocal rule of residence (the bride moves to the groom's homeland) means that women are made 'strangers' within the group. They are required for their labour and for their reproductive capabilities. There is no cooperation between groups of women in the patrilocal system of residence. Instead, women are allotted individual plots of land to cultivate. They are also responsible for raising their husband's pigs and for generally working towards increasing the material wealth of their husband and his lineage.

The matrilocal rule of residence (the groom marries into the bride's homeland) congregates groups of related women and makes the men who marry into the matriclan 'strangers' within the group. As mentioned earlier, matrilineal systems of descent (using the matrilocal rule) tend to have stable, abundant subsistence economies (an economy which is not dependent on the use of money). Matrilineal societies using the avunculocal rule of residence (the couple resides with or close to the groom's mother's brother) have much in common with patrilineal societies since the effect on women tends to be the same (Martin & Voorhies 1975). Under this rule women become dispersed and their position is related to the need within the society for an accumulation of wealth. These women also become most valued for their reproductive capabilities and for their labour which contributes to the wealth of their husband and of his relatives. In both patrilineal and matrilineal systems women are controlled

by men. In the former they are controlled by their husband and his brothers. In the latter, women are controlled by their brothers and uncles.

Commonalities of Social Control

Just as there are uniformities in Melanesian culture generally, there exist common principles in traditional mechanisms of social control and dispute settlement (Epstein 1974, pp. 8, 25). Both Epstein (1974, p. 25) and Lawrence (1969, pp. 25-34) argue that such uniformities can be found especially in the area of self-help. These common principles become important when considering the design of a state imposed system of social control.

An analysis of the systems of leadership and authority in Papua New Guinea societies contributes very little to the understanding of traditional systems of social control (Lawrence 1969, p. 24). This is due to the fact that Melanesian societies have no centralised system of authority vested with the powers to prescribe and administer punishment for breaches of the moral code. Leaders do have authority which they achieve through 'their prowess in agriculture, warfare, dancing, sorcery, and organising trade, feast-exchanges, and initiation' (Lawrence 1969, p. 24). They have the ability to manipulate and influence the members of their group. Yet these leaders differ from those in authority in western societies (Lawrence 1969, pp. 24-5). Their authority is derived from the important social activities which they set in motion. Their policy-making role is limited since these prescribed social functions would take place anyway without their initiatives as they are integral to the social fabric of the group. Their authority does not apply judicially (*see* Lawrence 1969, p. 25). The jurisdiction of the leader's authority or 'social range' is limited by the fact that his authority does not apply to outside groups.

However, although in theory there is impartial law in western societies, in practice it may not be as impartial as Lawrence implies. This is evident in Bienvenue and Latif's Canadian study comparing the disposition and recidivism rates for Indians and whites in Winnipeg, Manitoba (1974, pp. 105-15). The study shows that Indians are over represented in police arrest rates (Indians comprise approximately 3 per cent of the population but are arrested for 27.2 per cent of all male offences and 69.5 per cent of all female offences.) The conviction rates were similar in that 27.9 per cent of males convicted were Indian and 70.6 per cent of convicted females were Indian.

Lawrence (1969, pp. 26-34) analyses Melanesian social control by looking at the types of actions which occur and are considered to be breaches against the moral code. He divides offences into two categories: offences against the religious code which include failure to recognise ritual and initiatory taboos and to observe the secrecy surrounding male

cults; and offences against human beings which can be sub-divided into wrongs of omission (for example, disregarding obligations to relatives, affines, exchange and trade partners); and wrongs of commission such as adultery, rape, homicide, theft and proscribed marriage.

Offences against the religious code

Lawrence (1969, p. 26) notes that this type of offence has substantial significance to traditional Melanesian people who 'do not distinguish between the realms of the natural and supernatural, religious sanctions or the intervention of gods and spirits of the dead in human affairs (and) are a powerful force in social control.' This type of offence usually does not lead to retaliation since the people believe 'that the deities and ancestors, who preside over initiation, ritual, and land tenure, will bring the culprit ill-luck in agriculture, fishing or hunting, or illness, deformity, and even death' (1969, p. 26). Lawrence notes the only exception to the above rule was when women accidentally or otherwise witnessed the secrets of the men's rituals. Before contact with western influences these women were killed.

Offences against human beings

This category of offence can be subdivided into two types: self-regulation or those 'forces that tend to prevent wrong action' (Nadel in Lawrence 1969, p. 26); and self-help or retaliatory action which is applied after the commission of an offence.

Self-regulatory forces work through the processes of socialisation, shame, public opinion, criticism and the rule of reciprocity. The socialisation processes at work during child-raising were very strong. Children had to learn clan histories, respect their kinsmen, other kinsmen's property and religion. The customary practices taught to children were reinforced by the immediate application of the sanctions through public opinion and shame. As Lawrence (1969, p. 27) explains, public condemnation was a: '. . . powerful sanction in small communities in which escape into anonymity [was] impossible: the culprit [was] always confronted by people who [knew] him personally and censur[e]d his action. It soon induce[d] a sense of shame, which . . . result[ed] in either suicide or, more frequently, exile'.

Socialisation and public opinion functioned to sustain the moral code and it was through these forces that the traditional values were internalised and perpetuated (Lawrence 1969, p. 27). According to Lawrence, the reason for the existence of traditional values can only be found in an examination of the rule of reciprocity and the focal or multivalent activities.

Lawrence (1969, p. 27) says that the 'rule of reciprocity is that where the mutual obligations entailed by a relationship are observed, each party

will derive material advantages from the other.' Social relationships are based on materialism and those in relationship openly look upon each other as providers of goods and services. Failure to observe these obligations will provoke withdrawal of all cooperation (for example, *see* Lawrence 1969, p. 27).

The rule of reciprocity has its basis in cooperation. Cooperation through the reciprocal exchange in kind of material goods and services becomes the currency of a subsistence economy, binding individual members to a 'system of chains of interdependence' (Lawrence 1969, p. 27). In societies which lack cash economies cooperation is the currency and a man cannot buy goods and services in any other way. However, not all activities are of equal importance. Some, such as feast-exchanges, agriculture, house-building, and mourning ceremonies are central and fall within Nadel's concept of focal or multivalent activities (cited in Lawrence 1969, p. 28). Nadel says focal activity describes any activity of such importance that 'others depend on it in a practical and instrumental sense' (cited in Lawrence 1969, p. 28). All other activities are therefore contingent on focal activity being carried out.

Lawrence (1969, p. 29) discusses the relationship between morality, social control and self-regulation. He says, firstly, that statements of moral obligation merely recognise interdependence and mutual self-interest since 'what is valued, what is essential, is not the existence of a relationship *per se* but the practical advantages it confers' (1969, p. 29). Also, actions are given a higher moral imperative if they are prevalent in economic and social life. There is no moral obligation independent of reciprocity, inducing cooperation, followed by self-interest. Secondly, moral obligation will only be recognised where there are effective relationships which can offer material advantages. Lawrence (1969, p. 29) contrasts this with western society since 'morality is not conceived as Universalist but has a restricted social range'. Thirdly, the process of self-regulation should be understood as only one aspect of everyday life. In contrast to the western legal system the sanctions are not punishment but examples of 'penalisation'. As Lawrence (1969, p. 30) says, 'self-regulation is obviously a feature of western society but is not recognised as a legal principle'. Read (1955a, p. 255) agrees with Lawrence in his comparison of the Melanesian and western morality:

. . . moral values are one of the principal regulative mechanisms of culture. To be effective . . . moral values must be internalised and generally accepted by the majority of those who constitute the group . . . a majority of our own moral judgements imply the Christian ethic of personal freedom and responsibility, the transcendent and objective nature of the good and common obligations in a moral universe. By way of contrast, the moral judgements of other peoples may be couched in terms of practicality; they may eschew the speculative and abstract and they may stress the immediate claims of interpersonal relationships.

Self-help or retaliatory action

When self-regulation is not effective or the act is outside the range of self-regulation (for example where there is no morally binding relationship) self-help can occur. In the western legal system self-help is essentially absent after the first contact with the system but in traditional Papua New Guinea societies where there is no organised legal system, self-help assumes maximum importance (Lawrence 1969, p. 30). An individual must seek his remedy with whatever support he can muster from kinsmen and others.

The severity of the retaliatory action will generally depend upon the closeness of the relationship between the plaintiff and the defendant (Lawrence 1969, pp. 32-4). If it is close, the action will be less severe and if distant, more severe, involving greater numbers of people. The reason is that most relationships, even where there is conflict, are still important especially when severe action would weaken the in-group against outsiders. Thus, settlements are often easily reached in these situations. Where there is no relationship there is no sense of moral obligation and self-help can take the extreme form of unrestricted warfare.

Lawrence (1969, p. 34) says that in settling a dispute in Papua New Guinea, 'the aim is to restore social order, or to patch up relationships that have been broken or damaged'. This contrasts with the aim of western systems which emphasise impartial justice and punishment being determined by the wrong committed. Relationships between the individual wrong-doer and the victim have less relevance.

Melanesian dispute settlement techniques differ substantially from the Western judicial approach to disputes. The difference lies primarily in the focus of the approach with the West focusing on the act itself and Melanesians focusing on the social context and the social relationships within which the act took place. In *Contention and Dispute*, Epstein (1974, pp. 11-12) aptly describes the distinction between the two approaches in the following:

Thus in Western systems classification tends to relate to the nature of the offending behaviour considered primarily as an act, and one of its functions is to indicate for a given set of circumstances the appropriate procedures to be followed or mode of redress to be sought. By contrast New Guinea conceptions stress the nature of the offence is defined not so much by the act itself as by the social context in which it occurs. That is to say, how a particular act is interpreted, and more importantly, what reaction follows it, will depend very much on the social relationships and interests of the parties involved.

Commonalities of culture and in social control will be evident in the descriptions of the four chosen groups. The extent to which the colonial powers and the post-Independent Government took account of the

differences between western and traditional approaches to social control is discussed throughout.

Chapter One

'Taim Bilong Masta'

In the late nineteenth century, what now constitutes the nation of Papua New Guinea was divided into two colonial territories. The north-eastern part of the main island and the neighbouring smaller islands were administered by the German Imperial Government. The south-eastern portion of the mainland and its adjacent islands became a British Protectorate in 1884. Annexation of British New Guinea as a British colony was accomplished in 1888 (Wolfers 1975, p. 16). The western portion of the main island was ruled by the Dutch.

A few months before the British proclaimed the southern portion as a British Protectorate in 1884 Germany claimed the Bismarck Archipelago as a German Protectorate including the Islands of New Britain, New Ireland and Manus. In 1885 annexation of the area by Germany was accomplished and the area became a German colony (Tuzin 1976, p. 28). Imperial Germany was reluctant to bear the cost of the colony and so endorsed the Neuguinea-Kompagnie under an Imperial Charter to provide for its administration (Wolfers 1975, p. 62). This Charter was revoked and replaced with direct German rule in 1899.

The German Government ruled New Guinea from the capital Kokopo (the capital was moved to Rabaul in 1910) until 1914 when the Australian military invaded New Guinea as a result of the first World War in Europe (Valentine 1958, p. 150). The Australian military occupied the Territory until 1921 when it was given a mandate by the League of Nations to oversee the administration of the Territory (Valentine 1958, p. 159).

Early in 1942 the Japanese invaded New Guinea and a few months later they invaded Papua. The separate civil administrations of Papua and New Guinea were amalgamated under the military controlled Australian New Guinea Administrative Unit (ANGAU) which administered Papua and the portions of New Guinea that remained unoccupied until 1945 (Downs 1980, p. xiii).

The Commonwealth of Australia took over the Protectorate of British New Guinea in 1902. Under the Australians, British New Guinea was administered by a Lieutenant-Governor under the authority of the

Department of External Affairs. British New Guinea became the Territory of Papua in 1906 subsequent to the Australian Government passing the Papua Act in 1905 (Downs 1980, p. xiv).

After the second World War the Australian Government was given the authority for both Papua and New Guinea under one administration in the form of a Trusteeship for the United Nations. In 1949 the Papua New Guinea Act joined Papua and New Guinea under one administration. Self-government was declared in 1973. The Trusteeship was to remain in place until the Independence of the nation Papua New Guinea was achieved on 16 September 1975 (Downs 1980, p. xxiv).

This chapter discusses the impact of the colonising powers. In assessing the impact, three agents of change will be examined: the colonial administrations, the justice systems, and mission influence.

Colonial Administration (New Guinea and Papua)

The system of patrols by Patrol Officers (kiaps) and the laws which supported them were the principal effect of colonial administrations felt by the people. The administration used a system of District administration to rule the fragmented groups of villages, clans and tribes within the two territories. Downs (1980, p. xv) notes when describing the Australian administration that:

For the greater part of this history the Territorial Government operated through fifteen district offices, fifty-eight sub-districts and a score of remote patrol posts serving a total of 11,920 villages.

The origin of the kiap system lies in the time of British rule in Papua when Lieutenant-Governor William MacGregor instituted a system of administration based on a magisterial system, the Armed Constabulary (made up of indigenes) and on the appointment of village constables. The British system of the Armed Constabulary was made up primarily of indigenes other than those Europeans employed as commissioned officers. Under Australian rule there was concern about possible resentment on the side of Europeans which might result from situations where white men could be arrested by the indigenous members of the Armed Constabulary. Thus, the duties of the indigenous police were differentiated from the European members of the Constabulary in 1909 (Wolfers 1975, p. 18).

The appointed Magistrates acted in a much broader capacity than their judicial functions would normally entail. As Wolfers (1975, p. 19) puts it:

A 'magistrate' in Papua was more than a judicial officer. He was, and his successor the patrol officer still is, in many areas, the sole personification of the government: policeman, explorer, road-builder, health inspector, social worker and prison warder; even in court, where he deals with most of the

'lesser offences' against the law, and civil disputes between Papuans, he acts as prosecutor, defence counsel, judge and jury.

The Australian Administration in Papua continued this British system of Magistrates and Village Constables.

Under the paternalistic policies of Sir Hubert Murray the number and scope of regulations and ordinances increased drastically. Regulations were passed in order to control such things as native dress codes, health, sanitation, road-building, attendance at school, behaviour within the villages especially in relation to conduct toward Europeans (Wolfers 1975, pp. 31-59).

In German New Guinea the first pioneers were traders and this influenced the style of administration in New Guinea. Imperial Germany was reluctant to accept financial responsibility for the new colony, and awarded the New Guinea Company (Neuguinea-Kompagnie) an Imperial Charter to administer existing territory and to take possession of territories previously unclaimed. The Imperial Charter noted that Germany reserved for itself the responsibility for the: ' . . . order and administration of justice as well as the regulation and direction of relations between the protectorate and foreign governments . . . ' (Wolfers 1975, p. 63).

The New Guinea Company was primarily interested in economic development and profit and therefore looked to control the coastal areas where coconut plantations had been established. Their concern was for the ' . . . safety of [their] own investments rather than pacification as such, and the development of village life' (Wolfers 1975, p. 63). The New Guinea Company's main administrative influence was therefore limited to the Gazelle Peninsula. After 1899, when the Imperial German Government took over from the Company, the sphere of influence widened. Both the New Guinea Company and the German Government showed interest in the indigenous people primarily in terms of the labour (*see* Valentine 1958, pp. 108-9; Wolfers 1975, p. 67) they could provide and in protecting themselves from attack (*see* Wolfers 1975, p. 65).

In 1896 the Germans established an indigenous police force (based on MacGregor's system of the Armed Constabulary) at the instigation of Dr Albert Hahl, Imperial Judge from 1896 to 1899 (*see* Wolfers 1975, p. 67). During this same year, the German Government attempted to make use of the traditional system of leadership to control the coastal area people through 'indirect rule' (Townsend 1933, p. 425). Pragmatically, the Imperial German Government wished only to maintain law and order for the smooth running of economic activities in the Territory and for the purpose of recruiting a steady supply of labour for those activities. The German Government implemented a system of appointed 'luluais' and 'tultuls' (interpreter and assistant to the luluai) who were required to represent the administration in their communities, to ensure submission to administration policies and regulations, to resolve minor disputes and to disclose the identities of more serious wrongdoers to the authorities. The

luluais were given authority to adjudicate minor disputes at the village level. They were also given the authority to fine minor offenders. Wolfers (1975, p. 104) notes:

Marital and land disputes, disputes involving property worth more than 25 Marks or ten fathoms of tambu (the traditional shell-money of the Tolai), and cases of serious crime had always been reserved for the kiap, who also heard appeals against decisions made by luluais.

The luluai system may have been derived from colonial policy of 'indirect rule' in Africa (Valentine 1958, p. 118). This system was to become adopted throughout New Guinea and was continued after the Australian takeover of the New Guinea administration following World War I.

The German Annual Report of 1901 indicates that the 'luluai' system as a form of indirect rule was not an unqualified success (*see* Valentine 1958, p. 107).

Valentine (1958, pp. 107-8) argues that the designers of the system did not sufficiently understand the existing framework of leadership to devise a fully effective system, and that the system toiled under the assumption that appointed native leaders would give up the very values which had successfully won them their prestigious positions within their communities, and instead become loyal to a foreign and incomprehensible authority. Even though the luluai were expected to assist in the pacification of the people they were not given any real authority with which to do so.

Wolfers (1975, p. 71) summarises the German colonial experience in New Guinea as follows:

In sum, the German administration was less paternalistic and protective, more brutal and direct where it did intervene in indigenous society, than the MacGregor-Murray tradition had allowed Papuan officers to be.

When Australia became responsible for New Guinea the role of the luluai was changed by placing more emphasis on his role as 'servant' of the administration instead of utilising the existing leadership structure to arbitrate disputes (Wolfers 1975, p. 68). Thus, formally, the luluais lost their judicial powers in minor dispute settlement and instead, took on the Papuan role of law enforcers. Nevertheless, informally, the Australian Patrol Officers encouraged the luluais to continue arbitrating minor disputes within the village. By 1927, the Administration admitted that it was aware that luluais 'continued to sit 'as a kind of court' to hear minor complaints' and that it appreciated 'the importance of fostering these native institutions and tribunals and encouraging the natives to take a more active role in the management of their own affairs' (in Wolfers 1975, p. 91). The

system of luluais and tultuls continued into the 1970s to serve as the predominant meeting-point between the village and the administration.

Downs (1980, p. xv) describes the Australian patrol system in the period subsequent to World War II:

In the post-war period, assistant district officers became resident and available to the people of most areas. Patrol posts were established within sub-districts and patrol officers gave village officials closer support. The village official was the last link between central Government and the people. He represented his people in dealings with the Government and he represented the Government in the eyes of the people in each village of the Territory. In Papua the local official was a Village Constable; in New Guinea he was called a Luluai and he had an assistant, the Tultul, who was required to be able to speak Pidgin (Melanesian English).

Patrols were conducted into each area at least once a year. Through these patrols administration officers brought the western system of law and other services to the many villages throughout the country. The patrols were mostly conducted on foot by the Patrol Officer, accompanied by indigenous police officers and numerous carriers. Each patrol attempted to visit as many villages as possible, conducting an annual census and enforcing Australian regulations and policies as they were developed and according to the District Office's assessment as to the readiness of the area for such development.

The Papuan Native Regulations and the New Guinea Native Administrative Regulations first gazetted in 1923 were very similar in substance (Wolfers 1975, p. 90). More and more, the paternalistic and protectionist policies of the Papuan Administration were imported into New Guinea. The Native Administration Regulations of 1924 stipulated that District Officers and Patrol Officers were to 'make themselves acquainted by all means in their power with the native custom of their district'. Officers were required to become familiar with native custom, document it within their areas, and attempt to learn the local languages. This policy was considered by field staff as sound, however, they found it difficult to implement particularly in New Guinea where there was a major problem with inexperienced staff and with the constant transfer of staff after only short periods. Townsend (1968, p. 119) states:

It was impossible in the short period any officer remained at any one station to do very much more than perform the routine tasks necessary to keep a station functioning. There was little time, even for the most enthusiastic and interested officer, to learn more about native customary life than what was immediately apparent in this District.

There was, however, no request for officers to investigate and record traditional methods of social control (Townsend 1968, pp. 119-20).

Nevertheless, Townsend reports (1968, p. 120) that field staff did acknowledge customary techniques of social control.

Although it was permissible for the Supreme Court of the Territory of New Guinea to hear evidence of a relevant custom in order to increase its understanding, custom was not permitted to be used as a defence. The Native Customs Recognition Ordinance 1963, stipulates that custom could only be taken into account in criminal cases for specified purposes:

7. Subject to this Ordinance, native custom shall not be taken into account in a criminal case, except for the purpose of -

- (a) ascertaining the existence or otherwise of a state of mind of a person;
- (b) deciding the reasonableness or otherwise of an act, default or omission by a person;
- (c) deciding the reasonableness or otherwise of an excuse;
- (d) deciding, in accordance with any other law in force in the Territory or a part of the Territory, whether to proceed to the conviction of a guilty party; or
- (e) determining the penalty (if any) to be imposed on a guilty party, or where the Court considers that by not taking the custom into account injustice will or may be done to a person (Native Customs Recognition Ordinance 1963).

The Patrol Officers dealt with marriage issues under the Native Administration Regulations. The Administration considered customary marriages and methods of divorce to be valid except when the marriage had taken place by a ceremony not according to custom (for example according to Christianity). Marriages which were not held according to custom were regulated under the Marriage Ordinance 1935-1936.

The Administration reserved the right, however, to intervene in situations where a woman was being forced into a customary marriage against her will. The Native Administrative Regulations 1924 permits the Administration to interfere in such cases particularly when the woman: '... has been educated in European surroundings, or has acquired European habits to such an extent that, in the opinion of the Administrator, it would be a hardship to compel her to conform to native custom'.

Reay's summary (in Epstein 1974, p. 207) of the colonial experience in Minj, Western Highlands Province, could be applied generally to women in both Papua and New Guinea:

The most pervasive differences between customary law and the law of the kiaps concerned women as objects of exchange. Some essential features of traditional life—the gift of women to settle war debts, child betrothal, the capturing of brides, the bestowal of daughters, sister exchange, leviratic marriage, passing on an unsatisfactory or superfluous wife to a clansman—required the enforced subservience of women. These customs could now lead to verbal abuse or a gaol sentence, or both if detected. Women had been

jurally minors in the control of their fathers before marriage and then of their husbands. The kiaps treated the women as legal entities in their own right and introduced a law known by the Pidgin term *laik bilong meri* ('what a woman wants'). This law was followed so strictly in the kiaps' courts that when a girl escaping from an enforced marriage named a man she preferred the court would order him to marry her, irrespective of his own wishes.

The kiaps treated marriage and divorce as individual transactions instead of an exchange between groups (Reay in Epstein 1974, p. 207). The return of 'brideprice' was regarded by them as an act severing the marriage. This took no account of the fact that the brideprice had been distributed amongst many in the group according to family obligations and to the importance of the relationships. These family members had in turn distributed their portion of the brideprice amongst those to whom they had obligations. To demand the return of brideprice once the marriage was deemed to have failed by the kiap, was a very difficult and complex problem. Traditionally, the difficulty of gathering an equivalent amount of goods and agreeing on their suitability between all parties had worked as a deterrent to divorce. Even after the kiap's decision to grant a divorce 'according to custom' this difficult problem remained to be resolved.

The Native Administration Regulations provided a penalty of the payment of three pounds or imprisonment for six months or both for the offence of adultery committed by either a man or a woman with a married person. A complaint of adultery could not be brought against any 'native':
' . . . except by the native husband or wife of the woman or man by whom the offence was committed, or in the absence of such husband or wife, as the case may be, by his or her nearest relative'.

This Regulation was an attempt by the Administration to provide a replacement penalty for the often fatal traditional sanction for adultery. However, in social terms the effect was later discovered to be discriminatory towards women. In a male dominated society it is often the husband who becomes involved in extra-marital affairs. Accordingly, the effect of this Regulation was that the third party (outside the marriage) was the only party to be charged with an offence. This third party was most often a woman.

Sorcery was made illegal under the Native Regulation Board Ordinance in 1893 (Wolfers 1975, p. 21). In 1911 the Australian Administration of Papua refined the regulation making it (Wolfers 1975, p. 21):

. . . illegal to practise or to pretend to practise sorcery; to threaten its use either by oneself or through another; to procure or attempt to procure a sorcerer; to be found in possession of 'implements or charms (both left undefined) used in sorcery'; or to accept payment, or presents in the shape of food or otherwise 'when the obvious intention of making such payments or presents is to propitiate a sorcerer'.

The New Guinea Administration, in the Native Administration Regulations 1924, outlined the same range of offences for sorcery as Papua. The practice of sorcery carried a penalty of payment of three pounds or imprisonment for six months, or both.

All of these Regulations and many others were enforced by the Patrol Officer in his judicial capacity. Wolfers argues that their enforcement depended upon the idiosyncrasies of each individual Patrol Officer. As he puts it (1975, p. 160): 'some took a close interest in the construction and maintenance of latrines, others ordered copra, rubber or coffee to be planted (sometimes one after another), while yet others were "law and order" men'.

Justice System

The Papua and New Guinea administrations represented by the colonial governments of Britain, Australia and Germany imported their own systems of justice into their respective colonies. Germany based many of New Guinea's laws on domestic German law and Britain instituted the Queensland Criminal Code shortly after taking charge of British New Guinea (Wolfers 1975, pp. 17, 66).

Under the Australian administration of both Papua and New Guinea, the lower court system was constituted by the Courts for Native Matters in Papua and the Courts for Native Affairs in New Guinea (Downs 1980, p. 148). Each district was provided with a Court system after proclamation. The two Court systems were similar in 'their rules, jurisdiction and procedure . . . and they provided rules for behaviour that could be related to basic local custom' (Downs 1980, p. 148).

The Courts' jurisdiction covered only indigenous peoples. They were used by both Australian administrations, not only to regulate conduct, but also to introduce 'the people to an alien society as well as to an alien judicial system' (Downs 1980, p. 148). Downs (1980, p. 148) notes that: 'Administration and justice were entwined'.

In the rural areas, 'Court' was held while on patrol or in the out-stations. Decisions of the kiaps and resident magistrates could be appealed to the Supreme Court of the respective Territory. Wolfers (1975, p. 145) notes that kiap justice was stern:

. . . when the law was applied, it was firmly applied. Very few Papua New Guineans were ever found innocent in a kiap's court—never as many as 10 per cent in any year for which records for either territory are available—and some were imprisoned without proper records being kept of the offences with which they were charged, or of the penalties which were imposed.

These lower courts in the Territories dealt with minor criminal matters and most civil matters. They handled 75 per cent of the recorded court

cases in both Territories (Downs 1980, pp. 149-50). Carrying greater powers of jurisdiction, the District Courts could hear matters involving both Europeans and indigenes. All indictable matters were committed to the Supreme Court for trial.

Sometimes, the Patrol Officers' decisions on disputes were made 'out-of-court'. Downs (1980, p. 149) suggests that, while the people were in transition from their preliterate society in which payback figured so importantly it was necessary for them to have an impartial and recognised authority whom they could turn to when conflicts arose. He asserts that the kiaps were perceived to have been such an authority by the people, and consequently, their 'out-of-court' decisions were accepted. Without questioning the appropriateness of imposing the western justice system in Papua or New Guinea, he argues that Patrol Officers served to fill a gap until the time when the people were able to participate as lawyers and magistrates in their own system (1980, p. 149).

In 1960, Professor David Derham produced a report on the Administration of Justice in the Territory. The report suggested that the kiap system had served a useful purpose in coordinating a strong decentralised justice system which was good for control and 'good government'. However, Derham argued that the kiap system would not adequately prepare the people for self-government. He also criticised the use of out-of-court decisions made by the kiaps for their lack of formality and documentation.

In the early 1950s D.M. Fenbury, Director of the Department of District Services and Native Affairs, had recommended that a system of village courts be established to enable villagers to mediate and reconcile many of their own disputes (Downs 1980, p. 150). This idea was drawn from the system of Native Courts adopted in British Solomon Islands Protectorate and on the feeling of field officers that villagers could arbitrate their own disputes if they were given such authority. In fact, according to Downs (1980, p. 150), many Patrol Officers were already giving their 'tacit approval' to local dispute settlement when they turned a blind eye to village officials and elders whom they knew were holding court within their villages.

Paul Hasluck, Australian Minister for the Territories, disagreed with Fenbury's recommendations. Instead, Hasluck supported the Westminster system of government and the British system of justice (1976, p. 240). He felt that before the Second World War too much emphasis had been placed on the administration of justice as a means of helping the Administration do its job (1976, p. 175) and not enough emphasis had been placed on the protection of individual rights and on the independence of the courts from political direction (1976, p. 178). Hasluck (1976, p. 179) states:

In practice a great deal was done by a process of arbitration and negotiation by patrol officers and others in settling questions without legal process . . . Their successes tend to confirm the idea that good administration was better than good law courts and led to a situation in which crimes of the more striking kind, such as killing each other, or crimes against the white man, such as stealing, formed a much more significant part of the work of the courts than what might be termed civil disputes among themselves or minor offences against the Laws of the Territory.

Hasluck decided to follow the recommendation of the Derham Report. He abolished the separate court systems and implemented a local/district/supreme court system. The kiap courts were supplanted by the Local Courts which were set up to adjudicate the lesser offences. The new court system dealt with offenders of all races. Derham proposed that these courts were eventually to be staffed by 'native' magistrates (Downs 1980, p. 153).

Hasluck directed that regular patrols were to be conducted into all areas, especially rural, in order to educate the people about the new Local Government Council system to be implemented. As local government systems were developed, patrolling decreased (Downs 1980, p. 152). It was hoped that through the Council system, the people would learn to administer their own community affairs 'in accordance with the law'. The new Councillors had no powers to deal with issues of law and order yet this did not stop some of them from holding their own 'Courts'.

In the changeover from the old system of luluais and tultuls, to the new system of Local Government Councils the administration wished to emphasise the fact that there was now a new order. Consequently, in each community where Councils had been established, a public ceremony was held in which the 'new order' (elected councillors), were ceremonially given silver badges which would serve to represent their new office and powers while the 'old order' (the luluais and tultuls) were forced to publicly hand in their official hats and badges which some had worn for thirty years. Downs (1980, p. 152) notes that:

Everything was done to impress the public that the old order was finished—giving place to a new system. This was an extraordinary mistake because the statutory powers enjoyed by the outgoing village officials and those to be exercised by incoming councillors were not the same. . . . They could not legally carry out the work of the officials they were publicly seen to have replaced. They were not even elected on a village basis. . . . There was now a broken link between central Government and the village people which local government could not replace . . . Reversion to modified forms of traditional custom was inevitable when the Administration failed to provide a rural judicial system.

Derham's Report was criticised for its failure to reconcile the Local Court system with the Melanesian view of justice which required that injury to both the individual and the group be addressed and that

compensation for that injury be awarded. The Local Court system, eventually to be staffed with 'native' magistrates, was still not empowered to reconcile this fundamental difference between the imported system and the Melanesian attitude toward justice.

In the new system women were given the same 'legal capacity' as men. Although the Administration claimed in 1948 that it had made no concerted effort to 'alter the present accepted status of women in New Guinea' (Report to the General Assembly of the United Nations on the Administration of the Territory of New Guinea 1948, p. 56) it nevertheless had had a significant impact since it treated women as equals before the eyes of the law. Five years later in 1953, the Administration claimed that it aimed to 'raise the status of women' (Commonwealth of Australia 1953-54, p. 66):

In the Report to the United Nations in 1953-54 it was stated: 'The Administration aims to raise the status of women, and it undertakes the work through its own agencies and with the assistance of the Christian missions. Women enjoy equality before the law. They can sue or be sued, may own or dispose of property, enter into contracts or practise in any profession. The legal capacity of Native women depends to some extent on tribal custom. At the village level they have the right to take complaints to the courts and, under the Native Village Councils Ordinance 1949-1952, to vote in village Council elections.

A woman was not made legally responsible for her husband's debts and she was given legal right to 'sue for divorce according to native custom'. The Administration also passed legislation which prohibited women from becoming employed in areas considered unsuitable such as mining and seafaring or jobs which required heavy physical labour.

In general, the new justice system was foreign and incomprehensible to the indigenous people of Papua and New Guinea where different principles of justice applied. Downs (1980, p. 154) sums up the discrepancies between the two views of justice:

In a society where swift and violent reprisal was respected as the best restraint on violence crime, protracted sittings of the Supreme Court (which travelled to all district centres) could sometimes strain the patience of primitive people. The formality of alien law and language could be confusing and if a penalty did not seem appropriate, this was probably because the structure of Melanesian values could not be reconciled with those of Western civilization. Our courts seemed to Melanesians to place too high a value on the sanctity of the rules of evidence, to be diverted by what seemed to be technical trivia, to over-value inanimate objects, to have a biased regard for the status of women and to have no comprehension of vendetta responsibilities and metaphysical influences on the motives of people. Even our legal definition of stealing did not allow for some Melanesian assumptions of common and reciprocal rights to property.

Mission Influence

Missionaries and the church were used as a tool of the Administration to pacify the people and to influence their value system so that they took on Christian values. In this sense, the Church was of significant assistance to the Administration since western law is essentially based on Christian principles and values.

The London Missionary Society had contacted the South Coast people of what was to become British New Guinea thirteen years prior to annexation in 1888 (Barker 1979, p. 28). Fearing the effect that the traders and future settlers would have on the indigenous people, the missionaries pressured the British Government to annex the territory (Barker 1979, p. 29).

The missionaries were willing to work with the Administration and asked that only 'authorised Europeans, i.e. missionaries and government officials' be allowed contact with the indigenes (Barker 1979, p. 29). James Chalmers, the leading proponent of the mission's stance 'felt that most white men who came to Papua 'injured' the indigenes by introducing drink, disease, and bad habits' (West 1968, p. 144, in Barker 1979, p. 29). Chalmers wanted the missionaries to be the only 'civilising' influence. As Barker notes (1979, p. 30): 'His (Chalmers) aim was to use British protection as a means of isolating Papua; in this way the missionaries would have a free hand in leading the Papuans towards the ideal of a Christian nation'.

When the Australian Administration took over from the British in administering Papua, an economic policy was promoted which paved the way for white settlement. However, the Lieutenant-Governor, J.H.P. Murray, provided support to the missions by developing and implementing regulations that shielded the Papuan people from conspicuous exploitation (Barker 1979, p. 30). The missionaries saw their role as one of protector of the indigenous people and as mediators between traditional culture and European civilisation. They saw themselves as the proper authority to effect change upon the Papuan people, civilising, yet 'shielding converts not only from the 'evils' of traditional society, but from the temptations of the white man's ways . . . ' (Barker 1979, p. 30). The missions were against indigenous contact with towns, concluding that this could only have a deleterious effect on their moral life. Their opinions about the influence of labour recruitment varied from 'fears of social breakdown and depopulation' to 'agreeing with the value of hard work but worried about the influences of a possibly anti-Christian environment' (Barker 1979, p. 31).

Competition between the missionaries and other European influences over the indigenes was evident from the start. The missionaries pleaded with the government to 'step in and stop planters from hiring Papuan pastors as 'boss boys' without mission permission' (Barker 1979, p. 31).

Money earned from labour recruitment introduced new influences both in the form of material goods and of new ideas into village life and the missionaries found that these introductions were often inconsistent with a Christian lifestyle as they perceived it.

The mission attitude toward Papuans was similar to the settlers. Both displayed superiority and patronage (Barker 1979, p. 32). The missionaries compared the Papuans to children while the settlers viewed them as 'simple-minded' and 'irresponsible'. In order to help guide the 'Papuan children' the missionaries supported the many regulations the Australian Administration passed (Barker 1979, p. 32).

The missionaries worked cooperatively with the Administration to pacify and 'civilise' the Papuans (*see* Barker 1979, p. 32).

This cooperative view was also evident within the Administration (British New Guinea, Administrator 1905-1906, p. 10): '[i]t must be admitted that the operations of the Missions have tended largely to the establishment of internal peace, and consequently have been a most valuable assistance to the civil power'.

MacGregor worked with the various missions to get them to agree to dividing up the territory into sections. Each group had exclusive rights to build their missions and win converts within their allotted territory (Barker 1979, p. 34).

However, the missionaries were also critical of the Administration particularly on issues of punitive expeditions, white settlement and 'native' taxation (Barker 1979, p. 32).

Murray reinforced the separation of state and church by building up his administration and this resulted in a decrease in the 'government's overall dependence upon the missions . . .' (Barker 1979, p. 37). However, the missions played an instrumental role during the Murray era by providing medical and educational services to the people encouraged by the Administration which did not have the funds required to provide such services.

In New Guinea, the German administration also utilised the missions to assist them in the pacification, control and 'civilisation' of the indigenous people. True to their major interest in the colony, one of economics, a major motivation for the German administration to work cooperatively with the missions was to encourage them to teach the 'native' to work. Firth (1982, p. 136) notes:

As far as government officials were concerned, the missions were there to serve German as well as Christian purposes, to colonise as well as evangelise and to teach the German version of European civilisation; and the ideal missionary was one who concentrated on the practical task of opening up the country by teaching villagers to keep their gardens clean, operate sawmills, sail European vessels and offer themselves for plantation work.

The German administration in 1891 divided up the Gazelle Peninsula into Catholic and Methodist districts, 'in order to keep the competing missions apart'. However, the district system was abolished in 1899 after Berlin was pressured by the Vatican (Firth 1982, pp. 142-3).

The missionaries in New Guinea initially attracted converts through trade (*see* Firth 1982, p. 156).

In both Papua and New Guinea the missionaries provided educational and health services to the people. Firth (1982, p. 156) argues that in New Guinea the 'mission school was an extension of the trading relationship, a form of paid employment'. Promises of gifts and wages were often used to lure children into school attendance. (The German administration was so aware of this practice, especially in Bougainville, that Governor Hahl decreed in 1907 that children attracted to school because of such promises '... were to be treated by the Marist mission as indentured labourers subject to the protection of the labour legislation' *see* Firth 1982, p. 156).

Converts were also gained through the missionaries attempts to act as mediator between enemy groups. (Firth 1982, p. 157). Missions also offered 'sanctuary from enemies, and mediation in disputes with other members of the European community' (Valentine 1958, p. 130).

Missionaries in both territories provided the indigenes with medical attention and assistance. This, too, won them converts since this type of attention had a very practical and dramatic benefit on the people's well-being (Firth 1982, p. 157; Giddings, R., pers. comm. 8 October 1989).

During the Hasluck era education became a priority because, as he said (1976, pp. 242-4): '[t]he English language and mission teaching would lead to unity, universal communication and then to modernisation'. Of course, in the process of educating people using the church and the English language, Christian Australian values were being imposed. Since western legal principles are founded in Christianity, teaching by the missions inevitably imposed those principles also.

A competitive flavour and a resentment of each other's influence over the people became apparent in the relationship between the administration and the missionaries. The Patrol Officer's influence over the villagers was more of a 'potential for influence' since he had less contact with them and when there was contact it was often in the context of keeping the peace when trouble arose (Giddings, R., pers. comm. 8 October 1989). The Patrol Officer also had his administration agents living in the village (luluais and tultuls). They exercised some power since they were the administration's appointed leaders, however, they were also the missionaries' parishioners and felt compelled to defer to them.

The Patrol Officers were envious of the degree of knowledge the missionaries gained through their continuous contact with the people. The missionaries were, nevertheless, jealous of the conspicuousness and immediacy of the powers of the Patrol Officer. A Patrol Officer could get things done quickly. He had the judicial powers to back him. The main

sources of conflict between the administration officers and the missions were the issues of polygyny, marriage customs, divorce customs and dancing ('sing sings'). All were regarded as both 'sinful' and 'heathen' by the missionaries (Barker 1979, p. 39; Rowley 1965, pp. 150-2). The Patrol Officers were often more sympathetic to these traditional customs especially when they had to deal with the disputes and social effects arising from the church ban on their practice. (Papua New Guinea. Patrol Reports: Upper Asaro No. 10/1954-55; Asaro No. 9/1953-54; Goroka No. 18/1952-53). Rowley (1965, p. 152) notes that the Patrol Officers' objections to the missionaries' attempts to enforce the practice of monogamy stemmed from their efforts to execute the administration's policy to protect 'family structure from too rapid change'.

If the missionaries were successful in convincing some members of a clan to discontinue the practice of polygyny, then, if those convinced were influential clan members, internal pressure would be put on the reticent clan members to also give up their polygynous practices (Giddings, R., pers. comm. 8 October 1989). Government Anthropologist, Williams in his article, 'Some Effects of European Influence on the Natives of Papua,' observed some of the effects the missions had on the Papuan people (1935, pp. 219-20):

But by constantly preaching the superiority of Christianity, and by his unwillingness to tolerate those beliefs and practices which are deemed incompatible with it, the missionary tends to bring some of the most significant parts of native culture into contempt. Further, it sometimes happens that, being an educator as well as an evangelist, he adopts the ideal of Europeanization. Then the native cannot resist the suggestion that his own culture is definitely inferior . . . I believe that his (missionary's) intolerance (where it occurs) and his inevitable insistence on the superiority of Christian civilisation, do as much to weaken the native's pride in his culture and himself as do the arrogance and contempt of some other Europeans.

The missionaries sometimes used the villagers' fear of the administration to further their own ends. They threatened them with the kiap's judicial powers if they failed to follow the church ban on polygyny for example, (Papua New Guinea. Patrol Reports: Asaro No. 9/1953-54; Goroka (Upper Asaro) No. 10/1954-55), or if the people threatened to create trouble for the missions.

The principal points of contact between the missions and the administration which impacted on the people of the Territory were the objective of pacification and the advancement of the people's welfare, particularly in the areas of health and education.

Chapter Two

'Nau Taim Bilong Yumi Yet'

In this chapter, two institutions of social control established after Independence will be examined: the Village Court system and the probation system. These institutions are representative of the agents of change in the post-Independence period and they are illustrative of the interplay between the customary and the introduced law in Papua New Guinea.

The Village Court system resolves disputes by reference to custom and is an attempt by post-Independence governments to settle an issue not fully faced by the colonial administration—the integration of custom into the formal legal system and the acceptance of plural systems of law. The probation system, which did not exist under the colonial administration, is an attempt to provide a flexible sanction for offenders against social order by involving the local community and, in an innovative way, the values of that community, in the treatment of the offender.

It will be seen that the Village Court system, through the application of custom to dispute settlement, has the effect of denying improvements to the status of women. Probation, on the other hand, can help serve the needs of women in that it can provide supervision, community support and counselling which together can bring a meaningful resolution to the common problems which bring women into conflict with the law in Papua New Guinea.

Village Courts

The Village Courts Act of 1973 came into operation on 5 December 1974 (PNG Justice Department Files—Village Courts Act 1973). The Act was revised in 1989 but the basic structure remains the same as in the 1973 Act (Baker, J. 1990, pers. comm., 22 January). The idea of a system of village courts had been discussed at various times by the Australian Administration but it had always been rejected in favour of the kiap system and the Local/District/Supreme Court system introduced in the 1960s. The Local Court system was to have jurisdiction over the less

serious offences and to focus on integrating trained indigenous Magistrates into the western based court system. However, the kiap was still exercising judicial authority in the early 1970s (Bayne 1985, p. 76). Since the luluai system had been replaced by a system of Local Government Councils who, in theory, did not have legal authority to deal with village disputes as the luluais had, a gap had been created in rural justice and the link between the central government and the village people had been broken (Downs 1980, p. 152). By 1971 the Administration could see that there was a need for some form of dispute settlement to be legitimised in the judicial system at the village level in response to the growing concern over law and order problems in the rural areas (Bayne 1985, p. 76). Discussion of the rejected Village Court system resurfaced once again yet the system did not receive government backing until the period of self-government. During this period the Government appointed a Papua New Guinean and an Australian Magistrate to make recommendations for the establishment of a Village Court system (Bayne 1985, p. 76).

The system created as a result of the recommendations made by these Magistrates was simple in structure. Each Court was formally created by proclamation by the Minister of Justice and was given jurisdiction over a designated area. Bayne (1985, p. 77) notes that: 'In practice, the courts were created as a result of local initiative from the villagers and the local government council. Given the complexity of Papua New Guinean society, the spread of the courts across the whole country has been remarkable. By 1980, there were some 754 courts covering some, 1,750,000 people'. In 1988 there were 957 Village Courts and 9486 Village Court officials (Village Courts Secretariat, *Annual Report* 1988, p. 6).

The courts were not established according to geography, but to political alliance patterns based on traditional alliances usually set up for warfare, defence and exchange reasons. Therefore, as Bayne notes (1985, p. 77), there was a traditional basis for cooperation between groups for court purposes.

The Act specifies that the aim and purpose of a Village Court is: 'to ensure peace and harmony in the area for which it is established, by mediating in and endeavouring to obtain just and amicable settlement of disputes' by applying the appropriate custom. Each Village Court was to be comprised of a minimum of three Magistrates and no more than a maximum of ten. Appointment was made by the Minister for Justice based on the recommendations of the Provincial Supervising Magistrate (PSM) after he had consulted with the appropriate Local Government Council. Those suggested for appointment were elected by the villagers in the initial phases of the Village Court system. There were no training or literacy qualification requirements. Appointment was for a period of three years. A Magistrate could hold court at any place whether it be under a tree or in a specified building.

In line with Melanesian notions of justice no formal distinction was made procedurally between civil and criminal cases. However, a distinction was made between civil and criminal for jurisdictional purposes. Bayne (1985, p. 78) states that a 'court can determine whether a person has committed an offence as prescribed in the Regulations'. The criminal offences for which the Village Court has jurisdiction include matters which are 'likely to cause disturbances of the peace in the villages' (Bayne 1985, p. 78). These matters include for example, sorcery, breach of custom, adultery, spreading false rumours, maintenance matters, disputes over brideprice, desertion, and stealing. Village Court also has jurisdiction to issue a summons to appear before it, to issue a warrant of arrest for those who fail to appear or for those who fail to follow the instructions given by the particular Village Court and to sanction those individuals who fail to abide by Local Government Council rules. Peace officers are also appointed to enforce the jurisdictional and arresting powers of the Village Court.

Village Court cannot directly impose a prison term for offences. It has the authority to make 'imprisonment orders which can then be enforced by the 'official' Magistrates' (Bayne 1985, p. 78). Sanctions which can be imposed by the Village Court include court fines, ordering of compensation to be paid to the complainant(s), and ordering the performance of community work. For each K10 (approximately A\$14 at August 1992) or part thereof of any fine, damages, or compensation which is not paid, the defendant faces imprisonment for one week.

Village Court jurisdiction over a matter is determined by 'factors such as the place where the dispute arose, or the residence of the parties' (Bayne 1985, p. 78). Village Courts do not have jurisdiction in matters dealing with land or the driving of motor vehicles.

Villagers who have appeared before Village Court have the right to appeal the Village Court Magistrate's decision to a Local or District Court Magistrate either orally or in writing. The Local or District Court Magistrate has the authority only to confirm or dismiss the appeal.

The Village Court system is monitored by provisions in the Act which require the Provincial Supervising Magistrate (PSM) to inspect each Court and its records within his Province regularly and to check on its functioning. This supervisory mechanism is considered to be a 'critical element of the system' proving to be a more significant check on its potential failings than the review and appeal provisions of the Act itself since the PSM could provide Village Court Magistrates, peace officers and clerks with current feedback on the limitations of their work.

Village Courts and dispute settlement

The Village Court was given the mandate firstly to 'attempt to reach a settlement by mediation before exercising its compulsive jurisdiction' and it 'may adjourn any proceedings relating to a dispute in which it is exercising that jurisdiction if it thinks that by doing so a just and amicable settlement of the dispute may be reached'. The mediation role was emphasised so that, if possible, the dispute could be amicably settled by custom. The Act states that 'in all matters before it a Village Court shall apply any relevant custom as determined in accordance with Sections 2, 3 and 7 of the Customs (Recognition) Act'. Custom was to be given priority and applied despite any inconsistencies with any Act in Papua New Guinea.

The authors of Papua New Guinea's Constitution clearly envisaged the Village Court as being something different than the imported system since the Constitution states that the normal protections provided by the western court system to persons arrested, detained or charged with offences do not apply in Village Court. The Constitution requires only that the rules of natural justice be followed. Clearly, it was accepted that there would be differing standards of justice; that provided by custom and that provided by the Constitution and laws made by Parliament.

The Village Courts system has been criticised by some for failing to achieve the intended bridging of the gap between the western court system and traditional custom. It has tended in practice to imitate the procedural formality of the Local and District Court system, thereby removing the important procedural informality of traditional dispute settlement in which all parties were permitted to tell their version of the story. However, it should be noted that traditional forms of dispute settlement likely to be used by the Village Court would have undergone changes. Papua New Guinea societies themselves have changed in response to contact with the colonial administration's introduced system of justice (Strathern 1972a). As Weisbrot notes (1977, p. 153):

... the Village Courts have become somewhat more rigid and formal than was anticipated, and are tending to emulate the official courts rather than replace the unofficial courts as the settler of the common disputes that disrupt the village.

Some Village Courts have emulated the official courts by holding court in rooms built specifically for the purpose of holding Village Court. These courtrooms are modelled after the courtrooms in the Local and District Courts where the complainant and the defendant sit at different tables facing the Village Court Magistrate (Westermarck 1978, p. 83; Paliwala 1977, pp. 167-8).

In any proceedings before it, a Village Court shall not apply technical rules of evidence, but shall admit and consider such information as is

available'. A study conducted by Westermark in the Eastern Highlands, however, shows that despite the intention of s28, Magistrates 'limit evidence to the specific issue before them. They will not consider a dispute that preceded the case under consideration, even though it may be one of its causes' (Westermark in Toft 1985, p. 108).

Strathern (in Epstein 1974, pp. 270-316) refers to another feature of customary dispute settlement; that of 'talking out' the dispute. She argues (in Epstein 1974, pp. 271-2) that one of the main goals in achieving a peaceful dispute settlement is that all parties are allowed to express their grievances and air their views to such an extent that a state of catharsis is attained:

. . . an issue should be so thoroughly aired that not even the most minor factors relating to it remain to foster further grievances in the hearts of the disputants. A truly successful settlement brings about a change in the disputants' feelings towards one another, so it is hoped.

Strathern (in Epstein 1974, p. 272) also notes that this public airing of all the contributing factors in a dispute can cause further problems since publicising all the information can lead to this information being used by one group against the other in later political ploys between competing groups. Revealing information in a public forum can also lead to embarrassment and shame (Epstein 1974, p. 23; Strathern in Epstein 1974, p. 272).

By comparison, the procedures of the western courts do not allow the disputants the same opportunity of attaining this state. During two years of association with the Local and District Courts in various centres in Papua New Guinea (1985-6), the author observed numerous cases where defendants were frustrated by the fact that they were not permitted to fully air their side of the story. For example, on numerous occasions after the Court had read the charge to the defendant and requested the plea by asking in pidgin language, 'Em i tru o em i no tru?' (Is it true or is it not true?), the defendant would respond 'Em i tru, tasol . . .' (It is true but . . .). The Magistrate would then interrupt the defendant to pronounce him/her guilty. The defendants were left feeling bewildered since they were attempting to explain the context within which the act took place. The western court system uses the accusatorial system and not the inquisitorial system. The defendant, not understanding the system, quickly provided the court with a guilty plea by the statement 'Em i tru'. Magistrates frequently stopped the defendant at that stage, registered a guilty plea and then proceeded to sentencing.

The western court system is not designed to take account of the Melanesian custom of circumlocution because it emphasises relevance. In the imported system in Papua New Guinea facts are only admissible in evidence if they are relevant to the charge. However, in Papua New Guinea custom (Epstein 1974, p. 22):

In conciliation proceedings (where the disputants are linked by close bonds and the complainant wishes a change in the behaviour of the defendant as is often the case in the village) . . . the complainant may be less specific, and as grievance is followed by counter-grievance a considerable time may elapse before what is in issue emerges. What facts are relevant in this kind of situation is therefore most difficult to assess.

Village Courts and women

A woman in a dispute with another person can first attempt to use the informal remedies of mediation or moots. A study conducted by Westermarck in the Eastern Highlands Province between 1977 and 1978 suggests that most women and men were using the more formal methods of dispute settlement rather than informal procedures (Westermarck in Toft 1985, p. 110). The Agarabi Village Courts have divided all disputes into 'little trouble' and 'big trouble'. 'Little trouble' cases are those that involve closely related disputants and are assigned to the more informal 'outside courts' which use the mediation process. 'Big trouble' cases are those which involve violence or divorce. These come before the formal court hearings of the Village Court. Westermarck's study showed that most family issues which came before the formal Village Court involved marital problems and assaults and that women were frequently the plaintiffs (in Toft 1985, p. 112). An interesting finding of the study was that out of 94 cases of trial or reports involving both sexes, 88 per cent were initiated by women. Strathern (in Toft 1985, p. 8) argues that this may mean that women (who normally have difficulty in asserting themselves) are using the Village Courts as a way of getting their marital problems (which often involve violence) into a public forum. She also notes (in Toft 1985, p. 8) that 'women's ability to bring complaints to full trial (rather than report) continues to rest on how seriously men, in this case Magistrates, take the issue. Thus, whereas almost all rape and assault cases lead to trial, only half of the "marriage" cases do'.

Once mediation attempts by the Village Court Magistrates have failed they will exercise their civil or criminal powers. Most cases involving women that come before the Village Court are concerned with domestic disputes (pers. comm.: Noah Tade former Village Court Inspector; Gill Christ Kanadari VC Magistrate, Popondetta; Melky Tokinala—Village Court Officer, Rabaul; Stephen Alpichin—VC Magistrate, Maprik). A nation-wide study which overviewed cases of village conflict involving 'inter-sexual and domestic issues' in order to 'assess the ability of village women to pursue their grievances', noted (Scaglione & Whittingham, in Toft, 1985, p. 122-3) that 'nearly' one third of the sample of 481 cases involved 'sexual jealousies', 'petty domestic' or marital relations-type cases. Scaglione and Whittingham note that women are using the public forum because they have failed to get satisfaction in the informal public forums

(in Toft 1985, p. 129). They also note that sex-related cases are more likely to involve assault than other types of cases and this factor contributes to the use of Village Court in these kinds of cases since violence is a matter considered serious enough to deal with in the more formal Village Court (in Toft 1985, p. 127).

According to Scaglione and Whittingham's study (in Toft 1985, pp. 127, 129) women are the sole complainants in only one-fourth of all village cases. They note regional differences in this statistic which show that Papua and Highlands women act as sole plaintiffs in 30 per cent of cases while women in the New Guinea Islands were the sole plaintiffs in 30 per cent of cases but joined with men as plaintiffs in a further 14 per cent of cases. In Momase region (northern New Guinea mainland area) women acted as sole plaintiff in only 20 per cent of cases.

Types of cases involving women

Mitchell (1985) outlines three categories of family disputes which involve women in Village Court in her study of Village Courts in the two provinces of North Solomons and Southern Highlands. They are entry into marriage, disputes arising during marriage and dissolution of customary marriages.

Entry Into Marriage Most cases that come before the Village Courts involving entry into marriage are concerned with the payment of bridewealth (or brideprice) and with the issue of consent to a marriage. The issue of bridewealth involves two groups of people since traditionally the marriage binds two groups together through a contract of obligations and responsibilities. Mitchell (1985, p. 84) found in her study that most Village Courts in the Southern Highlands would attempt to mediate between the two groups. On the issue of consent in marriage, Mitchell found that few cases were heard on the subject. Despite this, she argues that consent is an issue (1985, p. 84) since young people were often pressured to marry a person chosen by their parents. Boys were much better equipped to resist such pressure than girls. Mitchell (1985, p. 84) points out that if '[a]rranged marriages are the custom, a girl would not be likely to think she could complain about it to a Village Court; and even if she thought she could, there would be enormous pressure on her not to do so'.

Disputes Arising During Marriage Disputes that come up during marriage involve polygyny, domestic violence, adultery and desertion (Mitchell 1985, pp. 85-8). Polygyny disputes take two forms: the wife or wives seek to block the husband's attempts to take on yet another wife; the wives themselves may be fighting with each other over the disproportionate sharing out of attention, cash, or food by the husband.

Domestic violence is endemic in Papua New Guinea and many women have been disciplined in this manner by their husbands (*see* Law Reform Commission Reports on Domestic Violence in both Rural and Urban Papua New Guinea, Occasional Papers Nos. 18 & 19). Mitchell (1985, p. 86) found that it was a prevalent practice in both provinces in which the study took place and that often domestic violence was associated with alcohol consumption. She also found that the amount of compensation ordered by the Village Court in such cases was small because Magistrates treated the matter as a private one between the husband and wife.

Adultery is considered a very serious matter by the people of Papua New Guinea. Up until very recently, women bore the brunt of any punishment meted out by the Courts since the law required only the third party to face a criminal charge. This has been recently changed (September 1989), so that both parties involved in the adulterous act can be taken to Court. Traditionally, women were severely punished for adultery. Village Court hears cases of adultery even though many go before the Local or District Courts. An order of compensation is usually made in adultery cases.

Desertion is an offence committed by both sexes in Papua New Guinea. Even though Mitchell found no record of cases where a man was directed to return to his deserted wife she found that (1985, p. 87):

... in some Southern Highlands village courts, it is a fairly common practice for Magistrates to force a woman to live with her husband if he has paid full brideprice for her. There were several cases recorded where a wife left her husband (in some instances to live with another man), and when the husband subsequently brought her before the village court, she was ordered to return to him. In one case a woman was jailed for four weeks for failure to obey an order to stop sleeping with another man and return to her husband. Not only is there no authority under the Village Courts Act for Magistrates to make this sort of order, but it also violates a woman's right to freedom of movement guaranteed by s.52 of the Constitution and arguably to her right to privacy guaranteed by s.49.

The Village Court has no authority to order the regular payment of maintenance to deserted women and children by their husbands. It is empowered only to order a compensation payment of up to K500 (approximately A\$700 at August 1992) and this is usually dispensed amongst the wife's relatives (Bradley & Tovey 1988, p. 7). Matters relating to brideprice, custody of children or compensation for death are not included in the K500 compensation limit.

Dissolution of Customary Marriages Divorce is considered a very serious issue in the Village Courts and Magistrates often attempt to facilitate a reconciliation (Mitchell 1985, p. 88). When there is a breakdown in a marriage the return of brideprice is the most common dispute dealt with by the Village Court. Custody of children is regulated

by the descent system of the groups involved. If it is a matrilineal group the child belongs to the female line. In patrilineal societies, the children are rightfully claimed by the father's line if he has paid the full amount of brideprice.

Women sometimes become involved in money disputes. This has occurred more frequently in the Highlands as women have come to earn cash from coffee production. Some have become involved in business or have provided loans to people to start a business. They have sometimes ended up in Court because the person they loaned the money to has absconded with it (Giddings, R. 1989, pers. comm., 8 October).

Difficulties experienced by women before the Village Court

Women are at a disadvantage when disputes involving them are brought before the Village Court. Mitchell (1985, p. 81) makes the point that customary family law does not give women equality with men. She uses the examples of brideprice and polygyny; customs which create inequality and imbalance in marriages (*see* Mitchell 1985, p. 88).

Another problem faced by women when they come before the Village Court is that almost all Village Court Magistrates are men. Women are inexperienced and lack skills in public speaking (Paliwala 1977, p. 169; Mitchell 1985, p. 89). This suggests that they will get a less than sympathetic hearing for their dispute and will be disadvantaged in their attempt to explain their side of the dispute to the Magistrate.

Other examples can be found elsewhere. At Mendi in the Southern Highlands Province, women have been ordered to pay fines for smoking but this is not considered an offence for men (Paliwala 1977, p. 169). Paliwala (1977, p. 169) noted that: 'The courts justify these fines on the ground that smoking is a symptom of the kind of behaviour which leads to enticement by young 'modern' girls and men away from their wives'.

In Mount Hagen, Western Highlands Province on 3 and 10 May 1989, Mr. Justice Woods heard applications under the Constitution by a woman who claimed an unlawful detention order was made against her by the Village Court. She had been imprisoned for failing to obey orders for payment of compensation made by the Village Court. She left her husband in 1984, returned to her own village, and later re-married. Her husband took her to Village Court and she was ordered to pay K840 (approximately A\$1200 at August 1992) compensation in 1985. The Order for her imprisonment for failure to pay the compensation was made in 1988. She was given 84 weeks imprisonment. Mr. Justice Woods found that her imprisonment was contrary to s.42 of the Constitution which states that 'no person shall be deprived of his personal liberty except—(c) by reason of his failure to comply with the order of a court made to secure the fulfilment of an obligation (other than a contractual obligation) imposed upon him by law'. Justice Woods held that the order requiring her to repay the brideprice was a civil contractual obligation in custom

and was not related to an offence. Justice Woods ordered the woman to be released from prison. This case was appealed to the Supreme Court of Papua New Guinea which found that an order for imprisonment under s.33 of the Village Courts Act, following commission of an offence under Section 31 of the Act, does not unlawfully deprive a person of the right to personal liberty given under s.42(1) of the Constitution (PNG Justice Department files—SCR No. 2 of 1989 Re: Special Reference Pursuant to Constitution).

Teine and Paliwala's study on 'Village Courts in Simbu' (1978, pp. 37-8) provides an example of the difficulties that Simbu women face before a Village Court. One case involved a woman who left her husband after six months of marriage when her husband's brother tried to have intercourse with her. She left her husband and went to another man. The Village Court Magistrate found that she was making excuses and ordered her to return to her husband as he had paid brideprice for her. She was only permitted to stay with this new man when her husband said he would accept her decision if the brideprice was returned to him. The woman's preference was not considered to be relevant by the Village Court. The Magistrate ordered a substantial amount in brideprice to be returned. Teine and Paliwala argue that Simbu Village Courts are unsympathetic to women and that the above case typifies their treatment in Village Court (1978, p. 49).

The following case described by Paliwala (1982, p. 222) further illustrates the attitude of Village Court Magistrates toward women who wish to divorce their husbands:

In one case in Mendi in the Southern Highlands, a woman had run away from her husband a second time, in spite of a preventive order from the village courts which enjoined both parties to stay together in peace. The husband had beaten the wife very badly and the wife refused, before the court, to go back to the husband. She said that if the court insisted on her going back, she would commit suicide. The court insisted that she should give the marriage another try and ordered the husband to give one cassowary as compensation for the injury. The wife rushed to the river. She did not commit suicide but smashed the fingers of her hand with a stone, saying to the court, 'You may force me to go back, but I will be no use to him as I can't dig his garden and can't cook his food'.

Paliwala (1982, p. 222) states that although the Village Courts appear to be more than willing to acknowledge and support western practices in other economic transactions, '... in dealing with women (the Village Court) can insist on extreme "traditionalism" '. He provides us with the following example:

The wife claimed that the husband had not given her any money to buy clothes etc. when she had her baby. The husband worked on the council road programme. The Court said: 'This thing of money is a new thing. We never had

money before and a man was never supposed to give money to a woman. We have our gardens. You should not bring to us questions of money'.

Paliwala found in his study of Village Courts between 1975 and 1978 that 'an excess of traditionalism' was not found except in matters dealing with women (1982, p. 222).

Probation Service

In 1976 the Government of Papua New Guinea endorsed a policy recommendation by the Minister for Justice to introduce a probation system to the country and by 1979 the Probation Act had been enacted. It took several years for the system to get off the ground but by 1991 there were twenty-two offices spread across seventeen provinces and the National Capital District with fifty-three staff providing Probation services to the Courts.

The Probation Act 1979 authorised the Probation Service to be set up in areas which are specified by the Minister for Justice acting on the advice of the Chief Probation Officer. The Probation Service set up offices across the country according to need (based on an assessment of the severity of the law and order situation in an area) and according to community response (which was determined by the willingness of the community to form a Probation Support Committee which would assist in conducting public awareness campaigns about Probation and to assist in the recruitment of Voluntary Probation Officers). An attempt was also made to involve the Provincial and local Governments by soliciting their financial contributions to the Probation Support Committee and to the local Probation office in the form of stationery, drivers, vehicles, or secretarial staff. Once the Probation Support Committees fulfilled their obligation to assist in the process of setting up a Probation Service in their area it was hoped that they would then attempt to develop rehabilitation programs which could assist probationers and youth in general in their respective communities. This approach was modelled on the work of the Eastern Highlands Provincial Rehabilitation Committee which had developed a potato cooperative and other economic projects which gave local youth some access to the cash economy. These projects were to be determined by the special needs and the ecological and economic potential of the local communities.

The legislation provided for four classes of officer within the system: the Chief Probation Officer, Senior Probation Officers, Probation Officers and Voluntary Probation Officers (s.5 & 6). The Chief Probation Officer, the Senior Probation Officers and the Probation Officers are all members of the National Public Service. The fourth class of officer, Voluntary Probation Officer, was to be recruited from the community, appointed by

the Chief Probation Officer or his delegate and was to receive no remuneration for his/her services.

Probation, as a sentence, can be given by all Courts except Village Court, for all offences except when 'a mandatory minimum sentence is provided for by any law'. The Court may 'impose a sentence but suspend it' or it may 'defer sentencing him to imprisonment' and order probation for up to a maximum of five years. Offenders given the probation sentence in Court are required to 'keep the peace and be of good behaviour', report to a Probation Officer, remain at a specified address until contacted by a Probation Officer, reside at a specified residential address and not change employment unless the Probation Officer is given reasonable notice. The Court may order special conditions which would ensure the offender's 'good conduct'.

A person who fails to comply with the conditions of a Probation Order commits a breach of that order and after conviction, faces an extension of the Probation Order, the imposition of additional conditions, imposition of the original suspended period of imprisonment or any part of it, or a prison sentence (if sentencing had been originally deferred).

The country has been divided into four regions for probation purposes: Papua, Highlands, Momase (northern New Guinea mainland) and Islands. Each region is supervised by a Senior Probation Officer who is answerable to the Chief Probation Officer.

Immediately subordinate to the Senior Probation Officers are the various Officers-In-Charge (OIC) of the Provincial offices located in each region. The OICs supervise the staff within the provincial offices and the field offices located within their province.

The probation system is designed so that there is a small core group of professional Probation Officers providing services to the courts (such as the preparation of Pre-Sentence Reports which make assessments as to the offender's suitability for probation supervision) and providing the supervision of probationers in the community with the Voluntary Probation Officer's assistance.

One notable feature of the Papua New Guinea probation system is the participation by members of the community in the supervision of offenders through their appointment as Voluntary Probation Officers. This component was included in the system so as to involve the community and to encourage its participation in the resolution of its own law and order problems.

The Probation Officers supervise the Voluntary Probation Officers and the probationers through a system of patrol similar to the kiap system. Each month they supervise the areas for which they are responsible. During these vehicular patrols Probation Officers meet with VPOs and probationers to discuss issues relating to their Probation Order. This helps to ensure that the court orders are followed and, if possible, that

appropriate assistance is offered to the probationer so that he/she can deal with the problems which led the offender to break the law.

The response by the community has been very positive. There has been an abundant supply of people willing to volunteer their services in the supervision of offenders. There were 588 Voluntary Probation Officers registered with the Probation Service throughout the country in 1988. The Service was able to use only 275 of those registered to actually supervise probationers. These 275 VPOs supervised a total of 347 probationers during the year (PNG Probation Service *Annual Report* 1988). Major problems experienced have been insufficient training of volunteers, the reluctance by the courts to utilise probation as a criminal sanction and the difficulties in obtaining adequate vehicle transport with which to carry out the patrols (PNG Probation Service *Annual Report* 1988).

Probation and dispute settlement

The probation system in Papua New Guinea assists offenders by attempting to integrate aspects of the traditional system of social control and the imported court system (Tohichem, L. 1990, pers. comm., 20 February, PNG Chief Probation Officer). Traditionally, social control mechanisms varied but most involved elements of 'talking out the dispute', mediation, compensation, or in extreme cases, punishment by death through banishment or sorcery. Mr. Leo Tohichem (1990, pers. comm., 20 February) states that:

Instead of bridging the gap between the imported justice system and the customary system of social control, probation, (when used properly), attempts to bring out the value of tradition by acknowledging custom and giving the community a voice in the sentencing process. It helps make the western system more responsive to custom. Once the court, acting upon the recommendations of the Probation Officer, has taken custom into account during sentencing, the community can then see for itself that justice has been done according to custom. This is important, for if traditional expectations are not satisfied, then despite the court sentence, the people will find some excuse to re-create trouble with the offending group and will therefore re-open the conflict until they feel that balance has been restored.

The balance is usually restored through some form of reciprocity between the victim's group and the offender's group. The Act requires Probation Officers to provide the court with background and character information (Pre-Sentence Report) which would assist it in determining the most appropriate sentence for the offender. The Report may also make an assessment regarding the offender's suitability for probation supervision and recommend any special conditions which are considered appropriate. Probation Officers have been taught to attempt to make recommendations in their Reports which will satisfy the reciprocity

demand. Senior Magistrate Rick Giddings (1989, pers. comm., 8 October) notes that:

Probation serves a mediation role between the interests of customary law and of the imported court system since a good Pre-Sentence Report should be able to draw attention to the Court to the customary issues involved in the commission of the offence and draw its attention to the way the community feels about the way the offence can be compensated for or the problem resolved.

They can do this through recommending that the court order special conditions to be fulfilled by the probationer during the period of the Probation Order. Examples of conditions which can be and are in fact ordered by the court and are tailored to custom include restitution, compensation, repatriation and the performance of community work.

If an offence is committed by a villager outside his group (for example when the offence takes place in a nearby town where he has no means of support) he may be placed on probation and ordered to be repatriated back to his village. In Papua New Guinea a condition of repatriation requires the probationer to be transported back to his home village by the Probation Service. The Probation Officer appoints a Voluntary Probation Officer to supervise the probationer within the probationer's home community (Probation Service Operations Manual). This type of community supervision gives the community some control over the behaviour of its members through its representative, the Voluntary Probation Officer. Since everyone in the community knows everyone else and is aware of each other's activities, the probationer's conduct is easily monitored. If the probationer does not behave according to the conditions under which he has been placed, someone within the community will usually report it to the VPO or even to the Probation Officer. In full public view, the probationer is expected to abide by the terms of his Probation Order and to stay out of conflict with the law.

Giving the villagers a formal role in the process of assessing a probationer's performance in the village community is viewed by them as important since, by this means, their traditional role of ensuring that their own members are upholding the values of the group is recognised (Tohichem, L. 1990, pers. comm., 20 February).

The situation is somewhat different in the urban settlements. Here, villagers have migrated to areas around the towns and have built squatter settlements. These settlements are not generally provided with basic services such as electricity, water, sewage, and garbage collection (Agyei 1980, p. 12). If an offence is committed by a person who has established himself in such a settlement it may not be appropriate to order him to be repatriated to his home village. This is especially true when the person involved is a second generation urban settler and has few ties with his rural relatives. In this situation the offender would not be regarded as part

of the rural group and consequently there would be no commitment on their part to look after him. Community supervision would have to be provided by people residing in the urban settlement in which he has grown up.

According to the Chief Probation Officer, supervision in the settlements does not have the same customary force as it does in the rural villages (pers. comm., 20 February 1990). He attributes this to the fact that the settlements, although divided into groups of Sepiks or of Chimbus for example, are not tied together through kinship or other traditional alliances or cohesive relationships. They are made up instead, of a collection of personalities from a particular province or area. Therefore, the system of obligations is much weaker and the commitment toward monitoring the behaviour of a particular member of that community is less. However, Clifford (in Biles 1976, p. 25) disagrees with Mr. Tohichem's analysis of the level of group loyalty and commitment within the settlement areas when he states:

Observation shows that there is usually a strong community sentiment in these areas and, without doubt, there are informal leaders already exercising considerable influence. The very fact that most of the urban crime causing concern may be committed by settlement dwellers but is not usually committed within the settlements where they live is substantial testimony to an internal cohesion and a rejection of lawlessness (by their standards) which probably matches that of any part of the city.

Clifford (in Biles 1976, p. 14) agrees that there has been: '... a gradual erosion of community traditions and the informal social controls. Just as these can no longer carry the full burden of indigence and unemployment in the town, neither are they being fully effective any longer in controlling crime'.

Monitoring a probationer's behaviour is also more difficult in the larger urban setting. A factor which influences the ability or the interest of the settlement community to supervise effectively a probationer within their sphere of influence (settlement) is the custom of redistributing items stolen during offences. As Mackeller notes (in Biles 1976, p. 122):

As Melanesian custom is not to hoard wealth but to redistribute it, there are many beneficiaries of a single housebreaking act, and in their efforts to track down housebreakers, the police cannot expect to receive help from that section of the city's community which is receiving this clandestine form of welfare.

This factor also influences the Probation Officer's ability to effectively supervise probationers within the urban settlements. However, supervision in the settlements can be made more effective if the group has developed strong relationship ties and if the Probation Officer makes an attempt to utilise them.

The payment of compensation is an important element in traditional dispute settlement since most disputes between Papua New Guineans can be settled by such payment.

Only the Village Courts and the District Court (in specified summary offences such as assault, damaging property, negligent use of fire, as well as adultery and enticement cases) can order the payment of compensation (Summary Offences Act 1977). The Local Court does have provision that in any civil matter the Magistrate can switch from a trial situation to one of mediation. When mediation is used compensation can become one of the penalties imposed.

Ordinarily, therefore, where a monetary sanction is imposed as a punishment, it is by way of a fine. Since a fine goes to the state and not to the victim or to his lineage it is often considered necessary for the offender's group to pay compensation to the victim's group regardless of the criminal conviction and fine. Probation permits the Court to order a payment of compensation and restore balance. A condition of restitution or compensation is often part of a Probation Order. If the offender or his group does not have the goods or cash with which to pay the compensation claim, the community will sometimes agree to the offender performing community work for the victim instead.

The total number of Probationers placed under the supervision of the Probation Service either on Probation or on Good Behaviour Bond in 1988 was 2,062. In 1988, 262 probationers were ordered to pay compensation as part of their Probation Order. A further 177 probationers were ordered to perform community work for a total of 2082 days (Papua New Guinea. Probation Service *Annual Report* 1988, p. 3). Together they comprise 21.3 per cent of the cases placed under Probation supervision during the year. However, not all community work service is ordered to be performed for the victim.

The Probation Officer can also ensure, through the process of preparing a Pre-Sentence Report, that both sides of the dispute have their say in Court in the determination of the appropriate sentence. Custom is recognised in the formal court system as a mitigating factor in sentencing. It is not a defence in law (Customs Recognition Ordinance 1963 s.7). The Court will give weight to the fact that the two parties have already negotiated a compensation payment or that custom has been used to justify the commission of an offence. Probation Officers attempt to ensure, not just that custom is recognised, but that it is taken one stage further by giving effect to it through the use of special conditions.

Constraints on the probation system

The potential of the probation system has been outlined in the previous section. In practice its ability to address the law and order problems of Papua New Guinea is affected by external factors beyond its control. Crime has been increasing in all the major urban centres around the

country. This can be attributed to economic development and urban migration as well as to the inability of the economic system to meet the employment demands of the growing population of the country's youth (under 30) (Agyei 1980, p. 12-13).

There has been an increase in the amount of gang activity in all the urban centres (Clifford 1976, p. 16; Harris 1989; Reay 1982). This is seen as a natural result of the inequities in the economic system. The formation of gangs, originally in Port Moresby, has also been attributed to the sociological need for those (Clifford in Biles 1976, p. 16):

... unemployed, aimless, frustrated and bored young people, unable and perhaps unwilling to find work, [who] slowly drew together for mutual protection—probably against critics at home, older people who despise their idleness or other working youths who had no time for those less fortunate than themselves. Formed into powerful groups, the unfortunate could compensate for their powerlessness and sense of failure. In a strong mutually protective group, they were able to stand against others, to make others respect their trouble-making capacity and to present a bold front to an alien world: this was a way to obtain a form of status and dignity.

The gap between the rich and the poor in Papua New Guinea has widened. Increased criminal activity has also been attributed to the educational system which has had the effect of changing the attitudes and expectations of the younger people in Papua New Guinea. Education has been viewed by the people as a vehicle to increased status and prestige since it creates the potential of earning cash through employment (Guthrie 1980, p. 37-8). The rural people believe that their educated children will find such employment in the urban centres. The consequent migration to the urban centres has already been discussed. When jobs fail to materialise for the migrants who have obtained some education they sometimes turn to crime for material support. They face parental pressure as well since their parents and relatives expect a return on their investment in the child's education. The desired return is in the form of cash earned from 'fortnight pay'.

Since the Probation Service relies heavily on community supervision in its attempt to place the onus on the offender's community for his rehabilitation it requires a strong traditionally based community. Tradition will continue to exist as long as the community remains strong and maintains traditional ties and relationships based on obligation and reciprocity. Yet as noted above, tradition is under strain. Since the PNG probation system depends upon a strong community base how will it deal with the loss of community if the current trend continues?

The PNG Probation Service is a young service in a developing country. It continues to experience internal organisational and administrative problems. These include budgetary constraints, housing problems, and the skill deficiencies of its staff in all aspects of Probation

work. These internal problems affect the ability of the Service to deliver effective services to the Courts and to provide adequate community supervision.

Probation and women

Both Probation Service staff and the District Court Magistrates interviewed agree that most disputes faced by women are domestic in nature. Mr. Tohichem noted that (pers. comm., 20 February 1990):

Generally Papua New Guinea women are not aggressive in character. If they are convicted of an offence it is usually because someone else has placed them in a situation where they have to retaliate by stealing or fighting to protect their traditional position and rights. Women are rarely the initiators of the disputes which lead them into conflict with the law.

Probation attempts to keep women who come before the courts out of gaol. Incarceration separates women from their families for the period of their imprisonment. They are also separated from their community. In the community there is usually someone who can provide support or at least listen to a woman's problems. Papua New Guinea gaols offer little in the way of employment, rehabilitation programs, or counselling services ('The Report of the Committee of Review into Corrective Services in Papua New Guinea April 1979' in Johnson 1979, p. 68-71). In gaol there is no support provided for the female offender or for her problems.

The probation system allows women to be given a non-custodial sentence. As a result there is less chance of marriage breakdown due to enforced separation. Probation, with a special condition of community work, may be used as an alternative to a fine which women may not be able to afford. However, community work can also present problems for women since their financial and subsistence needs may require them to work long hours to meet their children's and family needs. With the added responsibility of the children's care, a condition of community work may create impossible demands on their time (Clifton, D. 1990, pers. comm., 22 February). It is possible for the Court to order women who are in such difficult circumstances to make a compensation payment to the complainant in food or goods instead of cash, although this does not occur frequently.

One of the aims of the Probation Service is to stabilise and maintain the family relationship when it comes under pressure from either internal or external sources (Yupae, N. 1989, pers. comm., 10 October). Probation Officers can provide some of the necessary support to women probationers in their own communities by assisting them with individual or family counselling services. The Service has included the Papua New Guinea Law Reform Commission's Domestic Violence Awareness sessions in its training program for new officers. It has also included training courses in counselling skills as part of its' overall staff training

program (Probation Service Training Plan 1990). Officers have spent a great proportion of their time providing counselling to female probationers (Clifton, D. 1990, pers. comm., 22 February). As will be shown later, women are being taken to court for matters which are defined by the western system as offences but which are considered obligatory under custom. In their attempts to discuss the problems which have led women into their legal predicament, Officers are sometimes able to mitigate the injustices experienced by women. They also attempt to talk to both the wife and the husband together in an effort to address the marital problems at issue and to provide alternative solutions to these problems which do not involve breaking the law. Clifton noted that despite the attention given to the problems of female probationers, Probation Officers had not yet developed the skills required to identify and utilise appropriate and available community resources which might assist women.

Counselling assistance offered to women by the Probation Service is especially important in urban areas where the support from the community is not as great as in the rural areas. In this way the Probation Service can provide a service to urban women (for example, listening to their problems and attempting to provide them with assistance and support) in areas where traditional ties are much weaker and the traditional community has broken down.

It is the Chief Probation Officer's view that the Probation Service has had the effect of making the imported court system of Papua New Guinea more sensitive to the special needs of women and that there has been a significant improvement in the treatment of women within the system since the introduction of Probation (pers. comm., 20 February 1990). Prior to the implementation of Probation Services in the country Mr. Tohichem observed that the Courts were treating women who came into conflict with the law in the same way as they would treat any man who faced a similar charge; by handing down sentences strictly according to those stipulated by the Criminal Code and the Summary Offences Act. They did not ordinarily take into consideration the woman's family or economic responsibilities. Magistrates appeared reluctant to consider the effect on the woman or her family of a fine or incarceration.

Women have difficulty in Court asserting themselves and explaining their situation to the Magistrates. The Magistrates (mostly male) sometimes have their own prejudices regarding women and their position in society (Chief Probation Officer 1990, pers. comm., 20 February; Bradley 1988, p. 8). Probation Officers are able to speak for these women so that their legal rights and social problems are recognised. The Pre-Sentence Report prepared by the Probation Officer formalises the process of ensuring the woman's legal and social rights are raised for the Courts' consideration. Incidentally, Probation Officers are not always assertive enough in their efforts to identify female cases which might be considered for Probation

supervision or which might be suggested to the Magistrate as an appropriate case for a Pre-Sentence Report. This problem is also experienced in relation to men and is an area of need for future training.

Probation Officers (mostly male) also have their own prejudices regarding women which can affect their recommendations to the Court in Pre-Sentence Reports or their decision about whether or not to lay a charge of breach against a woman. This is especially true when they are dealing with educated women who do not always behave according to the traditional and subservient standards expected of most women in Papua New Guinea (personal knowledge based on work with the Probation Service between 1985 and 1986; Clifton, D. 1990, pers. comm., 2 March).

Cases involving women

The offences which most often bring women before the Local and District Courts are assault, use of insulting behaviour or language, domestic violence, desertion, stealing, shoplifting and adultery. In the District Court most assault charges or charges of using insulting language against women relate to jealousy over actual or suspected infidelity on the part of husbands or boyfriends (pers. comm.: Giddings, R. 1989, 8 October, Senior Magistrate; Yupae, N. 1989, 10 October; Aina, D. 1989, 28 November, District Court Magistrate Maprik; Kerari, J. 1990, 18 January, Probation Officer Popondetta).

Traditionally there was much fighting between women (especially co-wives) usually as a result of rivalry and feelings of jealousy over the attentions of a man (Strathern 1972b). Under custom, it was considered the obligation of the first wife to assert her position as first wife to shame any other women whose attentions were being sought after by her husband (Giddings & Giddings 1985, p. 6). This was done by attacking the second woman in public (often in the market) either verbally or even physically.

This custom is still practised today. The complicating factor is that the western system of law introduced the offence of assault. Women who are attacked by other women in these circumstances often take the matter to the police and lay a charge of assault or another related offence such as using insulting behaviour or language.

Traditionally, it was usually the leaders or bigmen of a community who were able to financially afford more than one wife. Today, it is common for Papua New Guinea men to initiate friendships or relationships with women (often younger women) in addition to their wives. The practise of polygyny has decreased since contact through the influence of the church (Johnson 1979, p. 39). Currently however, more and more men seem to pursue the attentions of other women outside of their marriage and often claim that they are interested in taking a second wife and therefore use the term polygyny to describe their activities (Worovi, P. 1989, pers. comm., 10 October). Another change has been

that men who do not wish to purchase additional wives but would like to take a new wife, attempt to make it difficult for their first wife to remain with them hoping that they will leave of their own accord. In such a situation it is more difficult for the estranged wife to receive a maintenance order from the Court (Johnson 1979, p. 53-4).

Women are also involved in offences relating to money such as shoplifting or stealing and occasionally for living off the proceeds of prostitution. Some women are motivated to steal, shoplift or engage in prostitution because their husbands are not providing them with enough attention or money to look after their own survival needs or those of their family (Vuvut, S. 1990, 22 February, Probation Officer National Capital District). The Law Reform Commission has reported that the two main causes of marriage disputes in the rural areas are 'sexual jealousy and a wife's failure to meet marital obligations' (Ranck & Toft in Toft 1986, p. 12). However, in the low income urban group, alcohol and money appear to be the major factors causing marital disputes. Ranck and Toft note (in Toft 1986, p. 14) that:

The urban male is apparently under greater domestic pressure than is the rural male. Urban male roles tend to follow those of the Western world, where the man is openly seen as the principal provider for the family. The rural male has had many of his traditional functions a protector and hunter for the family severely eroded, leaving him under much less pressure to perform on a day to day basis regarding subsistence and survival . . . Amongst the urban low income group, both men and women feel that husbands are not meeting obligations, which points to an increasing sensitivity amongst men about the changing urban male domestic role.

In the Courts, problems of lack of confidence and experience in the public arena arise for women, especially uneducated rural women. Other difficulties experienced are their lack of knowledge and understanding of their legal rights and of Court procedures (Bradley 1988, p. 6). For example women (and men) often do not understand the procedures involved in laying a complaint, issuing a summons or ensuring their witnesses attend Court on the correct day.

Chapter Three

Bena Bena

The area known as Bena Bena is located east of the town of Goroka in the Eastern Highlands Province. In 1930, when Leahy and Dwyer first trekked into the Bena area, they found a densely populated, relatively isolated mountainous geographic region. In the eastern part of the Highlands, the 'perpendicular' mountains had been shorn of their forest by the warring population. The Goroka Valley was composed of an open grassland with individually owned and planted casuarina trees and bamboo. Gardens of sweet potato stretched up the steep slopes of the mountains, but the bulk of the population lived in the flatter grasslands of the Valley.

Social Organisation

The eastern region of the Highlands and particularly the cultural groups of the Goroka Valley (including Asaro, Gahuku-Gama and the Bena Bena peoples as well as others) have a remarkably uniform culture although there are some minor variations in language and cultural patterns (Read 1954b, p. 11, Langness 1967, p. 161). Read, the first anthropologist to study the eastern Highlands cultures, asserts that the Gahuku-Gama behaviour patterns appear to be 'typical' of the eastern Highlands region (1954b, p. 24).

The people discovered in 1930 by the Leahy expedition were described as 'cannibals, all armed with bows and arrows, and using stone axes' (Clune 1951, p. 329). They lived in villages with barricades made of split slabs of timber (if available) or of cane stalks that served as a protection against enemy groups (Leahy 1936, p. 229). The adult men and the initiated boys slept in the men's house and the wives slept in their own individual houses along with their children and pigs. Men guarded the women as they worked in the gardens (usually located directly outside the stockaded village) and, armed with their weaponry, they followed the women as they returned to the village at night (Langness 1967, p. 164).

The Bena Bena divide themselves into approximately sixty-five separate tribes. Each tribe consists of two to five patrilineal exogamous

clans (Langness 1967, p. 164). The clan is the most important political group within the Bena Bena social structure. Each clan is autonomous and controls some territory and is usually situated on a ridge top and composed of one to three villages. Clans may help each other in warfare if they belong to the same tribe but where there is some suspicion of sorcery between clans that affects their relationship. Loyalty is always given to one's own clan first and this takes precedence over relationships established outside the clan.

A clan is divided further into several sub-clans who trace their ancestry to one of the sons of the clan founder (Langness 1967, p. 165). The sub-clan divides once more into lineages that are effectively extended families. Internal cooperation within this unit is most significant, although exceptions do occur.

Some trade occurred between neighbouring tribes, but the bulk of trade took place with distant societies. Trading expeditions were dangerous and consequently were taken only occasionally. Trade relationships were established between individuals, not groups (Langness 1968, p. 193).

Leadership

Leahy and Crain (1937, p. 109) wrote that 'there seemed to be no chiefs or persons of recognised authority' amongst the Bena Bena. Leahy's exploration party dealt mainly with the elder men, but noted that the elder's authority over clan members was not absolute since the younger men did not always follow their orders. Although a man would strive to mobilise as many of the group for warfare as he could, it was almost impossible for him to recruit all male members of the group for raids. He usually managed to muster forces from the ranks of his relatives and friends or from those who had some grievance against the targeted group. Only a Bigman ('gipina') could enlist a sizeable group of supporters and it was the gipinas who instigated the larger wars. Yet these wars were often motivated by the 'gipinas' own subjective interest in personal revenge.

Bigman status was achieved through ability as a warrior and not by heritage. As a 'gipina' (Langness 1968, p. 191):

... a man had to be able to organise a successful raid, to attack and take a village, to command a knowledge of terrain, strategy and weapons, and to be knowledgeable in the ways of war in general. Gipinas are said to have been able to send men out to scout and to detect weaknesses in an enemy barricade. They also deployed men in battle. They alone seem to have made decisions as to when the enemy was vulnerable or weak . . . The only other important context in which gipinas are described has to do with pig exchanges. But these exchanges are held to pay back for help in warfare, which the gipinas were responsible for in the first place.

Feil (1987, p. 99) refers to leaders in the eastern Highland cultures as despots who had followings not based on the manipulation of wealth (as in the western Highlands) but as a result of 'domination, intimidation and audacity'.

Langness (1968, p. 191) notes that oratorical ability was valued. 'Gipinas' typically practised polygyny to a greater degree than other men in the clan and consequently owned more pigs and gardens (since more wives meant more labour and therefore more wealth). They positioned for power amongst other gipinas and rarely left clan territory unless at war. This was because they were often the targets of sorcery, subterfuge and attack from enemy groups. Clan security was the main concern of the gipinas and this was dependent on the success of the relationships of 'power and influence' they managed to build within the sub-clan, the clan and within other clans of the same district as well as with outsiders. Leaders would, 'recruit members, maintain ties with affines and cognates, maintain trade partnerships, help others in battle and give gifts and bribes' (Langness 1968, p. 194).

Various clans and districts would only act together when threatened by an outside group which had the capacity to threaten their aggregate welfare (Langness 1968, p. 190). Nevertheless, these were temporary alliances held together only for the duration of the perceived threat.

The Position of Women

General

Generally, the position of women in Bena Bena society was one of subservience. Men viewed women as dangerous and 'weak, more sexual, less intelligent, more inconsistent, dirtier, and in almost every way inferior' (Langness 1974, p. 191). They could be 'strong' in the sense of 'firmness of position' and 'influential' in giving opinions, but a woman could not have political power and played no role in decision making.

Bena Bena and Gahuku-Gama belief systems regarded men as having the primary role in procreation rather than women. The Bena Bena do not believe that men can be sterile and when a woman is childless, she is blamed since men suspect that women secretly practice contraception and abortion (Langness, 1974, p. 202).

Men's institutions and their effect on the role of women

The societal values and attitudes towards relationships between the sexes can be seen within the male institutions of the Bena Bena and Gahuku-Gama. The attitudes of male solidarity, superiority and 'rigid separation of the sexes' were necessary values in their struggle for survival (Feil 1987, pp. 174-5; Langness 1967, p. 163). Langness (1974, p. 208) gives the reason for this as being the survival of the group.

Men's control over women's labour and their bodies was absolute (Langness 1974, p. 205). Women worked in the gardens, looked after the pigs, collected firewood, did the cooking and looked after the children. Without their labour, men's prestige and group survival would both have been threatened. In order to ensure women did these necessary tasks men needed to control their activities. The male institutions of the men's house, initiation rituals, and the 'nama cult' taught the attitudes which perpetuated that control.

Initiation

The central institution for the development of male aggression in the Bena Bena society was the men's house. From here all ceremonial activities, decision making, and initiation rites were conceived and organised. Male superiority and solidarity were stressed in order to counter the instability caused to society by the relentless fear of annihilation, and to ensure that the men be in perpetual readiness for warfare. The young boys of the same age group (called 'age-mates') were required to go through a series of initiation rites, the first of which occurred when the boys were approximately 5 years old (Langness 1967, p. 165). At this age, they were taken from their mothers and ceremonially had their ears pierced. At age seven, their septum was pierced. The final stage of initiation occurred when the group of boys were between ages twelve to eighteen. Male superiority and the oppositional relationship with women was emphasised throughout the long initiation period (Read 1954b, p. 25; Langness 1967, p. 165).

The boys were secluded in the men's house for the duration of the final stage and underwent several painful rituals that included nose bleeding and vomiting rites designed to purify the young warriors from the polluting and weakening influence women would have on them throughout their lifetime. These rituals were modelled on the menstrual abilities of women since maturity in women was clearly marked by the commencement of her menstrual period and by the enlargement of her breasts (Read 1954b, p. 27; 1955b, p. 162). Boys had no equivalent signs of physical maturity and were thus forced to fabricate symbols of their journey into manhood and, therefore, their full acceptance into the social order.

Nama cult

During initiation, the youths were introduced to the spiritually sacred 'nama' flutes. Each sub-clan owned a pair of bamboo flutes called 'nama'. The sub-clan also owned a tune that was only played by their 'nama' flutes. The flutes, when not in use, were stored in the men's house carefully wrapped in banana leaves. They had a major role to play during initiation ceremonies but were also used during other festivals. The flutes were shrouded in secrecy and when played were covered with branches

and grass so that women and the uninitiated were unable to see them. The men explained the tunes of the flutes to the women and children by saying that they were the voice of the 'nama', a mythical bird. As the flute procession passed through the village, women would look away. If a woman were to see the actual 'nama' flutes she would be killed instantly (Read 1952b, p. 5). Once during initiation, the 'nama' flute players would go to the village and visit the women's houses demanding gifts of food. Hidden behind the doorway of her home, the woman blindly offered her gifts. As she did, her hand was scratched with a piece of bamboo made to look like a claw (Langness 1974, p. 195).

Near the end of the initiation period, the women took part in an attack on the men and the boys as they neared the village. It was not a 'mock' attack because the women used real arrows and seriously attempted to injure the men (Langness 1974, p. 195). If a woman was successful in spearing a man, she was paid back with an arrow shot into her thigh. This act symbolised the antagonistic relationship between men and women.

Both Read (1952b, p. 8) and Langness (1967, p. 174) agreed that the women knew that the flutes were played by the men and not by the 'nama' bird. Both Read (1952b, p. 8) and Langness (1974, p. 209) argue that by agreeing to the charade, the women were implicitly accepting their inferior status within the society and accepting men's dominance and control over them. In stressing women's dangerousness, the cult aimed to eradicate the divisive powers women could have over men and therefore to prevent the possible threat to the group by the division of loyalties (Langness 1974, p. 208).

Male/female antagonism

Throughout their induction, the initiates were continually impressed with the notion of male superiority and the danger of spending too much time in the company of women (Langness 1974, p. 207). If a man erred in this fashion, he would become weakened; his abilities as a warrior would suffer; and he might even die. A man who chose to spend too much time with women would be sanctioned by the men of the village with ostracism and ridicule (Langness 1967, p. 172). The taboos taught were numerous and included the following: a woman must not touch a man's head or hair; she must not enter a garden nor cook food for her husband when menstruating; she must seclude herself in the tiny and cramped menstrual hut for its duration; and she must not step over a man (Langness 1967, p. 165). A man had to ritually purify himself after his wife gave birth to his child. Once a woman conceived, she was to abstain from sexual intercourse until the child cut its second tooth. The husband, however, was permitted to have sexual relations with his other wife or wives during this period.

At the same time, the youths were told of the virtues of family, marriage and having children, especially male children (Langness 1967, p. 166) They were schooled in the techniques of attracting women and

were told that polygyny brought strength and prestige not only to the young man but also to the clan. A young man could not become a full fledged adult until he married since the status of adulthood necessitated the ownership of gardens and pigs (Langness 1969, p. 40). In order to achieve adult status, a man required a wife to assist him in the process of accumulating pigs and gardens. These were necessary for producing food for distribution at ceremonies. Hence, a man could not fulfil his social obligations without a wife. However, the older men continually impressed upon the young initiates that 'women were nothing', 'they were unclean', 'untrustworthy' and that the initiates were to have an ambivalent attitude toward women (Langness 1967, p. 172).

After the initiation ceremonies were complete, the age-mates resided in the men's house and lived secluded from female influence for six or seven years. They had few responsibilities and spent their time together, 'venturing off to court (women), to raid and fight, to steal pigs and, if possible, to steal women' (Langness 1967, p. 166). They often persisted in courting women until they were between 25 and 30 years of age even if they had already married and had started families.

During this time, their families searched to find a young woman for the initiate to marry. These betrothals would often break down due to differences in maturity and the long avoidance period while a bride was found for all the age-mates. The avoidance rules were strictly enforced by jealous age-mates: 'Sexual jealousy and antagonism are present even in the relationship between age-mates. A youth, for instance, who neglects the rules of avoidance which are enjoined during his period of betrothal is considered to have affronted his age-mates, and the latter may retaliate by killing the girl he expects to marry' (Read 1954b, p. 23). None of the boys could reside with their brides until all of the group had been married. After two or three attempts at finding a bride for the young man, the older men left the responsibility for finding a wife up to the young initiate (Read 1954a, p. 868). The young girls, like the boys, had no freedom in choosing a husband and often ran away after the wedding when they had to live with the groom's family (and remain abstinent) while he remained in the men's house (and continued to court) (Langness 1967, p. 169). After several failed attempts, the youth began to feel that the young women were against him and that they had become a major obstacle in the way of him achieving full status as a man.

Despite the belief in their own superiority, men believed that women were discontent with their position and unless they kept them in their place, the women would challenge the men's position. Gelber (1986, p. 85) suggests that Highland men demonstrate their own prestige, showing off to other men, by being brutal toward their women. In this, she (1986, p. 85) argues that:

The treatment of women seems to be an important means of publicly demonstrating irascibility, the potential for violence, and the threshold of tolerance for others behaviour. Brutality toward women may be a kind of implied threat toward other men.

The men also believed that women did not like having babies and learned both magical and contraceptive means of preventing or terminating pregnancy. Both Langness (1967, p. 175) and Read (1954b, pp. 25-6) have found that there is truth in this belief. Women revealed to Read that childbirth hurt: '[i]t is like dying, for how do we know we shall get up again?' (1954b, pp. 25-6). He further states that women: 'admit practising manual abortion and claim a knowledge of pharmacological specifics to induce sterility' (1954b, p. 26). This kind of action or suspicion of it often lead to conflict within marriages since: '[a] young man whose wife has not conceived is told by the older men that her mother and women friends have persuaded her not to have children. At their instigation he frequently challenges her and beats her, or he has recourse to magic' (Read 1954b, p. 26). Traditionally female infanticide was practised, although not assiduously (Langness 1967, p. 166). This meant fewer eligible women of marriageable age when it came time to locate brides for age-mates (Langness 1964a). The people took the pragmatic view that females would not become warriors who could protect them but would only grow up to move away into their husband's lineage and would, therefore, play no role in supporting them in their old age.

Marriage

There appears to be no causal relationship between marriage and warfare within the eastern Highlands cultures since war was waged with most groups within their range of contact. Langness (1969, p. 50) argues that marriage within the Bena Bena had no political functions since women were considered chattels, and were bought and sold without regard for 'equivalent exchange' as was the case for wives further west (Reay 1959). The primary function of women was to have children, especially male children who would grow up to be warriors and help make the clan strong. Wives were most usually found amongst trading partners, allies or amongst groups with whom they sought refuge after being forced to leave their destroyed villages.

Women, after marriage, had little or no contact with their natal group, were considered to be clan property and were thought to have loyalties only to their husband's group. The main objective in Bena Bena marriage was not to establish permanent allegiances between groups, but clan solidarity and independence. This was necessary so that maximum protection and security could be maintained and the clan would grow powerful (Langness 1969, pp. 51-3). Langness (1969, pp. 51-3) further notes that relationships that were established between groups were

between men and remained unaffected by issues concerning women. Even in the case of divorce, these relationships were left intact, contingent upon the payment of brideprice, since children resulting from the marriage were considered the property of men.

The theme of dominance and submission permeated the marital relationship. This was symbolised in one of the rites practised once the elders permitted a married couple to cohabit. The bride sat on the ground with her head turned away as the groom entered the village in full decoration. Armed with his bow and arrow he shot his wife's thigh with an arrow to symbolically express his dominance and authority over her in their new relationship (Read 1954a, p. 867). With her thigh exposed and her head turned away she expressed her willingness to obey and submit to him.

Polygyny was prevalent in traditional times. Langness found during his research with the Bena Bena village of Nupasafa in the 1960s, that between 25 and 30 per cent of the men had polygynous marriages. He attributed this to the great numbers of pigs owned by these villagers. This in turn he related to ecological factors (Langness 1969, pp. 47-8).

A man could obtain additional wives by gathering enough wealth to pay brideprice in the same way that he purchased his first wife. Nevertheless, most men were unable to pay the high prices asked for single women the second time round so would attempt to minimise or avoid the cost of brideprice by encouraging a married woman to abscond from her husband and come away with him (Langness 1969, p. 47). Additional wives could also be obtained through capture in battle.

Polygyny was often the cause of much friction within Bena Bena marriages (Langness 1969, p. 48). Fighting amongst co-wives was very common and often became violent. Langness (1967, p. 171) reported that:

Quarrels between co-wives occur in Nupasafa clan at the rate of about one per week and are often violent. The women attempt to tear off one another's clothing, bite, strike each other with fists and clubs, sometimes enlist the aid of their friends, and so on. They rarely kill one another but are often painfully injured. Men usually stand around laughing, unless the struggle becomes too violent, when they intervene.

The women were also known to use sorcery against co-wives to cause them to fall from their husband's disfavour. Whatever means used, the taking of a second wife by the husband, or even an attempt, caused first wives much agitation and resentment.

The incidence of divorce in the Bena Bena tribes was very high (Langness 1969, p. 49). The grounds for divorce included adultery, infertility, and negligence in the performance of the duties expected of a wife. The latter cause was most often cited as reason for divorce (Langness 1969, p. 49). Divorce involved no formal procedure. A woman usually ran to another man to divorce her husband, and a man wishing a divorce would often 'neglect his wife until she (took) some action'

(Langness 1969, p. 48). This usually involved looking to others within the clan for assistance. Because she was considered clan property, the issue of her divorce was viewed as a public affair. It also meant that, without a man to protect her, other men would begin to take an interest in her as a potential wife, and would often interfere with her work in the garden by attempting to seduce or even to rape her. This often caused undesirable conflict within the clan since those who were involved in her purchase wished her to remarry and remain as clan property. If a man did not look after his wife properly, the rest of the clan would want her to take a new husband within the clan so that the clan would not lose her. The negligent husband's father often pressured his son to keep the woman and this created tension between them (Langness 1969, p. 49).

Social Control and Dispute Settlement

Inter-group control—warfare

Berndt (1964, p. 200) believed the precipitating causes of warfare throughout the Highlands region included ' "blood-revenge", women, pigs, insults and sorcery accusations, and disputes about ownership of land or food resources (such as pandanus nuts and edible fungi)'. Langness (1968, p. 184) found similar causes of warfare within Bena Bena society. Berndt also noted that 'warfare was bound up with the struggle for power and prestige'.

A clan reacted as a single group if it found itself attacked by an external force. Once a group of intruders broke through the village barricade, they headed straight for the men's house, which was constructed with tunnels and special blocked doorways in an attempt to prevent attacks. Attackers set fire to the men's house after securing its entrance to prevent escape. Those that did escape were shot as they evacuated the building. As soon as the men's house was sufficiently destroyed, next in line were the women's houses. There was no concept of 'fair play' since the stated objective of the attack was to annihilate the enemy 'en masse' including women and children and to destroy the village's means of sustenance (Langness 1968, p. 192; Feil 1987, p. 69; Read 1955a, p. 253). Leahy (1936, p. 242) noted that in addition to the destruction caused to the village and gardens: '. . . the invaders do not consider that they have destroyed the village properly until they have ring-barked the trees (casuarinas) . . . '

The constant state of warfare ranged from small attacks by members of one clan or sub-clan to large scale wars with several districts joining forces in opposition to a common enemy (Langness 1968, p. 188). The small attacks, (called 'hina' by the Gahuku-Gama) were feuds following some dispute within the tribe (Read 1954b, pp. 39-40). These involved the ubiquitous notion of redress. The expected result of 'hina' was a return to friendly relations after some form of compensation was paid. The large

scale wars ('rova') involved a perpetual state of warfare between traditional enemy tribes (Read 1955a, p. 253). 'Rova' was never-ending and evidence of these continual wars was seen in the burnt gardens and villages passed by the Leahy party en route (Leahy 1934 Diary in Langness 1968, p. 188; Leahy 1937, p. 109). Defeated groups would work toward their eventual revenge by making the necessary alliances and sometimes this required attacking the group that had given them refuge after their original defeat.

Intra-group social control

Retribution was a recurring theme throughout the Melanesian societies and the Bena Bena were no exception. 'Payback' was required in this system of justice in response to an injury. An individual or a group was always held responsible for injury or death. There was no such thing as 'natural death', and it was considered a social obligation to avenge a kinsmen's death. Leahy (Leahy Diary 1934 in Griffin 1978, pp. 183-4) wrote in his diary that if a man did not die in war, but died a natural death:

. . . at the eating of his pigs and accompanying singsing (ceremony) the names of his known enemies are called and one of them is decided upon as the person who caused the death of their tribal mate. Then it's the duty of his relatives to get this [man] and, although he is possibly unaware of their decision, he will surely get an arrow in his back if the opportunity presents itself. In the event of plain murder the whole village of the murderer is then placed on the black list and parties of natives are always on the lookout to avenge the killing . . .

The themes of physical aggression and violence also underpin the traditional Bena Bena and Gahuku-Gama treatment of disputes and conflict within the clan structure itself. 'Dominance and submission, rivalry and coercion' were the predominant characteristics apparent in many inter-personal relationships (Read 1954b, p. 23).

The Gahuku-Gama and the Bena Bena cultures traditionally did not appeal to abstract moral principles. Instead they 'emphasise[d] the practical consequences of moral deviation' (Read 1955a, p. 255). Thus, it was understood by all that if you did not assist your fellow clansmen they would not assist you and no attempt was made to abstractly evaluate the act of helping others in a general sense. Moral rules applied only to those with whom one had a social relationship, and therefore to those to whom one had social obligations. The social context within which any act of deviance had been committed was the measure of 'rightness' or 'wrongness'. It made little difference how people outside of the group behaved unless that behaviour had some negative effect upon the community. Accordingly, it mattered not how one behaved towards members of another group or towards their property unless that conduct had an adverse affect in the form of retaliatory action. Within the tribe, Read suggests that there is a 'distributive' quality in the moral system.

Thus, an individual has a greater or lesser social obligation towards an individual depending on whether or not he is a member of the same sub-clan of the same clan or a different sub-clan of the same clan. There is less social obligation in the latter case than in the first although there is more obligation in the first case than if an individual was from a different clan altogether. Morality within the Gahuku-Gama and the Bena Bena was based on 'tribal morality'. This was required for the survival of the group, and was not based on the 'universal' morality taught by Christianity (Read 1955a, p. 256, Langness 1987, p. 15). The contextual nature of moral obligation can be illustrated by examining various acts of deviance and noting the varying ways they are dealt with according to the would-be victim's relationship to the perpetrator.

Theft Theft was considered a wrongful act in itself. Yet, it was not considered an act of theft if the owner was a member of the thief's own sub-clan, and he was informed of the matter afterwards (Read 1955a, pp. 263-4). If a kinsman failed to inform the owner that he had borrowed the item, the act was still not treated as a theft, but was tolerated even though the owner may have been angry. Thus, the wrongness of the theft was considered to be greater or lesser depending on whether members of the same sub-clan were involved; or members of different clans but of the same tribe; or members of clans of different tribes considered allies; or a member of a group with whom the sub-clan had no recognised social ties.

Read (1955a, p. 264) reports that traditionally, pig stealing from enemy groups was an accepted practice and a blind eye was shown to pigs and goods obtained from other clans of the same tribe or from those groups with whom the clan had friendly relationships.

Lying The act of lying also had varying degrees of wrongfulness attached to it contingent on the circumstances in which the lie took place. Read (1955a, pp. 263-4) found that no one expected or even considered it necessary to confess guilt if the accuser was a member of another clan. Likewise, clan members did not presume that other clans would reveal the truth in the case of a dispute or conflict, especially if there was some advantage to be gained by the other group in masking the truth.

Homicide The Gahuku-Gama and the Bena Bena believed that it was wrong to kill a member of one's own tribe, but found it 'commendable' to kill a member of another tribe (Read 1955a, p. 262). Given the 'distributive' quality of morality, this latter act was, however, dependent on whether or not the victim was a relative. Avoidance of maternal relatives in combat was the observed behaviour; however, other members of the clan were not expected to avoid another man's kinsmen.

The wrongness of a homicide committed within the tribe was again evaluated according to the social relationship the murderer had with the victim. Murdering a member of one's own clan was strictly prohibited, but

the murder of a member of another clan, although considered wrongful, was believed to be less wrongful than the former case.

Rape Langness' research among the Bena Bena revealed this same 'distributive' morality for the offence of rape depending, once again, on the social ties the rapist had with the woman involved. He found that the fellow kinsmen of a man who raped a woman from another clan found the incident 'more humorous than criminal' (Langness 1987, p. 15). Unaccompanied women in the pre-contact period were considered vulnerable to physical and sexual attack. Women simply did not go anywhere outside the village alone (Langness 1987, p. 15; Berndt 1962, p. 166).

Berndt discusses the phenomenon of gang rape (he calls it 'plural copulation') in the eastern Highlands cultures. He asserts that traditionally most sexual relations involved elements of aggression and this aggression was considered pleasurable (Berndt 1962, pp. 147-78). His analysis maintains that (1962, p. 163): '... sexual violence or collective copulation may be employed deliberately as a punishment or may appear simply as enjoyable acts of aggression (for aggression, here, has this pleasurable quality)'. Read (1954b, p. 23) agrees with Berndt in this: 'The infliction of pain is an important element in sexual behaviour. Erotic play between husband and wife includes practices that are frankly sadistic'.

Berndt describes an example of a married woman who suggested to a young man that they run away together. The man was afraid that their elopement would precipitate retaliatory action from the woman's group, and he therefore declined the offer. Later, when the woman persisted in suggesting the elopement, the young man found himself tempted. His father advised him not to elope but to 'Copulate with her and let her go' (1962, p. 168). Arrangements were made to meet in the bush later that night. When the young man arrived at the prearranged location, he was accompanied by several other men. All of the men copulated with the young woman and then returned her to her village, her husband remaining oblivious of the night's events. Berndt argues that although the young man would not elope with the woman due to his fear of reprisal, he was unable to resist copulating with her. However, he brought along the other men who also copulated with the woman so as to share the responsibility of the act. With the other men's complicity 'repercussions resulting from it, if any, (were) likely to involve all the men concerned' (1962, p. 168). In other words, there is safety in numbers when faced with retaliation. Berndt also suggested that there was an element of punishment involved since the young woman was considered promiscuous and she therefore, required punishment. Within the district women were sometimes gang-raped as punishment for 'promiscuous behaviour, for attempting to run away (back to her village, or in elopement), for failing to comply with the wishes or demands of her husband, and so on, the punishment having the

sanction and approval, and sometimes active participation, of the husband . . . ' (Berndt 1962, p. 173).

Adultery Adultery outside the clan was not acknowledged as a serious problem. Concealment was considered necessary, but Read (1955a, p. 264) found that men often boasted about the various affairs they had outside the tribe.

Inside the clan, adultery was considered morally reproachable since it caused much animosity and acrimony between clan members and threatened the solidarity necessary for clan survival (Read 1955a, p. 264). Strong sanctions applied to those who risked clan solidarity by committing adultery with members of the clan. It was believed that women were naturally promiscuous if they were given the chance (Langness 1974, p. 204). This promiscuity threatened male power and control and therefore made it necessary to control female sexuality. Read (1954b, p. 23) illustrates the severity of the men's attempts to control women's promiscuity in the following:

The punishment of wrongdoers characteristically includes public beatings and vicious humiliations. Women suspected of adultery have sticks thrust into the vagina or, stripped naked, they are tied to a post while men throw dirt and urinate on them. Beatings across the breast and shoulders with lengths of rattan cane are common for less serious offences, the man selected to carry out the punishment performing a dance while he belabours as many as six women in turn.

Adultery with a woman of the same tribe, but outside the clan, was behaviour that hovered in the moral middle ground. It was not condemned with the same force as adultery committed within the clan, but it was not treated as lightly as the same act with a woman from another tribe altogether (Read 1955a, p. 264).

Administration Influence

Until Leahy and Dwyer, motivated by the prospect of gold, trekked into the eastern part of the New Guinea Highlands (including the Bena Bena region) in 1930, the indigenous people had never been exposed to European culture. They reacted with a mixture of fear and awe, believing that these pale skinned men were the ghosts of their ancestors returning to visit (Connolly & Anderson 1987, p. 6).

In 1932, an airstrip was established in the Bena Bena area to make it the base-camp for gold exploration (Leahy, D. 1989, pers. comm., 6 October). During this time, the 'Bena Bena region' strictly referred to those people residing around the airstrip. Later, the Australian Administration expanded the Bena Bena area to incorporate all the people who spoke the same language (named the Bena Bena language).

The Leahy team soon established that there was little gold in the area and they moved further west (Leahy, D. 1989, pers. comm., 6 October). Also in 1932, the Australian Administration Officer, James Taylor, established the first patrol post in the Highlands (Leahy & Crain 1937, p. 137).

Entry into the Goroka area of the Highlands was restricted and Administration control was not achieved until after World War II when regular patrolling of the area began (McRae 1974, p. 16). In the Bena Bena Census Division regular patrolling was not established until the 1950s (Patrol Report Bena No. 3/1968-69).

The Administration had a significant impact on the cultures of the eastern Highlands when it forbade inter-tribal warfare. The pattern of unrestricted warfare practised by the Bena and Gahuku-Gama ceased (after a period) and the methods by which leadership was established within these warring groups was changed (see Feil 1987, pp. 274-5).

Traditional methods of achieving leadership status (involving demonstrated strength in warfare) were replaced after contact by the accumulation of wealth and exchange (Feil 1987, p. 276).

The Administration established new ways of achieving economic success through their policies encouraging agricultural projects and the introduction of cash-cropping (coffee) into the Highlands. Coffee production became and remained an individualistic venture and it eventually produced for some Bena people a good cash return for a minimal amount of work (Patrol Reports Bena No. 4/1957-58; No. 2/1961-62; No. 3/1968-69).

The Administration found it difficult to interest Bena men in contract labour. In 1956-57 only 16 per cent of the Bena male population was away at work and most of them were filling short-term casual positions within a day's walking distance from their village (Patrol Report Bena No. 2/1956-57). They were noted to be more reluctant to change from their traditional ways than any other group in the Goroka District (Patrol Reports Bena No. 4/1957-58; No. 4/1959-60; No. 1/1962-63).

The Administration provided opportunities for some village men (often village bigmen) to participate in the western system of social control by appointing luluai and tultuls. The luluai often made decisions which supported his own group no matter what the circumstances of the dispute. The luluai's behaviour became part of the extension and continuation of old hostilities and enmities in extra-group relationships. Fowler (Patrol Report Bena No. 3/1953-54) recorded:

Throughout the area petty disputes were numerous, and concerned mainly pigs and women; it was evident that many of the disputes should have been settled by luluais, but once a dispute reaches the extra-hamlet or village level, officials appear to lose whatever sense of justice or fair-play that they might of had, and become only interested in gaining a victory for their own people. To the native, the victories and defeats of yesterday are not to be forgotten today; enemies of the past are enemies of the present, and the fight is still being

carried on, in a somewhat less brutal, if no less civilised manner. The law has replaced the spear, and can be wielded no less skilfully in the hands of an astute official. When a decision is given against natives of one village, they will not be satisfied until they have gained a similar victory, not with the thought of obtaining justice, but as another spear thrust.

This attitude toward the introduced social control was again noted in a report in 1962-63 (Bena No.1/1962-63): 'Revival in the CNA (Court for Native Affairs) of old forgotten disputes that might lead to 'scoring a point over the neighbour and enhance my prestige' was noticeably common throughout the Patrol'.

The effect of pacification was also felt in the relationships between men and women (Langness 1974, p. 210). Since there was no longer a need to produce strong warriors who abided by the strict code of solidarity among clan men, there was less need for the men's house, initiation ceremonies, or the nama cult practices which acted to symbolise male solidarity (Read 1982, p. 73; Langness 1974, p. 210). The last initiation took place amongst the Gahuku-Gama between 1950 and 1952 (Read 1982, p. 73). The Bena were more 'conservative' in making their changes but they too abandoned the 'nama cult' in the 1960s (Langness 1967, p. 175). Bena men began to abandon the men's house and to sleep in houses with their wives (*see* Patrol Report Bena No. 2/1953-54; Langness 1967, p. 175). This, they claimed was the wish of the Administration but it was in fact suggested by Bena local government councillors (Langness 1967, p. 175).

Most disputes were customary disputes (that is payment or return of brideprice; adultery; land disputes; or small disputes over the return of money or property; and pigs) (Giddings, R. 1989, pers. comm., 6 October). After pacification it became the practice for groups who had previously been forced off their land through warfare to migrate to their previous holdings of land and this sometimes lead to disputes with those who occupied the land (Patrol Reports Bena No. 6/1945-46; No. 8/1951-52). Another effect of pacification on land which inevitably led to disputes was the gradual encroachment onto the traditional no-man's land between tribal boundaries. These no-man's land areas had previously surrounded tribal land and acted as a buffer between enemy groups. These sections of land were unused by either group due to 'the danger of attack, fears of sorcery and the necessities of defence' (Patrol Report Asaro No. 3/1952-53). Since pacification people began to slowly make use of this no-man's land by cultivating gardens and gradually extending their boundaries into this previously unused area. Disputes resulted and the Administration tried to resolve the problem by getting the groups to plant trees around the borders of their tribal land (Patrol Report Asaro No. 3/1952-53) and by selling these border areas to Europeans wishing to start coffee plantations (Read 1952c, pp. 442-3). This latter course eventually led to dissatisfaction and to further disputes (Patrol Report Bena No. 5/1954-55).

Disputes which were difficult for the luluai to handle or where the parties were dissatisfied with the luluai's decision were passed on to the kiap. Most dispute settlement was accomplished through mediation. Both parties would come before the luluai or kiap to tell their side of the story. Each side readily appeared before the kiap to explain their version of the incident since they were afraid that the other party would 'winnim kot' (win the court) if they did not attend. There was little formality within the Court for Native Affairs and the final decision 'informally sorted itself out as court went along' (Giddings, R. 1989, pers. comm., 6 October).

Women were rarely the complainants or the defendants in disputes. However, they were often the issue which caused the dispute to arise (Giddings, R. 1989, pers. comm., 6 October). Disputes between women usually involved one woman accusing the other of encroachment onto her fallow garden land. Arguments between men were often over women, usually in relation to adultery or enticement. Most disputes involving women could be easily settled at the village level through negotiation and mediation between the parties involved. Men's disputes could result from women's disputes but at that stage they usually became disputes between men. If an argument between women became large enough then the men would involve themselves. At this stage they usually brought the matter before the Court for Native Affairs but it was represented as a dispute between men with the involvement of women merely as accessories. Disputes over money increased over the years but involved only men since men controlled access to money. If a woman did manage to get access to money and then loaned it, usually to a member of her own family and a dispute arose, it would be treated as an internal dispute, and would rarely be taken either to a luluai or a kiap since the traditional code ruled that internal disputes must be settled quickly to maintain group cohesion (Giddings, R. 1989, pers. comm., 6 October).

The kiaps sometimes punished men when they practised custom against women. J.R. McArthur (Patrol Report Goroka No. 8/1951-52) ordered a husband who was trying to hide from his age-mates the fact that he was already married, to return to his wife. The wife had sought a divorce through the Patrol Officer after her husband refused to accept the food she had brought to him at the men's house. J.R. McArthur ordered the husband to 'relinquish this unnatural practice and the couple told to try again the married state'. Another example of kiaps siding with women over men in regard to custom was observed by Read (1965, pp. 212-46). Read describes a dispute between a man and an elder woman where the matter had been settled in the village according to tradition. The woman, dissatisfied with the result which favoured the man, took the dispute to the kiap's court where she was given the benefit of the doubt and the man was given a gaol sentence for three months for assault.

Overall, the Bena people were observed to have maintained their tribal customs much more than other areas in the Goroka District and consequently the Administration found that they arbitrated most of their

disputes on their own and only rarely took them to the Patrol Officer or to the Sub-District Office in Goroka for settlement (Patrol Report Bena No. 4/1963-64).

Returned contract labourers had an impact on the stability of marriages. It was reported (Patrol Report Asaro No. 8/1952-53) that '50 per cent of the women married to labourers away on the coast are unfaithful, and marry another man during their husband's absence'. Similar findings (50 per cent) were recorded in the Goroka District (Patrol Report Goroka No.18/1952-53). In the Bena, some returned labourers refused to pay brideprice (Patrol Report Bena No. 5/1954-55). This had the effect of nullifying the marriage in the eyes of the Australian Administration as men discovered when they tried to charge their wives with adultery and to bring them before the kiap's court. If they had not paid brideprice, the marriage was considered invalid and no charge of adultery could be laid (Patrol Report Western Goroka No. 3/1954-55).

Polygynous marriages continued in spite of the mission attempts to eradicate this practice. I.A. Holmes (Patrol Report Bena No. 2/1956-57) recorded a total of 402 polygynous marriages and 2,151 monogamous marriages in 1956. He noted that a substantial proportion of the polygynous unions were practised by returned labourers. The incidence of polygyny was higher amongst 'patri-lineages with superior prestige and wealth' and amongst groups where there was a higher number of women compared to other groups.

Prior to contact adulterous wives were in danger of being severely beaten with a stick by their husbands and their respondents killed, but after contact, husbands merely accepted a pig as compensation from the adulterous man although they still might physically abuse their wives by slapping them around the face and ears (Patrol Report Asaro No. 16/1953-54; Fore No. 7/1953-54).

Women began to have more freedom in choosing their marriage partners after contact and this was supported by the Administration. I.A. Holmes recorded in Patrol Report (Bena No. 2/1956-57) that:

The gradual breakdown of traditional discipline manifested by a growing non-acceptance of elders and parental dictates, is to date fortunately limited to a relatively small proportion of the adult population, but must be expected to increase, particularly amongst the female sex. Indeed, the number of young women who requested me to upset planned unions (marriages) was surprisingly large.

He noted that the practice of brother-sister exchange was prevalent but that 'females are obviously being accorded an increasing freedom of choice, particularly in areas near Goroka'.

In the Asaro area however, much more rapid change was being experienced, P.V. Dwyer (Patrol Report No. 10/1960-61) recorded:

Women are beginning to rebel against old customs such as forced marriages, and the forced adoption of children by the father's relatives. Marriage appears to be regarded by the women as a temporary affair, and consequently they change partners whenever they have the urge to do so. Although many men brought complaints regarding runaway wives there was little that could be done to help them, as they admit that such action constitutes divorce in their area when the woman refuses to return. Negotiations for the return of bridal payments are a constant source of trouble, as often such payments have changed hands several times in connection with later marriages . . . One woman, aged about 22, who was brought before me, admitted to having had nine recognised husbands, and innumerable lovers.

The kiaps did not approve of child betrothal since these children were being 'deprived of a certain amount of liberty and the ideal whereby they can choose their own husbands' and attempted to influence change in this practice (Patrol Report Bena No. 16/1962-63). One Patrol Officer recorded that he purposely ridiculed the young men who had entered into such marriages by suggesting that it was 'unmanly to marry a girl so young' (Bena No. 16/1962-63). He noted that his method proved to be effective since two of six such marriages were terminated through divorce prior to his patrol leaving the area.

Due to increased contact with other groups, which traditionally they would never have met, more women began marrying outside of their villages (including marrying non-Highlands men) (Patrol Report Bena No. 10/1968-69; Asaro No. 1/1969-70). These marriages were tolerated by the elders as long as brideprice was paid. However, when the wife moved to her new husband's village, the fact that prospective children would not belong to the wife's parents (as was the case traditionally) was a source of some discontent (Patrol Report Bena No. 2/1956-57).

The major reasons for divorce amongst the Bena people were 'cruelty, neglect, adultery, and failure to observe the marriage customs of the people' (Patrol Report Bena No. 1/1962-63). In the Asaro, women were noted to have become 'more assertive' especially in situations where they believed that they had been taken advantage of by a man. They began to reject the tradition which permitted the husband to take custody of any children produced in the marriage (particularly male children) and refused 'to relinquish children and will themselves bring the matter before a CNA [Court for Native Affairs] for a decision' (Upper Asaro No. 10/1954-55). J.R. McArthur, in another Patrol Report (Lower Asaro No. 11/1956-57) observed that there 'was the increasing tendency of women to speak for themselves, and to oppose the village males, in (child custody) cases for example one female refused to yield her child to her father, who strongly wanted it. She said her father had nothing to do with its creation and had undergone no pain in its production'.

By 1969 the Bena people were experiencing further breakdown of the traditional custom. Patrol Officer, M. D'Abbs (Bena No. 14/1969-70) observed that 'some girls were taking up the occupation of prostitutes.

These girls are apparently either living in town or plying their trade along the road'.

Langness (1967, p. 176) noted that women were no longer committing suicide once their husbands died or were killed, as they had done traditionally. The incidence of crime (especially in the Upper Bena which had less contact with the town of Goroka) was noted to be negligible, apart from 'a lot of petty stealing, which is quite common throughout the Highlands anyway . . . ' (Upper Bena No. 25/1969-70). This finding was not that much different than in 1959 when the Patrol Officer reported that: 'Crime is not wide-spread throughout the Bena and most cases brought forward involved fights over land, pigs, gardens and wives' (Bena No. 4/1959-60).

In the Asaro Census Division, Patrol Officer, D. Read, (Patrol Report Asaro No. 1/1969-70) noted that:

The traditional social structure is breaking down with controls and sanctions not having the same effect as they would have had 15 years ago. The change is happening more rapidly in the Highlands than on the coast and is almost a generation change. Father and mother are finding communication with sons and daughters more and more difficult.

This difference in the rate of change between the Bena and Asaro groups might be attributed to greater access to roads and the influence of outside areas through contract labour. Yet, in the Upper Asaro region, (where the road system was less developed) it was found that: 'Women, generally, are being left way behind their male counterparts and are still the work horses that their grandmothers were' (Upper Asaro No.6/1962-63).

Mission Influence

Lutheran missionaries followed the Administration into the Asaro and Gahuku-Gama areas in 1932 (Read 1952a, p. 232; Simpson 1954, p. 60). The Catholics entered the Asaro District in 1935 (McRae 1974, p. 23). The Seventh Day Adventist Church and the Lutherans also set up mission stations at Bena Bena during this period (Read 1952a, p. 232).

McRae (1974, p. 23) notes that the evangelists played a significant role in making contact with the Highlands peoples in the Goroka valley. The people were attracted to the missionaries initially because of the trade items they could provide. The missionaries provided medical attention and the effect on diseases such as framboesia was quite dramatic causing the people to give them their respect (McRae 1974, p. 24). Yet the missionaries experienced frustration in that after their first decade in the area little had been accomplished by way of Christianising the locals (McRae 1974, p. 24). Simpson (1954, p. 69) notes that the 'natives' found the missionaries baffling as they assisted them with medical aid but did

not demand to be given pigs as compensation. However, the missionaries did ask for a form of compensation when they insisted that the villagers send their children to their schools.

The Lutherans were the most established and had the strongest influence on the Bena people (Patrol Report Bena No. 11/1945-46; No. 6/1951-52; No. 2/1953-54; No. 1/1962-63). They used 'native' evangelists from the Finschafen or Lae training centres on the coast of the New Guinea mainland (Read 1952a, p. 233).

The Lutherans forbade singsings (dance celebrations), traditional dress and polygyny (Patrol Reports Bena No. 10/1944-45; Goroka No. 6/1950-51). As a public demonstration of their Christian faith, new converts had to divorce all of their wives except for one (Patrol Reports Bena No. 11/1945-46; Goroka No. 6/1950-51; Upper Asaro No. 10/1954-55; Upper Asaro No. 6/1962-63; Bena No. 1/1962-63; Read 1952a, p. 234). The Seventh Day Adventists also forbade polygyny (Patrol Report Asaro No. 9/1953-54). Before a man could be baptised he had to be practising monogamy. This had a significant social impact on the lives of the women who were sent away, along with their children, without any compensation or means of support. The women's families were traditionally no longer obliged to take them back into their care (if they were to take them back they would be obliged to return a portion or all of the brideprice, something most did not wish to do) and they were often left to their own wits and means to maintain their survival. The discarded women were often older women who had minimal chances of remarrying (Patrol Report Upper Asaro No. 10/1954-55). Cases of these divorced women were frequently brought before the kiaps whose disapproval was evident in the Patrol Reports.

The evangelists informed the men practising polygyny and who wished to be baptised that polygyny was against the law, and that if they obeyed the law, they could take back the brideprice for the women they had divorced (Patrol Report Upper Asaro No. 6/1962-63). The kiaps sometimes ordered these men to accept their 'divorced' wives back, since often the wife's relatives had not returned the brideprice, therefore they were not considered divorced in the eyes of the Australian Administration nor in the eyes of their own traditional customs (Patrol Report Upper Asaro No. 10/1954-55). In response, the kiap issued court orders for maintenance and desertion (Patrol Report Bena No. 1/1962-63; Upper Asaro No. 6/1962-63).

However, the Mission's efforts were not entirely successful. Although the incidence of polygyny did decrease, one Patrol Officer noted that: 'many baptised natives are again contracting polygamous unions' (Patrol Report Bena No. 2/1956-57).

The Missions also objected to the courting practices of the eastern Highlands peoples which allowed groups of young men and women to lie side by side in the women's house at night and engage in kissing practices. This 'institutionalised love-making' only sometimes led to more

promiscuous behaviour (Read 1952a, p. 234). The villagers complained that the cessation of these courting practices led to declining morals in women. Patrol Officer B.J. Kneen (Patrol Report Upper Asaro No. 6/1962-63) noted that:

. . . consequently . . . the young women's morals have now deteriorated to the extent where more basic acts are practised in isolated pig-houses. Older men tell me that immorality was very rare when the young women entertained as a group in their own communal house.

This same observation was made in the Bena region (Patrol Report Bena No. 6/1966-67):

It seems that traditionally these single girl's houses were common. They apparently gave a person a chance to find a satisfactory mate and hence a better chance of a satisfactory marriage. With the coming of the different mission activities, this practice died out. The Patrol was informed that when this happened, many marital problems came into the fore and an attempt is being made to overcome these problems [broken marriages etc.] by returning to the traditional.

A side effect of the change in morals amongst Bena and Asaro young people was an increase in 'illegitimate' children. In the Bena, the rate of children born outside marriage was estimated to be as high as 75 per cent (Patrol Report Bena No. 6/1966-67).

The abandonment of nama cult was also influenced by the missions. An incident in Asaro in 1950 occurred directly after some recent converts returned from church one Sunday. They burned their group's nama flutes in public. Reaction from neighbouring groups was incredulous and hostile (see Read 1952b, p. 9).

The people saw this action as a 'threat to male superiority' (Read 1952b, p. 9). Although Read acknowledges the impact of the missions on initiation ceremonies, he argues that a more significant influence on their demise was the fact that many young men were away as indentured labourers when their time for initiation ceremony was due. However, the missionaries seemed to have targeted the nama flutes as a concrete symbol of the traditions which they regarded as pagan (Read 1982, p. 73) and even though they were unaware of the meaning of these flutes they required them to be burnt as a public demonstration of the villagers newly found faith (Patrol Report Mount Michael No. 1/1952-53). These public burnings were conducted in front of women although the men objected. In 1953 in Asaro, recent female baptised converts were shown the nama flutes. Again this was met by disapproval from villagers and village officials complained to the kiap (Patrol Report Asaro No. 9/1953-54).

In education, Bena women lagged behind. Female attendance at school was poor although the overall attendance of Bena youths was considered to be 'quite good' (Patrol Report Bena No. 10/1968-69). In 1970, the Patrol Officer commented (Patrol Report Upper Bena

No. 25/1969-70): 'The poor proportion of girl students is indicative of the traditional attitude of the Bena people to the standing of women in the community, and no amount of persuasion can sway them at present'.

Village Court

The Village Court system was introduced in Eastern Highlands Province in January 1975. There are eighty-eight Village Courts and 875 officials (Annual Report Village Courts Secretariat 1988). Most offences involving women are dealt with by the Village Court (Giddings, R. 1989, pers. comm., 10 October). Although women are free to take advantage of the Local and District Court system they usually end up in Village Court. This is due to the woman's financial constraints (it costs money for the bus fare into the town of Goroka where the District Court is located and it costs money to issue a summons), to her lack of knowledge about the Court system, to the attitude of some District Court Magistrates who would refer the matter back to the Village Court if it relates to custom, and to the fact that family disputes are considered to be the concern of the clan and there is internal pressure to settle such matters within the group.

Senior Court Magistrate Rick Giddings noted that women generally succeed when appealing against Village Court decisions to District Court. This is especially so in cases concerning the custody of children following a divorce. The Village Court will usually give the man custody of the children in accordance with custom. Today, women are not so willing to accept this and will appeal the Village Court's decision in order to get custody. The Local or District Court will often allow the appeal since the western system adopts the premise that the children's interests are best safeguarded with the mother.

Senior Probation Officer, Peter Worovi (1989, pers. comm., 4 October), noted that women prefer to use the imported court system for two major reasons; it is faster, and women feel that they will receive fairer treatment than they would before the Village Courts. It is often the case that the second wife will take the first wife to court after the public shaming incident for assault because she believes that she will have a better chance of receiving an order for a cash compensation. At the Village Court she would most likely receive an order for compensation to be paid in pigs and the women frequently prefer cash. Women take the other woman or wife to District Court for competitive reasons. The second wife lays an assault charge against the first wife, hoping that the first wife will be sentenced to a period in gaol giving her an opportunity to firmly secure her position with the husband while the first wife is absent.

Probation Officer for the Bena Bena, Elizabeth Passingan, observed that women from the Bena felt that the Village Court Officials were not objective in their decisions and most often sided with the man's relatives in disputes. Their decisions were of course supported in custom. Ms.

Passingan noted that many women who appeared before Village Court and were ordered to pay fines or compensation found it difficult to do so and ended up serving the default period in prison. Bena women faced community disapproval when they attempted to push for their rights as they were accused of failing to act like a 'proper' woman. Uneducated and unassertive women often accepted the decision of the Village Court. However, there were more educated women in the Bena nowadays and they were taking their complaints to the Local and District Courts. Two Bena examples will demonstrate the position of women before the Village Courts.

In 1985 a Goroka Magistrate was visiting the local prison, Bihute. A woman approached the Magistrate and complained that she had been charged by her husband with breach of custom. He had accused her of cooking his evening meal while she was still menstruating. According to custom, menstrual blood is regarded as dangerous and polluting by Bena men. The woman argued that she had completed her cycle and had therefore left the menstrual hut. The woman was found guilty by the Village Court, fined, and she later served five weeks in prison for fine default.

A woman was placed on probation for six months for assaulting her husband's new girlfriend whom he wished to take as a second wife. After the assault the husband threw the first wife and the children out of his house and she went to live with her parents. The first wife took her husband to Village Court to get a divorce and to claim maintenance. He then decided he wanted to take his first wife back. The husband opposed the divorce in Village Court maintaining his interest in having the two wives. Village Court did not grant the divorce. The first wife then took the matter to Local Court to ask for a maintenance order. Local Court ordered the husband to pay maintenance to his first wife (K6 per month per child—approximately A\$8.50 at August 1992). After he failed to fulfil the Court Order she took him to Local Court again where he was ordered to pay the outstanding money within a specified period. This time the husband paid the money but continued unsuccessfully in his efforts to persuade his first wife to return to him, often resorting to harassment.

Probation Service

The Goroka Probation Office which serves the Bena Bena District became operational in 1984. There are four Probation Officers providing probation services to the entire Eastern Highlands Province. In 1988 the Court sentenced 383 offenders to probation, of whom 70 were female (Annual Probation Report Goroka Office 1988). Of the 70, only one was breached for failing to follow the conditions of her Probation Order while in the same period 10 men were breached. The Goroka Courts have the most experience with probation in Papua New Guinea and are now

following a policy of placing all female assault cases under probation supervision (Yupae, N. 1989, pers. comm., 10 October).

Between January 1987 and October 1989, twenty Bena Bena women and twenty-seven Bena Bena men were placed on probation by the Goroka District Court. Of the twenty female cases, eleven were charged with assault, two were charged with using insulting language, one was charged for using threatening behaviour, one for adultery and five were charged for stealing. With the exception of the five stealing cases, the remainder involved marital problems related to the wife shaming the husband's girlfriend in public through assault or verbal abuse. One woman was placed on probation for committing adultery with a married man. Four of the five stealing charges involved minor shoplifting incidents. The fifth stealing case involved a woman who stole K1400 (approximately A\$2000 at August 1992) from the coffee plantation office where she worked. Of the twenty female cases only four were assigned to be under the supervision of a Volunteer Probation Officer. The remainder reported to the Goroka Probation Office.

Naomi Yupae, OIC Goroka Probation Office, is from the Bena Bena culture. She noted (1989, pers. comm., 10 October) that the biggest problem women in the Bena face is assault related to domestic problems. Women are expected to fight over men and unless one of the women is in danger of serious injury no one will interfere. Traditionally co-wives were initially obliged to ritually fight with one another and then to settle down and cooperate with one another. The ritual fighting took place to reinforce the first wife's position and her accompanying rights. The fights were tolerated by the community and subsequently the women made peace. However, the community kept the fights between the women under control. Nowadays, women who follow this traditional practice are taken to court in order to seek a compensation order.

The counselling offered to the fifteen women whose offences were related to domestic problems consisted mainly of discussions surrounding the respective responsibilities of all the parties concerned. Husbands were counselled to fulfil their marital obligations, wives were counselled to attempt to resolve their marital problems without resort to violence and the other women involved were sometimes counselled to avoid the company of married men. In nine out of fifteen cases, Probation Service files indicate that through individual and family counselling the family problems experienced by the women were resolved during the period of probation. In four out of the nine resolved cases the women involved were the girlfriends pursued by married men. These four young women were persuaded to stay away from the husband of the complainant.

The circumstances surrounding the breach case seemed difficult to resolve. A woman's husband attempted to get rid of her and their child by telling other men that they could marry her if they wished. The woman's family pressured her to remain with her husband and would not accept her back, as they did not wish to repay the brideprice. It appears that this

woman had no support either from her family or from her husband and the Probation Service was unable to assist her. She was eventually charged with breach of probation and was sentenced to two weeks in gaol for failing to report to her Probation Officer.

In other cases, six women were ordered by the court to pay compensation to the complainant. (One other woman paid compensation even though there was no court order.) Five of these women paid their compensation and one was being considered for a breach charge at the time this data was collected because she was making no effort toward finding the money to pay her compensation. She was not receiving any assistance from either her husband or her family. The Probation Officer believed that the girl's uncompromising and obstinate attitude was the cause of the problem.

A male case from the Bena group serves to demonstrate the counselling efforts of the Probation Service. The man wished to take a second wife but failed to inform his first wife of his intentions. When his first wife found out that he had taken a second woman as his wife she confronted him. He denied her accusations and an argument ensued during which he assaulted her. She took him to District Court on a charge of assault. He was given a sentence of probation for one year. The Probation Officer attempted to counsel both women and the husband together in an effort to encourage him to give up his plans to marry the second woman. The husband continued to insist that he wished to marry the second woman and this resulted in his first wife returning with her child to her family who resided in Rabaul. The husband later asked his first wife to come back to him because he missed his child and was not altogether happy with his second wife. The first wife returned and the Probation Officer again counselled the three of them after which the husband said he would not assault his wife again. It was agreed that the second wife would return to her people and the husband would compensate her for the time she had spent with him. The second wife returned to her relatives. However, when her relatives discovered that she was pregnant they sent her back to him. Probation again counselled the three of them and they all agreed to live peacefully together. The Probation Officer noted that through counselling the first wife learned not to fight and to accept the second wife and the husband learned to accept his responsibilities. The Probation Officer acknowledged customary responsibility in her efforts to stabilise and maintain the family unit.

Chapter Four

Arapesh

The Mountain Arapesh are located in the north-west of Papua New Guinea in East Sepik Province and occupy the coastal plain territory between the Pacific Ocean, over the hills and the Prince Alexander Mountain Range into a narrow section of plains adjacent to the hills. The family of Arapesh languages can be broken down into three major groupings: the Mountain Arapesh, the Southern Arapesh, and Bumbita (Tuzin 1976, pp. 18-19). The group that will be the focus of this chapter is the Mountain Arapesh.

Mead's (1934b, 1935, 1938, 1940, 1947, 1950, 1967) and Fortune's (1939, 1942, 1947) work on the Mountain Arapesh was based on seven months of fieldwork between 1931 and 1932. They divided the Mountain Arapesh into three separate sub-groups according to cultural differences, which were, for the most part, based on their geographical setting. These groups were: Plains, Beach, and Mountain Arapesh. The same language is used by all three groups.

Plains

The Plains Arapesh were situated in the confined low foothills area between the mountains and the aggressive and warlike Abelam people who occupied a large area on the Sepik plain. The Plains Arapesh were noted to be significantly influenced in culture by their neighbours the Abelam (Mead 1967, p. 20). They were unable to produce an adequate food supply. The area was insufficiently forested to supply them with building materials or to support enough game for hunting.

The Plainsmen lived in large villages. They manufactured shell rings from the enormous clam shells that they obtained from the Beach Arapesh. These items were traded to procure the goods they required from the Abelam people. In order to get clam shells, the Plains people needed to cross through the Mountain Arapesh's territory as they travelled to the coast.

Mead (1938, p. 326) suggests that a reciprocal relationship existed between the Plains people and the Mountain Arapesh because of the trade

in 'exuviae'. Exuviae is defined by Mead (1947, p. 419) as 'emanations of the body used for sorcery practices'. These emanations are sometimes referred to as 'leavings' and include semen, half eaten food, and saliva. A more detailed discussion of exuviae and sorcery will follow in the section on sorcery.

Mead found that this relationship was augmented by 'wishan', a sorcery technique that impacted upon the intended party by targeting any member of his locality and causing calamity and hardship through accidents and destruction of crops and property. Greater distance between the sorcerer and the victim's locality meant greater power in 'wishan' because the number of individuals whose 'exuviae' could be used increased.

The Plains people used both the Mountain and Beach Arapesh's fear of their powers of sorcery in order to acquire the clam shells they needed to manufacture the rings for the trade items they wished to purchase from their Abelam neighbours. The Plainsmen were dependent on these rings as well as their tobacco yields for both the material items and the cultural practices they imported from the Abelam (Mead 1935, pp. 11-13). There was an economic interdependency among all three groups based upon the trading skills of the Beach people, the carriage skills of the Mountain people and upon ring-making and the knowledge of sorcery by the Plainsmen.

Beach

The Beach Arapesh built vast houses on piles and lived in large villages. Their gardens were fertile and provided a more than adequate food supply. The Beach people were the source of all luxury goods for the Mountain Arapesh and influenced their culture enormously both through the acquisition of goods and through cultural practices such as dance, masks, charms and song (Mead 1935, p. 8; 1967, p. 22). The Beach Arapesh benefited from the riches they received through the trade networks which ranged along the coast from the Sepik to Aitape. They were strongly influenced by this trade and cultural importations from the Lower Sepik region were evident (Mead 1938, p. 321). They too sought access to the Mountain Arapesh's trade routes for particular trade goods such as feathers, net bags and tobacco (Mead 1947, p. 210). Their need for access also included the search for 'exuviae' passed on to the Plainsmen for their services in sorcery. The Mountain Arapesh considered the trade paths as guiding them toward the Beach with all its luxury and excitement. From the Plainsmen came only fear, illness, misfortune and death (Mead 1947, p. 207).

Mountain

The Mountain Arapesh are situated between the Beach and Plains peoples. Their territory is positioned on precipitous slopes. Due to thin and infertile top soil, which is easily washed away by torrential rains, their gardens were marginal and produced no surplus food (Mead 1934a, p. 377). Mead noted that they were the poorest of the three groups due to their 'technological inferiority' and their poor land (1938, pp. 320, 329). Because of this inferiority, the Mountain Arapesh relied on the Beach people for imports of tools, weapons and cooking devices even though they were fairly self-sufficient in food, shelter and clothing production. They manufactured only a limited and crude range of items such as wooden pillows, grass skirts, simple net bags and so forth, mostly in insufficient quantities for their own use. Mead called them an 'importing culture' (Mead 1938).

Their lands were not coveted by either of their neighbours and therefore they were not in danger of aggressive invasions over territory. The one trade item the Mountain Arapesh did have to offer both neighbouring groups was their labour in walking the trade routes receiving and giving the 'gifts', as the trade goods were referred to, and transporting them to another destination. This 'walking about to find rings' as the Arapesh metaphorically spoke of their traffic in trade, was often inefficient. A man walked his hereditary path for a day's journey in one direction, toward the Beach for example, and received goods from his trade-friend. Each trade path was passed on through patrilineal heritage. These paths were owned by individual men who 'walk[ed] about to find rings' and provided a safe route on their way to either the Beach or the Plains. The routes were marked by the residences of hereditary trade friends who would provide safe accommodation and food for the trader during his journey. Threat of injury to a man on such a trade route would be viewed by the man's trade friend as a threat to one of his family. Mead (1938, p. 322) concludes that 'This path, then, represents the maximum freedom of movement which an Arapesh man possessed before the introduction of the Pax Britannica and the freedom of the King's Highway'. She suggests that the tradition of trade friends and trade routes may have originated through marriage ties with distant groups.

The man then might walk two days in the opposite direction carrying his gift which he gave to another trade-friend perhaps taking part of the 'gift' for himself as payment or perhaps waiting until later when his trade-friend appeared in his village with some other item for gift-giving. Later a gift had to be returned to his Beach trade-friend (Mead 1967, p. 22). The value of the 'gifts' was never disputed and often the actual values were unequal especially if one accounts for the cartage. However, the Mountain Arapesh preferred this custom of gift-giving to direct barter (Mead 1938, p. 329). Real profit did not often result from these trading practices. Any regard for real profit was replaced with an emphasis on the giver of the gift's congenial and benevolent behaviour and on the appreciation and gratitude of the receiver (Mead 1967, p. 22).

Each man decided upon the extent to which he participated in trading. He might journey on his hereditary trade paths only a few times a year in order to supply himself with the necessities or he might travel more often. However, it was considered undesirable for a man to 'walk about to find rings' to such a degree that he did not fulfil his responsibilities in gardening and hunting (Mead 1947, p. 222).

The trade paths were also used for sorcery (Mead 1938, pp. 323-5). If angered by someone both Beach and Mountain men might send a fragment of the culprit's 'exuviae' to a sorcerer in the Plains.

The Beach Arapesh often used the trade paths to search for the sorcerer who had received the 'exuviae' of one of their members recently taken ill. After using the gift-friend system of the trade paths, they made contact with the sorcerer and offered him gifts so that he would no longer proceed with his spells.

The Plainsmen used the paths for blackmail. The sorcerer retained the 'exuviae' packet given him by the Beach or Mountain person and waited for the fee. If after several months he still had not received his fee, he might attempt to contact the victim through intermediaries and suggest that if payment was not received the packet would be put to use, therefore implying that the intended victim might soon fall ill or die.

A final use of the trade paths for sorcery purposes was that of vengeance. Reprisal killings for a death were offered by Plainsmen in 'sympathy' to the relatives of the sorcerised person. For a fee, the reprisal was to be carried out on an individual who was the same age, sex and marital status as the lost relative. The success of this type of sorcery was difficult to prove because it was targeted on someone from a distant village.

According to Mead (1947, p. 222) all economic activity outside that involved in running a household was organised around two categories.

The first category was more sociological and aimed at strengthening links with others—equivalent exchange was given more weight than real gain. In the second category, redistribution was emphasised. Redistribution was achieved by making a feast called 'abullu' where decorated piles of yams were displayed and quantities of meat collected. The invited members of the locality came with gifts of meat and net bags or cooking utensils. Each family took away a portion of the taro to plant as seed. The giver of an 'abullu' was seen as honourable and as someone whose 'gardening luck [had] increased the food supply of the community' and in this way 'it [was] actually an effective measure against any one man's accumulating wealth disproportionate to the wealth accumulated by others' (Mead 1967, p. 29).

Social Organisation

Patrilineal in descent, the Arapesh's principal unit was the patriclan. Villages were comprised of the grouping of several hamlets within which resided a small clan. Male clan members often resided in other villages with the result that each village was made up of several clans. Each clan owned an area of land within which individuals built and owned houses; had a water-hole, quicksand, or waterfall for the clan 'marsalai' (guardian supernatural) to live; and owned a forest for hunting and garden land both of which were allocated in sections to different lineages. With the exception of the 'marsalai' land, which was clan owned, all other land was individually owned by men. Once in a while a woman was given property, but it was then considered as the property of her husband or sons (Mead 1947, p. 218). Both the 'marsalai' and the ghosts of the individual clan member's ancestors resided on all owned land. Deference was always paid to these ghosts and permission requested whenever the land was approached or when a man wished to hunt or garden, and all strangers were first introduced to the 'marsalai'. If such recognition was not given, the 'marsalai' would chasten the offending party by causing misfortune through climactic disturbances such as storms, winds or landslides.

As well as land, sago and palm trees that were planted were passed down through the family line on an individual basis. Individual ties and relationships with their emphasis on friendliness and helpfulness were deemed to be more important than the collective within the clan (Mead 1947, pp. 182, 217). The honouring of these individually established ties between trade-friends, affinal relationships and family lineage worked toward the Arapesh cultural ideal of group relationships.

The Arapesh were rather flexible in their kinship system and did not strictly adhere to the rules of genealogy. In fact, they expanded their kinship system to include individuals with whom they had established 'contemporary ties'. Thus, if one of their women married into another locality, they often called all of the men of that locality 'brother-in-law'.

Those who had kinship ties were individuals with whom the Arapesh person learned to have 'good feelings' and with whom they could engage in a 'helping relationship' (Mead 1935, p. 45; 1947, pp. 190, 198). Trust was implicit within these relationships since individuals could count on support and assistance from such established ties when they requested it (*see* Mead 1947, p. 203).

In view of this attitude, the extension of kinship to those who were not within his genealogy enabled the Arapesh to broaden his 'security circle' within which he could journey and find sanctuary (Mead 1947, p. 204).

The main preoccupation of the Mountain Arapesh was the production and locating of food. Taro, a tuber, was the staple food and was produced by the women. Yams were considered a male crop and were planted and

cultivated by men. They were the focus of feasts and could easily be stored. Another food crop was sago which was planted and passed on individually to future generations. Sago was eaten only during feast times. Bananas, greens and coconut palms also served to supplement the diet although coconuts were scarce and were subject to tabus almost year round so as to accumulate sufficient quantities for feasts. Meat was not often part of the Arapesh diet. A man never ate his own meat (Mead 1967, p. 31; 1934a, p. 382). Instead, he sent it to another, perhaps his brother-in-law or his mother's brother. If a man did eat his own meat, he faced the moral outrage of his community. Mead found that the diet of the Mountain Arapesh was inadequate and caused undernourishment although there was no starvation (1967, p. 24).

In order to overcome the food insufficiency the Arapesh developed a system of planting their crops in several gardens belonging to different relatives. A man was host in only one garden and a guest in all the others (Mead 1935, pp. 19-22). Preparations and planting in these gardens were made cooperatively and at varying times. This ensured that the harvests were interspersed so that the families did not face lean periods where no food was available. Gardening, hunting and house-building were all performed in this cooperative way. Men spent most of their time responding to the requests of other people with whom they had ties and therefore an established helping relationship. When asked a man felt obliged to respond.

Mead (1967, p. 22) states, '[t]he whole emphasis of their economic lives is that of participation in activities others have initiated, and only rarely and shyly does anyone tentatively suggest a plan of his own'. Thus, these individual acts of service performed for other individuals worked toward the aggregate aim of 'growth'.

Leadership

There was no formal political leadership (Mead 1967, p. 20). The emphasis on men reacting to the requests of others and only rarely initiating activities contributed to their attitude toward leadership (Mead 1935, p. 22). Leaders were required mostly for ceremonial purposes such as feasting; however, they were sometimes needed for dispute settlement. Leadership was not decided through heredity (Mead 1935, pp. 27-30). Instead, potential individuals were chosen and encouraged to take on the leadership role. It was felt that no member of a locality genuinely preferred to take on a 'bigman' role but the need for leaders demanded that the group cultivate adolescent boys who manifested the necessary traits from a young age. The traits required for leadership included, 'intelligence, energy, and a willingness to assume responsibility, to "take his father's place" in emergencies'; good judgment, the ability to show

angry aggression when necessary and successfully hosting 'abullu's' and other exchange ceremonies (Mead 1947, p. 208).

The chosen boy would be established early in a 'buanyin' relationship with a boy from another clan. The purpose of the 'buanyin' relationship was to train the youths in the qualities necessary for leadership. The 'buanyin' relationship was one of exchange where reciprocal feasts and displays of gifts, particularly meat, for the other partner were organised (Mead 1967, p. 33). Competition and insulting behaviour were encouraged between the 'buanyin' feasting partners. These traits were considered to be disagreeable in non-leaders. Contrary to the system of trade-friends, which camouflaged trade as though it were gift-giving, an accurate accounting of cost was kept between 'buanyins'. Another purpose of the 'buanyin' exchange relationship was as a form of banking since a gift of meat provided to a 'buanyin' would be returned in kind at some later date. The gifts of meat received would then be passed on to relatives. They would subsequently be obliged to provide meat for future gifts to the 'buanyin' partner who would also distribute the gifts amongst his relatives. Thus, as Mead (1967, p. 33) puts it, the 'buanyins' ' . . . cooperate in maintaining a more rapid large-scale turnover of food than would otherwise occur in the community'.

The emphasis in leadership was the maintenance of balance between groups. Mead (1947, p. 205) states:

This type of symmetry may be understood as one expression of responsiveness; every stimulation from outside produces a lack of balance, and the responsive individual moves to restore that balance, which is to him a state of well being.

Position of Women

General

The Arapesh valued their women as it was only in cooperation with women that men could fulfil their responsibilities to 'grow' the next generation. Mead (1947, p. 202) states: 'Women are valuable, very valuable, and they are the nearest to group property which the Arapesh have'.

Cooperation between the sexes was evident. Women carried water, searched for firewood, cooked the daily food (except for feasts), gardened and cleaned (Mead 1947, p. 213; 1967, p. 40). Men hunted, cultivated yams, cooked the food for ceremonies, made fences and built houses (Mead 1935, p. 39). The women shared in the creation and 'growing' of the children with their husbands. The father slept on the other side of the child and had no sex with either the mother or any other woman until the child could walk (Mead 1967, p. 44). Both men and women were assigned an equal responsibility in procreation.

Once Arapesh children reached puberty, they were expected to follow the taboos which forbade them to eat some meats or drink cold water until the yams were 'harvested and sprouting in the yam-house' (Mead 1935, p. 62). The observance of these taboos lasted for almost one year and was considered to be the child's duty to ensure his/her own 'growth'. According to custom, at the time of puberty a boy was no longer permitted to take sexual pleasure from his own genitals and was taught to perform the purification rituals with which to cleanse himself if he were to breach the taboos. The young boy is taught by the older boys how to use the stinging nettles to cleanse his penis and the fragment of sharpened bamboo to insert in his urethra to ritually cleanse himself through bleeding. He alone was responsible for monitoring his own adherence to the taboos. The result of any shortcomings would be evident for all to see by his failure to 'grow'.

The Arapesh divide blood into good and bad blood. Both sexes have within them both types. Good blood is 'life-giving and life-forming' and comes from a wound, from scarification or is passed from a mother to her child (Mead 1940, p. 349). Good blood is nourishing and is considered asexual. It is associated with parenting, non-aggression and the compliance with taboos. Bad blood is dangerous and includes menstrual blood, blood from childbirth, and blood that comes from a sore or from the boy's purification rituals.

Men's tambaran

The tambaran was a 'supernatural patron of the grown men of the tribe' (Mead 1935, p. 63) and was symbolised by the sound of the sacred flutes and garamuts (slit gongs). This male cult differentiated the functions of men and women and was 'a symbol of the men's power' (1967, p. 38). Pubescent boys were initiated into the cult over a period of a few months. They were forced to undergo a series of activities that included having their skins rubbed and beaten with stinging nettles, the decoration of their bodies by incision, drinking the blood of the older men, and practising the purification techniques that they would perform after sexual contact with women or after contact with the tambaran. The purification practices performed in the latter situation were intended to protect the women from the harmful effects of the tambaran. It was believed that the tambaran hated women and would cause them harm through miscarriages and so forth.

Women were not permitted to see the tambaran but were not killed as punishment if they happened to do so. Instead the men told them that they would not have to face such severe repercussions if they promised not to reveal the secrets (Mead 1935, p. 68). Young uninitiated boys were not excluded from the tambaran but were permitted to observe and partake of the feasting. The tambaran focused attention on the importance of separating the different functions of men and women in Arapesh society (Mead 1935, pp. 63-9).

Since the tambran cult was considered to be harmful to women, young girls learned to push all thoughts about the tambran from their minds for if they were to allow their minds to contemplate its secrets, they might 'endanger the order of the universe within which men and women and children live in safety' (Mead 1935, p. 70).

The result of the young girls' lack of speculation, according to Mead, was the dulling of their imagination and stunting of their intellectual growth. If they remained untempted by the forbidden tambran house and its secrets they would 'grow' to marry and produce children. They needed to protect their reproductive powers by observing these rules and thereby contribute to the community by 'growing children'.

Boys, on the other hand, were not discouraged from speculating on the tambran's mysteries. By the time they had reached their own initiation ceremony, they were familiar with many of the secrets. They had already been taught the purification rituals by the older boys and had been permitted to observe and eat during the initiation feasts of the older boys.

Some boys were initiated individually, but the larger initiations held within the locality took place every six or seven years. It took this long to prepare for such initiation ceremonies and the initiates spent much of their lives repaying the debts incurred by their relatives to hold the ceremony.

The secrets of the tambran were revealed to the young boys during initiation. These secrets included the revelation that the voice of the tambran was really made by the men playing bamboo flutes and banging the slit gongs called 'garamut' (Mead 1935, pp. 72-4). The women and the uninitiated were told that these sounds were the voice of the tambran. They were also told that the boys would be swallowed by a cassowary (a female symbol to the Arapesh) only to be expelled again later. The boys learned that it was not really a cassowary, but a man wearing cassowary feathers. They were made to drink blood taken from the old men, which was believed to provide strength and to facilitate the 'growth' of the boy. Through these rituals and the incision ceremony where the boys were also scarified, the symbolism of the reproductive powers of women and the importance of the relationship between blood and 'growth' were again emphasised.

The young men entered the tambran house and were symbolically reborn into the men's cult which shrouded its activities in secrecy and mystery. Through this institution the separation of the sexes was maintained and the boys were reminded of the dangerousness of sexuality and bad blood for both sexes. Men and women learned to protect each other from these dangers (Mead 1967, p. 38). The men did so by guarding their secrets and the women ensured the safety of their men by observing the avoidance practices during menstruation and childbirth. The sexual dichotomy was represented on the one hand, by the reproductive powers of women and sexual contact with them, and on the other, by men's ability to provide nourishment and food. Mead (1935, p. 75) notes that the Arapesh adapted the practices of the men's institution to emphasise

'growth' and not traits which reflect jealousy, competition, and antagonism between the sexes.

At the end of the initiation period, the boys were dressed in their ceremonial finery and taken on their fathers' hereditary trade paths to be introduced to all his trade-friends. Each trade-friend gave the boy a gift which started him off in the reciprocal gift-giving relationships of the trade paths (Mead 1935, p. 76).

After successfully completing the initiation period, the community perception of the boy was forever changed. He was no longer a child without responsibility nor was he included any more in the group whose 'growth' was 'cared for'. Instead he became part of the group who 'cared for' the 'growth' of others and channelled his energies toward the care of the old, his younger siblings and betrothed wife (Mead 1935, p. 76).

Marriage

The concept of 'growth' also underpinned the Arapesh ideal of the husband/wife relationship. A girl between the ages of six and eight was betrothed to a boy usually half a dozen years older. Once she was betrothed, she came to live with her husband's family and used the same kinship terms for them as she would her own family.

She worked with her mother-in-law and sisters-in-law in the same way as she would have worked with her own mother and sisters. The major link between a husband and his wife was the food he provided her in order to 'grow her'. The husband's line's claim to her was not through blood (her family still owned her blood) or the brideprice but through the food he provided, which grew her body. As Mead (1935, p. 80) says, 'An Arapesh boy grows his wife'.

Most marriages were arranged in this way and the relationships established, which could be described as parent/child in nature, were considered to be the most stable and close (Mead 1935, p. 80; Fortune 1939, p. 38). The young girl entered into a dependency relationship with her husband and his people. They provided her with food and safety and in return she worked in the gardens and ensured that she followed all the taboos. In this way, she would 'grow' and later produce children in order to strengthen the patrilineal family line.

In choosing a child bride, the family decided whether it wished to strengthen its existing relationships with a group it already had ties with or whether it wished to extend its trust boundaries to a distant and outside group through marriage exchange (Mead 1935, pp. 81-2). With the latter choice, the risk of possible sorcery always factored in the family's decision. Women represented the blood ties between groups of men who wished to strengthen or extend their ties with other groups of men (Mead 1947, p. 197). The importance of increasing the number of ties between men was evident in the Arapesh attitudes toward incest that according to Mead (1935, p. 84) was not considered repugnant, 'but as a stupid

negation of the joys of increasing through marriage, the number of people whom one can love and trust'.

Women's tamberan

The ceremony conducted at the girl's first menses was called the women's tamberan (Mead 1940, p. 349). The girl was segregated in the menstrual hut, which was specially built for the occasion (Mead 1935, pp. 92-3). Her skin was rubbed with stinging nettles and she learned to cleanse herself with one rolled up stinging nettle by pushing it in and out of her vulva. This latter practice was performed to ensure that her breasts would develop and enlarge. She would later perform this ritual twice more; once after her marriage was consummated and again after her husband's death. Her mother's brother scarified her on the third day. To augment her strength, she fasted for up to five days and took no water. This period was shortened if the girl was too weak to endure the entire period.

At the end of the period of segregation, the adorned girl was taken to the 'agehu' (feasting and ceremonial ground) where her husband waited with some soup he had made for her. The men in her husband's family gave the young bride gifts. As part of the ceremony, she ate half of a yam and the husband hid the other half in the roof of his house. It remained there until she conceived a child. This was the husband's insurance that she would 'not treat him like a stranger and deliver him over to the sorcerers' (Mead 1935, p. 95). Both husband and wife observed taboos for a week, which forbade them to eat meat. Subsequently, the husband hunted and using his catch both he and his wife prepared a feast for those who assisted during the ceremony.

In contrast to the men's tamberan, the rituals performed in the women's tamberan did not significantly change the role of the young girl (Mead 1935, pp. 96-7). It merely marked the maturation of her body and moved her closer to the time when she and her husband could consummate the marriage (this would take place a few months after the menstrual ceremony). Years before she had already been accepted into her husband's group and had been performing most of the duties she would continue to perform during her lifetime.

Casual sexual activity was fraught with danger for the Arapesh. It was seen as an attempt by a strange and enemy woman to seduce and sorcerise a man (especially if it happened while travelling). Safe sex could only be practised within a marriage since child betrothal ensured a trusting and therefore friendly relationship. Given these attitudes, it was a significant risk for a man, who, wishing to elope with another man's wife, would offer to copulate with her. By so doing he gave her his guarantee that his intentions were earnest since she then had the power to cause his death through sorcery if he failed to keep his promise.

Polygyny was practised by the Arapesh as a result of the clan's wish to keep a woman whom they had 'grown' within the clan after her husband died. Thus, widows would be married to their husbands' brothers or at

least within the clan. The first wife, who had been 'grown' by her husband and his family, did not lose any status through this arrangement and as a result the relationship between co-wives was generally amicable (Mead 1935, pp. 107-8).

The role of each partner was defined by the way in which the relationship had begun and by the differences in age. Men had learned to expect that their brides would respect and obey them because they had always played a guiding parental role with their wives since the time they had come to live in their parents' home. Women were taught to receive the guidance offered by their husbands through this relationship which was based on his greater wisdom and her inexperience (*see* Mead 1935, p. 110).

This ideal was not always met when the husband took on a second wife from the Plains. According to Mead (1935, p. 102), the Mountain Arapesh saw the Plainswomen as, '...jealous and actively sexed, rapacious and insatiable. They (had) none of the home-loving virtues that the Arapesh cherish in women'. Discord often resulted from such polygynous combinations since the more spirited Plains wife was frequently successful in 'monopolising all of her husband's attention . . . ' (Mead 1935, p. 103).

Divorce was only accomplished through arranged abductions (Mead 1947, p. 196). Fortune (1939, p. 31) asserted that the 'Arapesh approve[d] of divorce and promote[d] it only in hostilities, in bloodshed against enemies, and in the honour of men slain for and against it'. He also noted that acquiring wives in this manner usually led to marital discord and jealousy since the two women had not previously known each other (1939, p. 38). In addition, Mead contended (1935, p. 123) that the marriage system was not capable of handling conflict.

Relatives did become involved when the wife was mistreated. Given the friendly relationship between brothers-in-law, it was a serious matter for the wife's brother to take her away from her husband although their relationship permitted him to rebuke the husband for failing to carry out his responsibilities toward his wife. If the situation called for more than reproach and they did not wish to provoke a fight between themselves and their in-laws, the wife's relatives secretly arranged for a man from a separate locality to 'abduct' the mistreated wife. This technique acknowledged the complexities involved in the situation due to the institutionalised relationship between brothers-in-law (Mead 1935, p. 127). A fight often ensued between the husband's and abductor's group.

Social Control and Dispute Settlement

General

Arapesh children were not permitted to quarrel amongst themselves, especially if the dispute led to a physical encounter. When fights erupted, parents separated the children allowing them only to 'vent their rage by rolling in the dirt, scratching or biting themselves, or tearing at their own bodies' (Mead 1967, p. 46). She notes that children were not trained to control their emotions but to ensure that they never harmed others when venting it (Mead 1935, p. 50). They were permitted, however, to cause injury to themselves if they needed to express their outrage. Thus, adulthood disputes sometimes resulted in men injuring themselves or destroying their own property.

Girls were trained to control their fits of temper much earlier than boys who were permitted such tantrums sometimes until they were fourteen or fifteen years old (Mead 1935, p. 50).

According to Mead (1940, p. 352), the ideal Arapesh man was able to subordinate his own needs and devote himself to the service of others in his community and was someone who: '. . . controls his aggression and his sexuality, assumes responsibility for the community, and refuses to eat that which he has killed, or to eat hastily, greedily, or exhibitionistically'.

Unaccustomed to aggression and violence, the Arapesh had neither mechanisms nor sanctions with which to deal with offenders who used such aggressive and violent means to achieve their ends. It was the custom of the Arapesh to punish the injured in situations where men repeatedly became involved in altercations. Mead argues (1967, p. 42) that they focused on punishing those who had provoked the anger as was illustrated in their custom of paying the mother's brother for injury and even in their use of the tambran to punish those who had been shamed by being insulted in public (1967, pp. 33-4).

However, it was more difficult for the Arapesh to deal with the violent perpetrator. Mead maintains that since the Arapesh believed that men had to be convinced to take on leadership roles and therefore to feign aggressive qualities they were completely confused when they discovered individuals who had become bigmen and who were not merely posturing (1967, p. 43).

The rationale for the channelling of injury and destruction onto the self was congruent with the Arapesh goal of working together to maintain and strengthen their group. If such destructive behaviour toward the persons or property of other group members were permitted then the survival of the group might be threatened.

Mead (1935, p. 157) argues that the Arapesh permitted violent behaviour to be expressed as long as it was toward the self but failed to ascribe it with any meaning or significance within their society. She suggests that those individuals who were predisposed to aggressive and

violent behaviour were provided with no outlets and were treated as anomalies.

The Arapesh believed that men and women had similar temperaments and that they were both maternal, mild and unaggressive (Mead 1935, pp. 141, 145).

Fortune (1939, pp. 36-7) disagrees with this assessment of the Arapesh temperament. He suggests that because of the existence of 'aramagowem' ('women male' or effeminate men) that men and women were expected to have 'different' traits. These 'aramagowem' were considered subordinate and inferior and were given a poorer quality of food at feasts. There was no equivalent category of women who were considered 'masculine women'.

The methods of social control incorporated into the Arapesh system were dependent upon the network of personal relationships built up within the group and upon displacing responsibility for hostility and aggression onto outsiders (Plains Arapesh) whom they hired as sorcerers to punish deviants within their localities (Mead 1967, p. 36). In this way, they were assumed not to be responsible for any violent repercussions for offensive behaviour and were therefore able to maintain their obligations to their 'kin' whom they were personally linked in relationship and cooperation through blood, marriage or trade.

Within the group, their sanctions were mild and non-confrontational. In accordance with childhood training, the Arapesh system did not allow an individual to fight on behalf of themselves. They could not display anger directly toward the offending person. Disputes were always disguised as individuals defending the injury of a friend. Outside the group the Arapesh employed the techniques of 'ano'in' relationships, warfare or sorcery.

Ano'in relationships

The term 'ano'in' meant 'rival' or 'competitor' (Mead 1947, pp. 205-6). This kind of relationship developed when two men of different localities had a dispute, perhaps concerning a woman. Once it was apparent that one man was the loser in the dispute, he could then declare an ano'in relationship with his competitor. Ano'in relationships functioned as institutionalised mechanisms of social control through long-distance rivalry, similar in fashion to the buanyin relationship, which competed through reciprocal feasting.

When one man declared that his rival was his ano'in, the other had the choice as to whether or not he wished to participate (Mead 1967, p. 41). If ano'in, the two men never met again but maintained their long distance rivalry.

Their children also became ano'in but were permitted to joke together if they were both boys or if boy and girl, to marry in order to make peace between the two groups.

Warfare

Mead (1935, p. 23) argues that warfare amongst the Arapesh was virtually nonexistent but that disputes between villages developed over women who were lured away from unsatisfactory marriages. Fortune (1939, p. 24) refutes Mead's assessment.

Fortune (1939, p. 27) differentiated warfare from disputes between clans of one locality. He noted that this was possible by an assessment of '... its scale, its determination, and by its traditions and conventions' (1939, p. 27). He assembled his data on warfare from the elder men of the groups he studied. He noted that most Arapesh warfare had been suppressed during the German colonial period prior to 1914 and that the remainder was suppressed during the Australian period of pacification.

The locality, which was made up of several clans, usually acted as one unit in warfare. The Arapesh did not wage war for head-hunting or cannibalistic purposes (Fortune 1939, p. 28). Fortune (1939, p. 26) argues that although the Arapesh did not have an 'expansionist land policy', they did have wars with other localities to rob them of their wives and 'hence of [their] increase'. The practice of pirating women from other localities helped to support the Arapesh ideal of the multiplication of the clan. The loss of men killed in battle had less impact on this goal since their levirate practices meant children could still be produced.

Mead (1935, p. 23) states that, 'The feeling towards a murderer and that towards a man who kills in battle are not essentially different'. Fortune notes (1939, pp. 27-8) that men who murdered within the clan were despised and feared but that men who killed in battle were considered honourable since they had the support of their group in the endeavour.

Individual men could cause a war by seducing a man's wife from another locality. In doing so men did not always gain the support of their own clan and locality and in these situations the woman might be sent back to her husband. When a man stole a woman from another group both individual and collective values had to be weighed by the leaders before a decision was made to fight and therefore to support him.

In order to win the woman, he had to seduce her and convince her to run away from her husband to elope with him. If he failed to get support from his own group and had to renege on his promise to her, the seduced woman was believed to have the power to sorcerise him.

Inter-locality disputes

Once a woman was successfully pirated into another locality the deserted group sent patrols to search for the enemy. When the enemy group was discovered, warfare could proceed in two ways. The first method was by conducting a surprise attack on the locality involved. Through this method, retaliatory killing was sometimes achieved before the abductor was able to inform his people of his actions and that a state of war now existed between the two groups.

The second method of warfare was carried out on the traditional battlegrounds located near the respective localities. Preparation the night before a battle was to take place included predicting the number of men who would be slain the next day. These predictions were announced to the opposition by drumming out the numbers on the slit-gongs. They were calculated by tallying the number of men from the enemy locality who had their 'exuviae' stolen from them during previous periods of peace between the two groups. 'Exuviae' was stolen from members of the other group during times of peace when disputes between individuals arose. This was frequently accomplished with the assistance of a member of the targeted individual's own locality who was willing to 'doublecross' someone from his own group (Fortune 1939, pp. 31-2). Tradition ruled that no man could die on the battlefield unless his 'exuviae' (leavings) had been first handed over to the sorcerers.

The battle was usually considered decided when one side lost one or two men. As Fortune (1939, p. 35) puts it, '. . . as is common in New Guinea warfare, a loss of a man or two might be held sufficiently decisive to justify a flight of a losing party'. Ambush killing occasionally was resorted to prior to an arranged battle between the two groups.

Inter-clan disputes within the locality

Disputes which took place within the locality were regulated by rules of restraint. One option that could replace physical violence was shaming. Clashes between hamlets over the abduction of women or over pigs began, according to Mead (1935, p. 24), '. . . in angry conversation, the aggrieved party coming, armed but not committed to fighting, into the villages of the offenders. An altercation follows . . .' When fighting did take place it resulted in deliberate wounding and not in death (Fortune 1939, p. 33; Mead 1935, p. 24). Yet Fortune suggests that this restraint led dissatisfied factions to resort to retaliation through sorcery. He (1939, p. 34) states, 'Sorcery is believed to be death dealing, but the fact remains that it is substituted for effective physical violence'. The disputes eventually lead to a resolution when both parties gave a gift of a pig to one another.

Periodically, disputes within a locality led to a decision by one clan to split from their locality and join an enemy group in waging war against the other faction (Fortune 1939, p. 27).

Sorcery

The greatest act of aggression an Arapesh could perform was 'to open the door to death, by sending a portion of his neighbour's personality to the sorcerers' (Mead 1940, p. 354). This was because they attributed the cause of all deaths to the magical spells conducted by sorcerers except in the cases of young children (whose parents were held responsible for their deaths) and for the aged (who were considered to have died naturally of old age) (Mead 1940, pp. 356-7). Such aggression, according to Mead (1940, p. 353), was outside the Arapesh maternal temperament that ideally 'outlaw[ed] aggression and sexuality and replace(d) them with an asexual parental attitude'. They were able to rationalise this apparent inconsistency because they themselves did not perform the sorcery, but hired Plains sorcerers to do the job for them. All deaths, they believed, were caused by the hands of a stranger. In other words, death was attributable to someone who was not tied to them in a friendly and trusting relationship.

The Mountain Arapesh had no one within the group who understood the mysteries and skills with which to perform sorcery. The Mountain Arapesh had only the power and knowledge to cause sores to appear on a person. The responsibility for sores was merely displaced to another community of Beach or Mountain Arapesh people. If the sores eventually led to the person's death then it was believed that a sorcerer from the Plains had been called in to assist and therefore the death was attributed to someone from an enemy territory (Mead 1935, p. 158). Sorcery skills were only understood by the Plainsmen who were renowned and feared for such knowledge. In order for the sorcerer to perform his duties, he required the 'exuviae' of the intended victim. The types of materials that could be used as 'exuviae' included small collections of a person's perspiration, mucous, saliva and half eaten food as well as vaginal juices and semen. The most dangerous 'exuviae' was that related to sex but other types of leavings were considered to be a living part of the person's personality and would usefully serve the sorcerer's purposes (Mead 1940, p. 356).

Individuals supplied the foreign sorcerers with the 'exuviae' of an intended victim but the persons providing the necessary materials were not considered to be responsible for any subsequent illness or death. The Arapesh believed that the theft of 'leavings' happened only when an individual was angry and in a highly emotional state: for this he was not held responsible. The theft was viewed as 'an impulse of an aggrieved moment, and the act [was] always subsequently disowned' (Mead 1967, p. 43). Instead, the onus was attached to the individual who had 'provoked this compulsive attack upon his personality' (Mead 1940, p. 355).

Once the sorcerer was in possession of the packet of 'exuviae', he waited for payment from the individual hiring his services. At this stage, the sorcerer might send a message to the intended victim advising him that

someone had stolen his 'exuviae' and delivered it to a sorcerer. This person could then provide the sorcerer with a payment that would encourage him to discontinue the magical spells, which would cause his death. The sorcerer smoked the packet of 'exuviae' along with nettle leaf and a leaf from a particular kind of tree over a fire (Fortune 1947, p. 251). Menstrual blood was considered dangerous to the sorcerer as well and he could only eat food cooked by a woman who had already passed menopause. Once his spells were completed, he positioned a bamboo tube on the ground and waited for an insect of any kind to fly into it, at which time he trapped it. This insect symbolised the victim's soul. Without his soul, the victim would fall ill and die.

Actions to counter or prevent sorcery included avoiding any illicit sexual encounter especially with strange men or women and following the safe customs surrounding child betrothal in order to build up a trust relationship with a bride several years a man's junior.

Even in the safety of an arranged betrothal, the husband ensured his safety from his wife's anger during the first months or years after the consummation of their marriage through the ceremony in which she ate half a yam and gave him the other half to hide until she conceived their first child (Mead 1940, p. 355).

Tamberan and social control

In conflict situations, the Arapesh social system punished those who had the misfortune to become injured either physically or in reputation. If a man was physically injured, he was required to pay his mother's brother for the lost blood.

If a man was publicly subjected to the indignity of his wife's angry rancour or to public insults from a relative and someone overheard, the men's cult might decide to punish him by summoning the tamberan. This punishment was carried out in compliance with the wishes of the man's mother's brother since it was he who had the authority to decide whether or not to punish (Mead 1935, p. 26). In such circumstances, the voice of the tamberan frightened both the husband and wife causing them to flee from their house at night. Once they had left, the men broke into the deserted house, littered it with leaves and debris, and destroyed one of the husband's areca palms. Mead also notes that this punishment meted out by the tamberan appeared to be directed toward the man's wife since much of the destruction was of her cooking pots, net-bag and rings but he was also punished by having one of his trees cut down (1935, p. 117).

Should the man be regarded as a continual trouble-maker in the community (through uncooperative behaviour, stealing other men's 'exuviae' and having a bad temperament), the men also dumped the contents of his fireplace on the floor of his house. This act was intended to shame him and to give him the message that he would be ostracised from the community for a minimum period of one month. His shame would not permit him to return until he could find a pig with which he

could host a feast for the community. Once these conditions were fulfilled, his offence was considered atoned.

Adultery

Adultery within the clan disrupted relationships but disputes were settled much more quickly than they would have been if the adultery had happened outside the clan. Mead (1935, p. 132) cites an example of a man who committed adultery with his brother's wife. When the husband discovered what his brother and wife had been up to and let it be known, the brother ran away for safety. The husband planned to beat his wife for her crime but postponed it because her mother and sister had come to visit and his wife had to cook for them. Meanwhile his brother returned and gave the husband a ring for his crime. This served to settle the matter because, 'after all, they were brothers; between brothers there can be no long anger'.

According to Mead (1935, p. 104), rape was unknown to the Mountain Arapesh. They saw sex within marriage as potentially dangerous unless restraint and taboos were followed religiously. Even when a man abducted a woman from another locality, he did not have sexual relations with her immediately. He waited until the negotiations over her were completed, for the outcome of the battle if there was one, or for verification as to whether his group supported his act of piracy or whether they would pressure him to return the woman. For 'if she is not to belong to him permanently, it is much safer never to possess her at all' (1935, p. 104). Given these attitudes the act of rape would have been viewed as inconceivably dangerous.

Administration Influence

It was after 1887, when the steamer *Samoa* travelled up the Sepik River for 380 miles, that the Germans realised labour recruitment would become the major economic potential of the area (Tuzin 1976, p. 28) and in fact the Sepik District was to remain a major source of labour recruitment for much of the colonial period (Commonwealth of Australia 1937, p. 27, 1948, p. 18; Patrol Reports: Maprik Substation No.1/1952-53; No. 8/1960-61). German exploration into the Sepik region was limited to the north coast area and the area directly adjacent to the lower Sepik River. They focused their attention on these areas throughout the period of German rule, establishing government stations and depending on the lower Sepik areas for a rich source of plantation labourers. It was not until 1913, when the 'explorer-anthropologist', Richard Thurnwald, twice trekked the territory between the Sepik River and the northern coast that the Germans became aware of the population in the hinterland (Tuzin 1976, p. 28). Thurnwald trekked through the Abelam peoples territory on his second journey and most likely passed by the periphery of Maprik (Tuzin 1976,

p. 29). The Australian takeover of New Guinea impeded any further exploration by the Germans and during the Australian military occupation of New Guinea little was changed.

In 1921 Australian patrolling of the Prince Alexander and Torricelli Mountain ranges began. In 1922 Administration officer, G.W.L. Townsend, walked through the foothills of the Torricelli range. He discovered members of the Plains Arapesh who had been previously contacted only by white labour recruiters under less than peaceful circumstances. In 1927 Townsend walked from Wewak to Bainyuk, to the Screw River near Ambunti, and then through the Torricelli Mountain Range to Aitape (Townsend 1968). Although he did not mention the details of his contact with the people one might assume that he crossed through Mountain Arapesh territory.

Nevertheless, the Administration continued to have very little contact with the Arapesh people. Mead (1947, pp. 268-70) mentions both the impact of labour recruitment and of administration control. In her view, the impact was 'diffuse' but the major areas affected appear to have been in relation to leadership, prestige, trade, marriage, and social control.

Mead says that the relationship between brothers was most affected by men going to work as labourers, or on government stations, outside of the area, (either within the Sepik or in other Districts such as Morobe, New Britain and New Ireland). The effect was not all that significant due to the fact that the area was not 'exhaustively recruited' and to the absence of 'police boys'. She gives an example of one man from Alitua who had worked on a government station and therefore was believed to have learned the white man's ways. In view of his acquired 'knowledge', he was given the *tultuls* position, a position to which he was not entitled as it was more important '... than his personality entitled him to hold' (1947, p. 269). A second man, Ulaba'i's, was kept in the position of *luluai* long after his social position in the community had waned. Nevertheless, Mead argues (1947, p. 269) that: '... relationships with the white man were so intermittent that the returned work boy had very little opportunity to demonstrate his superiority in dealing with him; the absence of travelling police boys also served to diminish the role of the returned indentured labourer'.

The impact of the introduced system of social control was less than it would have been in societies where warfare and head-hunting contributed significantly to the social system. The prohibition of warfare had the effect of lessening men's apprehension toward participating in the abduction and elopement of women. However, it 'did not result in a serious derangement of the social order' (Mead 1947, p. 269).

The introduced system had the effect of increasing tensions over the issue of sorcery. In pre-contact times, the Plains sorcerer had to be wary as he travelled through Mountain Arapesh territory to the coast. The sorcerer had depended on the ubiquitous fear of his powers to secure his use of the trade paths to cross through enemy territory. Nevertheless, he

faced the possible prospect of his own murder despite his implicit threat of sorcery. The prohibition of murder by the administration meant that the inherent sanctions built into the system of the trade paths no longer existed. Tension and apprehension rose.

The Mountain Arapesh system of trade was affected by the new order since the Plainsmen could now freely travel to the coast and obtain, not only traditional trade items, but also the new goods which accompanied the white man such as knives and tomahawks.

When regular patrolling began amongst the Arapesh in the 1950s many of the disputes the kiaps dealt with involved women (Patrol Reports: Maprik No. 5/1958-59; No. 8/1960-61; No. 3/1964-65). One Patrol Officer noted that in some villages there was a shortage of women and the men were therefore concerned about their women marrying into other villages (No 5/1958-59). The practice of sister-exchange often led to petty disputes and if unresolved these were referred to the Patrol Officer for settlement (Patrol Report Maprik 1949-50; No. 4/1955-56). However, the number of disputes was considered to be minimal and of a minor nature. A Patrol Officer gave the following summary of the nature of disputes in the area (Patrol Report Maprik No. 3/1964-65):

The Abliges are peaceful and law abiding people. Only six petty complaints were heard and arbitrated during the patrol. These varied from marriage disputes to settlement of money borrowing amongst themselves. Apart from these complaints the people live a quiet life and what little disputes they do have are settled amicably amongst themselves. They fully realised that should they not be satisfied they may refer the matter to the Sub-District office at Maprik.

Administration officers viewed the practice of child-betrothal disapprovingly (Patrol Report Maprik No. 1/1956-57):

Sister exchange has a darker side to it than the usual picture, the children being bought at an early age sometimes seven, and going to live with their future in-laws until old enough to marry. The incidence of wives leaving their husbands in favour of other men is naturally high and squabbles too frequent. Four villages have voluntarily abandoned the practice and it is hoped that others will follow the example.

Patrol Officers attempted to encourage free choice in marriage (Patrol Report No. 1/1956-57):

The Catholic Mission has done much to eradicate these practices, but there is still a long way to go before freedom of choice in marriage will be attained and these immoral practices are stamped out. On many occasions the opportunity was taken to condemn these activities and induce both girls and boys to marry of their own choice and within their own age groups, and for the parents not to allow their daughters to be tied up in the Haus Blut (Menstrual Hut) for such long periods . . .

The same officer concluded that (Patrol Report No. 1/1956-57): '[m]any customs are incompatible with social advancement for women'.

One interesting repercussion of indentured labour was its effect on marriages. One Patrol Officer noted that indentured labourers were often away from their homes for a long time; in some cases up to six years (Maprik No. 8/1960-61). Upon returning home these men frequently found that their wives had given birth to children born as the result of adulterous liaisons.

Mission Influence

The Arapesh area was mainly influenced by the Roman Catholic Mission (Divine Word Mission) and the South Seas Evangelical Mission (Patrol Reports: Maprik No. 3/1949-50; No. 6/1953-54). Missionaries worked to change those traditional customs of the people which they found abhorrent and unchristian. In the Wosera District in the Sepik, a missionary interfered with the initiation ceremonies by burning the Haus Tamberan (Tamberan House) down. He was charged with arson and referred to the Supreme Court in Wewak (Patrol Report Maprik 1951-52). Indigenous missionaries attempted to convince the villagers that continuing to practise the 'old ways' was 'evil'. This caused the abandonment of the Haus Tamberan and of traditionally built houses. (Rowley points out that the long absences of the young men through indentured labour also contributed to the abandonment of initiation rituals (1965, p. 149).) Patrol Officer R.K. Treutlein (Patrol Report Maprik No. 8/1960-61) observed:

Under these influences the natives responsible for the change in house construction see in all traditional methods a link with evil times and preach a complete throwing over of the old culture. Hence, things associated with the tamberan cult are thrown out, the traditional house is regarded as unclean and hence ungodly and a complete acceptance of the 'better' way of life as conceived by these missionaries is urged. At the moment carvings are being sold and house tambarans are being no longer used.

The missions encouraged girls to choose their husbands and not adhere to the traditional marriage customs. One patrol officer noted the following (Patrol Report Maprik No. 4/1955-56):

With the arrival of the missions since the war the system is showing signs of breaking down. Several of the disputes I heard involved girls who had been schooled at the Mission. With their education comes the feeling of a right to choose their own husbands. They are naturally enough encouraged to do this by the Mission . . .

One Patrol Officer noted that many traditional customs were being abandoned due to mission influence. He reported (Patrol Report Maprik No. 3/1964-65):

No apparent signs of traditional customs and rites were observed during the patrol. This has resulted in all social activities coming to a standstill. During the course of many discussions the people expressed reasons why the Long Yam Cult and any celebrations connected with marriage have been completely abandoned. They expressed in no uncertain manner how these social activities brought tribal fights and misery to the people and therefore must be forgotten and live a 'christian' life.

By 1969 the position of women in Arapesh territory lagged behind in its development to that of the men. The Administration had attempted to raise the status of women through the use of women's clubs since the early 1950s when the Minister for Territories, Paul Hasluck, made this one of several priorities in the social development of the people. Hasluck recognised that men were advancing faster than women because they had more access to education and employment and more contact with Europeans than did women. He stated that he felt that the people should be left to work out their own relationships between men and women based on their own cultural considerations but he felt that the Administration should not contribute to a widening of the gap between men and women's development (Hasluck 1976, pp. 327-8). His policy led to minor financial contributions to women's clubs for training. In 1955, he directed (1976, p. 328): 'the Administrator to start a three-year drive to overcome the lag in the advancement of women and to take measures in education, health and other phases of administration to ensure that men and women advanced side by side'. Hasluck himself, admits that his directive was largely ignored in the Territory (1976, p. 328). Furthermore, Patrol Report, (Maprik No. 2/1969-70) indicated that: '[t]here is a distinct lack of women's clubs in the area and this is reflected in the women's inability to do anything but traditional occupations'.

Village Court

The Village Court system was introduced in East Sepik Province in October 1975. There are seventy-two Village Courts and 563 Village Court officials (*Annual Report Village Courts Secretariat* 1988). Most women who come before the Village Courts in the villages surrounding Maprik are involved in minor domestic disputes usually over conflicts concerning children or for fighting over men (Seglewan R. 1989, pers. comm., 28 November).

Scaglione (1979, p. 124) found in his study of Village Courts in the Maprik area that villagers were depending on the Village Courts to settle their disputes either informally or formally rather than the Local or

District Court system. Out of sixty-five disputes in the Abelam Village of Neligum in 1975 (prior to the introduction of Village Court), 95 per cent of the conflict cases were informally dealt with at the village level and 5 per cent were settled at the Local Court in Maprik. Scaglione found that in 1977, Village Court was used to settle nineteen disputes and he concluded that it was 'a more popular forum for conflict management than is the Local Court' (1979, p. 124). However, Scaglione also noted that 'quite a number' of disputes were not being dealt with by the Village Courts but by the community through traditional means such as mediation by bigmen, avoidance, yam exchanges or through the informal methods of the Village Courts. Scaglione says that in 1975, 23.1 per cent of the conflict cases involved sexual disputes and 15.4 per cent involved petty domestic disputes giving a total of 38.5 per cent of all cases informally dispensed with in Neligum Village. Although Scaglione does not break down the offences according to sex it can be assumed that women were involved in these offence categories or were the 'cause' of the dispute. Scaglione attempted to code disputes according to their 'ultimate cause'. For example, he noted that 'where a dispute over adultery resulted in an assault, the case would be recorded as a 'sexual dispute' ' (Scaglione 1979, p. 123). In 1977, assault (22.1 per cent) and sexual disputes (19.2 per cent) accounted for a total of 41.3 per cent of all the cases dealt with by the Bulupwine Village Court. The 1977 figures from the Bulupwine Village Court are similar to the 1975 informal figures for Neligum Village suggesting that there has been a trend toward greater reliance on the Village Court system.

One elderly female Arapesh informant from Yalihina Village noted that most women are satisfied with the Village Court decisions. She suggested that the Village Courts in the area support women who come before them if these women are behaving according to the local customs but if they are not following custom they do not receive the support of the Village Court. She stated that usually the older more mature women continued to follow custom but that the younger girls were no longer satisfied and wanted to change from the old ways. She gave the example that these younger women sometimes leave their husbands because they become bored with them and will run off with other men hoping to find more excitement (especially when the marriages have been arranged by their families).

Village Court Magistrate Stephen Alpichin (1989, pers. comm., 28 November) reported that most women who came before his Court were involved in fights over men or in adultery. He noted that four women had appealed his decisions to the District Court in 1989. The four women were charged with assault and use of a dangerous weapon. In two of the cases the victim had been a man. These women claimed that the Village Court Magistrate had unfairly favoured the man and his relatives in the dispute. The other two cases involved women assaulting the

suspected girlfriend of their boyfriend or husband. The District Court supported the Village Court Magistrate's decision in all four cases.

One Arapesh informant described a case where a female was ordered to pay compensation to a man whom she did not wish to marry for the time, food and effort he had spent on trying to persuade her to marry him. The man was a local bigman who decided that he wished to marry the woman. He brought her gifts and helped her with her gardening and other chores. She did not tell the man directly that she did not wish to marry him because she was intimidated by his status within the community. The other members of the community also felt that she should marry the man. When he discovered that she did not intend to marry him he took her to Village Court. The Village Court Magistrate ordered the woman to pay K20 (approximately A\$29 at August 1992) compensation to the man. Her family paid the compensation and the matter was settled.

Senior Probation Officer Gerry Berry is from the Mountain Arapesh culture. He noted (1990, pers. comm., 30 January) that many disputes between couples result from men accusing their wives of being lazy and not fulfilling their duties. Yet, Mr. Berry believes that it is the men who have become idle. He stated that nowadays men have very little to do in the village and are very lazy. Women do most of the hard work for the family while the men have become dependent on money. The men expect their women to provide the food for the family, to cook and to care for the children, yet they have lost their own sense of responsibility. Women often bear the brunt of the men's boredom when they find themselves beaten by their husbands after being accused of laziness.

Mr. Berry stated that women will not often take these matters to the Village Court because the Village Court Magistrates are men and they feel that they will be biased. In Mr. Berry's village of Hamsuk, the Village Court Magistrates will refuse to hear many of the complaints made by women arguing that they are small domestic matters and should be dealt with by the family. The families are more reticent nowadays to involve themselves in marital disputes and will only interfere when the couple's problems reach the stage of divorce. Mr. Tohichem, also of the Arapesh culture, gave several examples of cases of wife assault where the families did not interfere until it became clear that the couple were considering separation. In one example, the husband chased his wife out of his home with an axe. The family viewed the husband's act as serious enough to warn him not to do it again.

Probation Service

The Maprik Probation Office which serves the Arapesh people became operational only in March 1988. The Maprik office is a District Office under the supervision of the Wewak Provincial Probation Office and is manned by one Probation Officer. Out of the fifty-five probation cases

supervised by the Maprik office between March 1988 and November 1989, only two were women and only one was from the Arapesh culture. This woman was convicted of 'communicating with a detainee' and was placed on probation for six months. She successfully completed her period of probation without any difficulty. Only two Arapesh women have been supervised by the Wewak Office since 1986. One was convicted for using insulting language against her husband and mother-in-law during an argument and was placed on probation for six months. The family situation improved after she was placed on probation and the Probation Officer had counselled the couple.

The second woman was convicted of stealing some cleaning items from a store and was placed on probation for six months. The Probation Officer noted that she was stealing out of necessity because her husband was incarcerated at the Boram Correctional Institution and she had no means of support in town. Although the woman did not regularly report she was not charged with breach of probation.

Probation Officer, Tony Hare, stated (1989, pers. comm., 28 November) that few women go before the Local and District Courts in Maprik and therefore probation has very little involvement with women. If they do appear before the Court they are usually ordered to pay a fine or compensation. The woman's relatives pay these fines and compensation for her.

Mr. Hare stated that the exception was in the case of maintenance. He noted that there was a prevalent problem especially in the Maprik town area of drunkenness, wife assault and desertion. Women who have been deserted by their husbands will approach the Court or request assistance from the Probation Officer to apply for a maintenance order for themselves and their children.

Mr. Hare noted that the Probation Service had little experience with women in the area because most women were not very vocal and were consequently reticent to complain. Most of their disputes are dealt with either at the informal level or by the Village Courts. The women in the area are unaware that they could ask for a probation disposition in Court.

Chapter Five

Tolai

The Gazelle Peninsula, on the north-east corner of what is now known as the Province of East New Britain, is the home of the Tolai. The traders and the missionaries who arrived at the Gazelle Peninsula of the Bismarck Archipelago in the late nineteenth century found a relatively homogeneous people both culturally and linguistically.

Like many Melanesian societies of that time they were a warring and cannibalistic people (Brown 1910, p. 141; Danks 1910, p. 618; Bradley 1982, pp. 249-51; Parkinson 1907, p. 122).

The Gazelle district was divided into subdistricts or parishes called 'gunan' which consisted of several hamlets (iklik na gunan). Matrilineal in descent, the Tolai were organised into several matrilineal clans (vunatarai) which collectively consisted of two exogamous moieties (Parkinson 1907, p. 72). Marriage within a moiety was considered to be the same as incest and therefore taboo. This allowed broader links to be made through marriage and permitted affable relations between two previously antagonistic settlements (Epstein 1969, p. 14). The normal practice was the settlement of a district by one clan and this practice still prevails today (Sack 1974, p. 70).

Although residence was avunculocal, the wife's clan continued to have ties with her, and obligations toward her and to her descendants through the matrilineal descent system. Thus, in family disputes, a woman could return to her clan with her children and expect their support (Parkinson 1907, p. 67; Sack 1974, p. 72). Land ownership was bound to the wife's clan and hence a son had to vacate his father's land upon the death of his father. The son was also obliged to move to his matrilineal uncle's 'gunan' once he married. Control over land was exercised through the matrilineal group.

Leadership

The clans were divided into lineages each led by a senior elder or 'lualua'. Although writers of the period often spoke of a 'chief' it is not clear

whether they were referring to the 'lualua' or other important leaders in the community. Despite their references, recent literature concludes that there were no chiefs amongst the Tolai (Bradley 1982, p. 31; Sack 1974, pp. 72-4). Political power was not achieved simply on the basis of seniority nor was it based on territory. Sack (1974, p. 73) explains:

There was neither an institutionalised hierarchy of leaders, nor was the kinship organisation at any level formally linked to the territorial or residential organisation so as to extend kinship-based leadership to cover the entire area of a territorial or residential unit. Even if one lineage dominated a ward, its lualua was not the lualua of this ward but the lualua of the members of his lineage, including those resident in other wards but excluding the members of other lineages resident in this ward.

The lualua's influence depended on his control over the scattered landholdings of his group both within and outside the district he lived in (Sack 1974, p. 73). He also needed to have control over his groups' shell money ('tambu' or 'diwara') despite the instability of this source of influence since shell money was viewed as personal property instead of group assets. Much depended on individuals and their competitive, entrepreneurial personalities since the 'lualua's' position as controller of the group's money and of the business of war did not go unchallenged. His competitors included warriors who had won distinction and thus had become 'luluai' or war leaders and 'uviana' who were wealthy men that managed their own 'tambu' and the 'tambu' of others. 'Uviana' and 'luluai' did not have the same land-based power support as did the 'lualua'. Neither did they have any 'institutionalised' obligations toward their followers (Sack 1974, p. 74). In contrast the 'lualua' had such responsibilities and obligations toward the group. The 'uviana', 'luluai' and the 'lualua' all competed with one another to achieve the status of bigmen ('ngala'). One had to become a 'lualua' before achieving the status of 'ngala'. A 'ngala' required personal followers and the sponsorship of a 'corporate group' and ideally he was both a 'luluai' and a 'uviana' and an owner of a tubuan of the secret dukduk society as well as being a sorcerer in the secret 'Iniat' Society (Sack 1974, p. 74; Parkinson 1907, p. 63).

The Tolai had few external trade ties with other indigenous foreign groups (Sack 1974, p. 75). Nevertheless their preoccupation with the accumulation of wealth necessitated trade links with the Nakanai (located on the north-west coast of New Britain, one hundred miles south of the Gazelle) to obtain the precious shells for the manufacture of 'tambu'. However, these trips were kept to a minimal level and later became even less frequent after contact as the Tolai insisted on being paid for their goods in 'tambu' creating the need for the European traders to locate and import supplies of 'tambu' (Epstein 1969, p. 21).

Internal trade was well developed and was divided into two types with participation dictated by gender; the women attending to the exchange of

basic requirements and the men looking after the exchange of specialties (Sack 1974, p. 76). The male dominated trade in specialties was relatively insignificant compared to the female trade in basics between the coastal and inland groups. The significance of this type of trade to the Tolai stemmed from their desire to obtain 'tambu' and therefore their willingness to produce excess goods for the purpose of trade. This unique characteristic amongst Melanesians of the time (who mainly developed trade links between sea and land groups out of economic necessity) was an important factor in the more rapid development of the Tolai society after contact (Epstein 1969, pp. 20-1).

The Tolai had a rather sophisticated system of accumulating 'tambu'. Their appetite for profit led them to develop a system of borrowing and lending with interest and it therefore had elements which were surprisingly similar to Western economic systems (Sack 1974, pp. 76-7). The difference between the two systems was that the social traditional activities encompassing all customs from birth until death, included the exchange of 'tambu'. Money, profit and business were ubiquitous elements in Tolai activities and the success of the activity was judged according to the profit acquired (Sack 1974, p. 77; Parkinson 1907, pp. 90-1). The ultimate goal of the Tolai was to accumulate enough 'tambu' to enhance 'social prestige and political power by entering into a widening of reciprocal obligations with an increasing number of people' (Sack 1974, p. 77). This would enable an individual to fulfil his social responsibilities, the success of which was symbolised at death by the amount of 'tambu' left for distribution at his mortuary ceremony. Since the accumulation of 'tambu' was such an important motivator in Tolai society it also featured prominently in the settlement of disputes.

Social Control and Dispute Settlement

General

In *Melanesians and Polynesians*, Brown (1910) discusses the Tolai view of morality. He contended that morality was associated with conduct and not with abstract principles. Conduct was judged according to the social standard which was affected and monitored by public opinion and shame.

The Tolai believed that no one could die from natural causes. The cause was attributed to war, witchcraft or magic, and reprisal upon the individual deemed to be the culprit or his group was considered necessary (Brown 1910, p. 176; Mouton in Deane 1933, p. 109).

The attitude inherent in Tolai justice was that 'an injury done in response to a wrong was justified and did not itself constitute a wrong' and that this wrong necessitated a response which often included injury (Sack 1972a, p. 256). For the Tolai, the notion of retaliation was utilised extensively as a response to actions considered injurious. Vengeance or

'payback' as it is called, was considered (and often still is) the only true form of justice.

Brown observed that the prevalent offences in Tolai society were homicide and adultery (1910, p. 254). People viewed such acts as though they were wrongful acts committed against individuals and not against the state (or the corporate group). Brown (1910, p. 252) also remarked that a murder committed without cause was considered morally wrong but, 'if a man killed a man as a reprisal, that would be considered meritorious'. Once killed, the enemy's body was often cut up and distributed for consumption. He noted that cannibalism was 'practised to discharge an obligation to the spirits of the dead' (1910, p. 141).

Many disputes could be settled through the exchange of 'tambu' although in some cases honour dictated that 'payback' be 'in kind' (eye for an eye or life for a life) (Brown 1910, p. 254; Mouton in Biskup 1974, pp. 104, 107-8; Parkinson 1907, p. 90). Such cases often involved extra-group disputes. In inter-tribal feuds where one man was killed by the opposing tribe the conflict would last until the death was avenged (Parkinson 1907, p. 65). If the other tribe responded with further reprisals then the war would continue at great length until the two sides were prepared to make peace. When peace was sought each side would compensate the other for the number of men killed, concluding the negotiations by exchanging betel nut.

Kamara

The practice of 'kamara' could arise when an appeal for compensation in 'tambu' had failed and the matter took on more violent overtones until either the desired amount of 'tambu' was received or the offender (or his relatives) had been physically harmed, sometimes fatally. As Sack explains (1972a, p. 254):

This applied in particular to the shell-money conscious Tolai whom compensation could replace the punishment of most wrongs, for whom it was the non-payment of compensation rather than the original offence which disturbed the peace and where the non-repayment of a loan was as much a crime as a theft.

'Kamara' was the custom of using third parties to obtain assistance in avenging a wrong. The third party was often the 'lualua' of the group. One form of kamara involved taking an amount of 'tambu' to the 'lualua' and explaining the wrong which had taken place. The 'lualua' would then give the victim a much larger amount of 'tambu' and he would subsequently take up the matter ensuring that the offender repaid the amount paid to the victim plus added interest. If the offender was not known or had escaped, the injured party would often cause damage to some uninterested and innocent party's property and explain his reason. The third party would not feel any anger toward the victim of the original injury but either went

about avenging the deed or involving yet another uninterested party. Eventually the culprit was found and was then made responsible for the accumulation of damage done on the way to finding him, plus interest.

Brown felt that the people welcomed the institution of 'kamara' due to its profit-making possibilities (1908, pp. 183-4). If the culprit was able but unwilling to pay the demanded compensation for the accumulated damage, his life was in jeopardy. The original injured party and his helpers would slay him or perhaps they would refer the matter to the Dukduk for the administration of justice (Sack 1974, pp. 78-9). If it was well known that the culprit did not have the ability to pay the debt, he would be permitted to pay it in kind or work the debt off either for the chief or for the victim.

'Kamara' was often used by individuals who were poor and who could not easily gain the support of their group. A Tolai could never count on unquestioning group solidarity in times of conflict as could other Melanesian societies (Sack 1974, p. 78). They often had to resort to individual self-help remedies to settle conflicts. Kamara applied when the offender refused to pay compensation and the members of his group refused to support him. Schmeille, the first Imperial German Judge claimed that this happened frequently when the injurer was a powerful man (1888 in Sack 1972a, p. 250).

There were generally two ways in which a victim could involve a third party in the act of redressing the wrongdoer; he could either injure the third party or his property or sell him his stake in the demand for compensation.

Sometimes the method of 'kamara' used in avenging an offence was the destruction of a neighbour's house by fire. The culprit was then required to pay for the original loss of property plus the added damage to the neighbour's house. The offender or his relatives were encouraged to pay the compensation quickly since the longer they waited the more substantial would be the fine.

Brown (1898, p. 785) describes a case where kamara was used to settle a situation of adultery:

A. commits adultery with B.'s wife. This is a very serious matter, and B. and his friends at once fight with more or less success. But B. has another remedy, and he takes, say 10 fathoms (of shell-money) to Tepang (the local bigman), who at once gives him 100 fathoms in return—that is, 10 fathoms for each fathom given him—and then he demands from A. 120 or 150 fathoms in return, which A. must at once give or be prepared to fight the combined forces of Tepang and the aggrieved B. and his family.

Sometimes the method of identifying the intended victim of 'kamara' was through the use of symbolism. Burger (1913 in Sack 1972a, p. 253) noted that a man whose wife had committed adultery would set fire to

another's house and place a clue outside so that others would realise whose wife was at fault.

The practice of kamara was so commonplace as a form of social control that the first European settlers used it to their advantage. Brown (1908, p. 184) used kamara to recover a stolen hatchet from the mission station and the first plantation owner, Parkinson (1907, p. 66) used it often to procure compensation for stolen goods.

The DukDuk

The existence of the Dukduk was seen by early settlers and missionaries as the Tolai's method of law enforcement. The leader of the Dukduk Society is the 'Tubuan' which is owned by the 'lualua' or 'ngala'. The 'Tubuan' is a female mask representing one ancestress. At various times a 'Tubuan' gave birth to a number of male masks called 'Dukduk' and this marked the beginning of a festive season where new members were initiated into the society and the administrative legal functions of the dukduk were carried out on the groups and individuals concerned (Sack 1974, p. 74). At the end of the festive season the male masks ('Dukduk') died leaving the female mask, the 'Tubuan' to give birth to new 'Dukduk' next season.

The identity of 'Dukduks' was kept secret and was only known by members of the Society. Their identities were hidden under conical masks covering most of their bodies. Brown (1898, p. 780) described the Dukduk the following way:

The Dukduk is represented to the outside public by a figure dressed in a full leaf girdle, composed of rings of leaves strung together extending from the breast to below the knees. These when shaken as the figure dances increases the awe with which the Dukduk is regarded. The upper part of the body is covered by a high conical mask gaily ornamented, made of wicker work, and covered also with leaves or cloth . . . He often carries a spear or stick, and sometimes also a human skull in his hands as he goes whooping and dancing along the paths.

Most young men were initiated into the Society after paying the initiation fees. Women and the uninitiated were forbidden to walk on the sacred grounds of the 'Dukduk', called 'taraiu', and were usually punished with death if they were to do so. They were also forbidden to look directly at a Dukduk or speak to one.

After feasting on the sacred grounds the Dukduk would run through the forest paths and through the villages shrieking loudly to warn those who were forbidden the secrets that he was coming.

The main function of the Dukduk Society appears to have been enforcing justice in cases of wrongdoing particularly in cases of nonpayment of fines or compensation (Australia. Governor-General 1922-23, p. 14). Brown (1898, p. 780) maintained that the Society was one

'whose principal object [was] to extort money from everyone else who [was] not a member, and to terrify women and those who [were] not initiated'. Parkinson agreed that while addressing the judicial concerns of the community, the Dukduk 'often look[ed] primarily after their own well-being' (1907, p. 571).

Brown (1910, pp. 69-70) described Dukduk activities in terms of minor cases and more serious cases. In the first instance, the 'tubuan' or his representative, the 'Dukduk', would go to the guilty party's home and sit there until an acceptable amount of 'tambu' was paid.

In serious cases, a number of 'Dukduk' would go to the offender's home or to his more affluent relatives' homes at night to collect the compensation. The offender was usually aware of the upcoming visit in advance and the party was met with the amount of compensation required. If the offender was not home when the 'Dukduk' party led by the Tubuan arrived, then his house was burned down.

Powell (1884, p. 63) described the 'Dukduk' as both a 'curse and a blessing' since it functioned to maintain order and deter crime but 'at the same time it encourage[d] cannibalism and terrorism'. According to the 1923 Australian Report to the Council of the League of Nations, the Dukduk 'dispensed justice' in matters including, robbery, debt collection, and adultery. In the case of the latter, the Report claimed that the society, 'could seize any woman guilty of adultery and take her to the DukDuk house, where she became the property of the initiated' (1922-23, p. 8).

Some disagreement exists in the early literature as to the type of punishments the Dukduk could exact upon offenders (Sack 1972b, p. 99). Rickard wrote only of fines that the Dukduk imposed upon offenders, implying that it was only when there was failure to comply with the punishment of shell-money that the offender's life was in danger. Yet Parkinson indicated that the Dukduk could inflict the death penalty in cases of incest and adultery.

'Iniat' Society

Much less is known about the more powerful 'Iniat' Society. Reverend Danks (in Deane 1933, p. 283) remarked that its origins were obscure and the practices diverse. The Society was based on the secrets of sorcery and was lead by the 'Tena Kikiuwana' who as a rule was also the 'Tena papait' or wizard. Sack (1974, p. 75) described the Society as 'an order of individual sorcerers and their apprentices'. The literature reveals little about the principal objectives of this Society. However, the secret knowledge of the sorcerers included that which could (Parkinson 1907, p. 479): '... [bring] good luck to the house, prosperity to the family, protection from illness or from evil spirits, or of evoking sickness, death or other mischief in one's fellows'.

The 'Tena Kikiuwana' had special powers which allowed him to transform himself into images of birds, animals and fish. Once

transformed, he could cause harm or even death to an enemy and was often approached by those wishing injury or death to an enemy (Brown 1910, p. 72). For a price the wizard would exercise his powers on the targeted person.

One of the methods involved the wizard placing an animal shaped stone on top of a covered hole where some 'leavings' of the intended victim such as hair, excrement, spittle, or left over food, had been buried together with some spear-heads and poisonous plants. He would recite certain incantations over the stone. According to Brown (1910, p. 72):

The belief was that so long as that stone remained the victim would grow weaker and weaker and would finally die; but if on hearing that this magic was being exercised against him he paid sufficient diwara to have it removed, then the stone would be taken away, and the article belonging to him would be returned as a proof that the spell was removed, and he would make a rapid recovery.

Parkinson noted that the immense fear with which the people regarded sorcery caused them to meticulously sweep and clean their hamlets each day so as to remove all traces of matter which could be used to work magic against them (1907, p. 45). The knowledge possessed by the wizard was usually passed on to his nephew. Strangers could also buy the knowledge from the wizard for a price.

Initiations and meetings were held on the secret meeting ground called 'maravot'. Again women and the uninitiated were forbidden from entering the forbidden area. Punishment for those who did not respect the secrecy was certain death. Women were strictly excluded from the 'Iniat' Society for it was believed that its power was far too great for them. Parkinson (1907, p. 489) recounted just how perilous the power of the Society could be for women:

Widows and women who have no relatives to protect them must be at hand in the vicinity of the place where the iniat hold their practices, and the members use them without the least shame.

After discovering that several murders of Europeans were planned during the secret meetings of the 'Iniat', the German Government prohibited 'Iniat' meetings. This led to the eventual decline of the Society.

Position of Women

The matrilineal system of descent prescribes the system of land inheritance amongst the Tolai. It does not give women more power in terms of decision-making or relative importance in status. Since women grew up on their father's land and residence after marriage was avunculocal they were isolated from their matrilineal land most of their

lives. Control over land was by the male resident on that land and his matri-lineage (Bradley 1982, p. 282). Instead of answering primarily to her husband's group as is the case with patrilineal descent, she was answerable to her brothers and maternal uncles who continued to exercise control over her and over her dependents. When a Tolai woman married, the bridewealth her husband paid to her lineage entitled him to her labour on his land (Bradley 1982, p. 63). In substance, he purchased her labour through the payment of bridewealth. (Bridewealth or brideprice as it is also called is the transfer of 'goods or valuables . . . by the groom's kin to recompense the bride's relatives for her absence' (Harris 1975, p. 660)).

Women were required to adhere to avoidance and deference practices which restricted their relationships with the men who had authority over them. Sisters were forbidden to touch their brother's persons and their personal, especially intimate, belongings. Nor were they to speak directly to them. Custom demanded that they give their complete obedience and subservience to brothers and husbands. Husbands had complete authority over their wives' activities which mostly involved working in their husband's fields, food preparation and child care. Powell (1884, p. 85) illustrates just how completely a wife became the property of her husband with the following anecdote:

. . . a chief, who lives on the shore of Blanche Bay, had purchased a young wife, who cried and wished to go back to her friends and would do no work. Upon this her husband became angry, telling her that as she was no use as a wife he would make use of her in another way, which he did, by immediately killing her and cooking her body for a feast.

Marriage was exogamous between two moieties. Intermarriage or sexual relations within one moiety was considered to be the same as incest (*pulu*) and was punishable by death even if the two involved were not members of the same lineage or group. This severe punishment was reflective of the Tolai view that *pulu* threatened the moral code and the social order of their society (Sack 1974, p. 82).

Punishment for *pulu* was sometimes ceremonial in nature. Mouton, one of the first to establish plantations in New Britain, describes the response to incest in his memoirs. The relatives of a man who had committed incest adorned him with flowers and paint as though he were being prepared for marriage. They paraded him in front of many onlookers prior to clubbing him to death. The offender was then buried in the woods without benefit of the mortuary ceremony. The woman was also killed and usually distributed to be eaten (Mouton in Biskup 1974, p. 103). The uncles and brothers of the offending woman held the right to administer the death penalty and not the husband who was usually paid an amount of 'tambu' as compensation (Parkinson 1907, p. 67).

Polygyny was practised by 'lualua' and 'ngala' or by those who could afford to bear the costs of purchasing more than one wife (Brown 1910,

p. 119). This custom was not practised by the majority of the people since the costs were considerable. However, for those who could afford several wives, this original investment was offset by the increased income obtained from the collective earnings of their labour.

Polygyny had its troublesome side for the husband since there was usually one wife who was more favoured than the rest and this created jealousies and conflict between the wives. Corporal punishment was often used to discipline wives not only by their husbands, but also by their relatives if they were not adequately fulfilling their responsibilities and therefore bringing shame on the line. (Danks in Deane, 1933, p. 171) describes an incident where a wife was punished for having argued with a co-wife by having her back lacerated with a fragment of volcanic glass.) A wife who wished to divorce her husband for mistreatment was often not encouraged to do so since her relatives did not wish to return the bridewealth (and were often unable to since they had already distributed portions of it in mortuary ceremonies). If she still insisted on leaving her husband or was accused of having committed adultery her relatives would beat her into submission or, particularly in the case of adultery, they would kill her themselves (Kleintitschen 1907, p. 198 in Sack 1974, pp. 89-90; Brown 1910, p. 253).

A woman could cause shame to her relations if she was unchaste, if she was the victim of a rape or even if she was the subject of gossip. Brown (1910, p. 254) wrote that, 'In the case of rape the friends of the woman could beat her, and also the man and his friends. They would beat the woman because they were ashamed'. Rooney (1886 quoted in Sack 1974, p. 83) observed incidents where women who were gossiped about would be speared by their closest male relatives (in the example Rooney cited it was the woman's own son who led the group which killed her) for causing them 'wawirawira' which meant 'ashamed to have their female relatives talked about'. In the Duke of York Islands it was sufficient to wound the woman but in New Britain the custom demanded that the woman be killed. Rooney also noted that the gossip did not have a basis in fact since the real offence appeared to be that the woman was the subject of gossip at all. He believed that most often the gossip was 'the work of some mischief maker' (Rooney 1886 quoted in Sack 1974, p. 83).

Husbands were often jealous of their wives and Brown (1908, p. 188) describes an incident where he intervened in order to save a young 'favourite' wife's life after her husband (who was 'ngala') saw her talking to a young man. Failing to even wound the young man, he managed to spear his wife before the women of the village brought Brown to rescue the young woman and take her to the mission for treatment and safety. Meanwhile, the 'ngala' sent spears fastened with a little 'tambu' to warriors around the area to solicit their assistance in punishing the young man and his people. However, the warriors found that the young man's group, anticipating retaliation, had disappeared from their settlement. The 'ngala'

was now in the position of having to pay the promised 'tambu' to the hired warriors. Brown describes him as an avaricious man who did not part with his hoarded 'tambu' easily. His solution to his dilemma was to demand the return of his young wife whom he planned to kill and divide her body up amongst the warriors as payment for their services. Brown was finally able to purchase the wife's life for an American steel axe. She returned to her husband's house that night in safety and resumed her position as favourite wife.

Adultery was considered to be a very serious offence and was punished accordingly although there appears to have been a wide range of traditional responses to this misdeed. Sack (1974, p. 89) outlines the possible reactions to adultery:

1. The adulterer could be killed on the spot;
2. The deceived husband could fight the adulterer (and his group) with the support of his own group, hired warriors, or forced allies;
3. He could activate the custom of kamara by injuring an innocent person who would then take up the task of avenging the wrong for him;
4. He could demand compensation;
5. He and his group could destroy property belonging to the adulterer (or his group) to force a compensation payment;
6. He could force public opinion into supporting his compensation claim by damaging the property of innocent parties;
7. He could pay a chief to buy his compensation claim, who would then collect it, plus a substantial interest;
8. If he was a member of the Dukduk Society he could also turn to the tubuan.

The recurring theme throughout the Tolai responses to adultery is unquestioning belief in the accused person's guilt followed by retaliation against him or her. Mouton (in Biskup 1974, p. 104) notes in his very unpolished English:

When a husband find his wife committing that offence, (adultery) he ask no question, he simply arm himself and the first unfortunate person he meet he simply let him have it, either it is a kill or a wound, if the victim is of an important family God help the culprit, the relations of the victim take it out of the relations of the culprit in blood and diwara, fortunately diwara, as it seems more important than human being, this may end in a fight or it is settled by paying a price if it turn out to a fight and the woman has no support from her side she generally was killed and send to the next neighbour to be eaten, for this the neighbour pay ten or twenty diwara, if she is from a strong family she is safe because her people will save her.

This emotional response derives from the Tolai moral code which appears to have treated adultery as though it were a special form of theft and a source of shame to the woman's line (Sack 1974, p. 90). The husband's property was regarded as having been tampered with and great shame had been caused to the woman's relatives (Brown 1910, p. 253).

Her involvement in such an act showed that she was an inferior wife giving the husband grounds for demanding reimbursement of at least some of the bridewealth.

Superstition and 'tabu' also surrounded the issue of adultery. A woman was not permitted to touch or sit in a new canoe since the belief was that if she did so, no shark would ever be caught from that canoe. As Brown (1910, p. 241) relates, on the Duke of York Islands, if a man was unable to catch a shark from his canoe he 'believe[d] that some one [had] committed adultery with his wife'.

Administration Influence

First European sighting of the Bismarck Archipelago occurred in 1699 by the English explorer, William Dampier. European contact with the people of the area did not occur until 1872 when Simpson sailed into Blanche Bay.

Traders became interested in the Melanesian islands of the Bismarck Archipelago when world demand for copra increased. Ships of traders and 'blackbirders' looking for indentured labourers to work the plantations established in the South Pacific began to arrive with increasing frequency between the years 1870 and 1875.

The first settlement was begun by a Methodist missionary, Dr. George Brown, in 1875 on the Duke of York Islands situated between New Britain and the island of New Ireland. Traders such as Emma Coe (Queen Emma), Thomas Farrell, and Richard Parkinson were some of the first to establish coconut plantations in the Gazelle Peninsula (Salisbury 1970, p. 25).

Much of the interaction between the Administration and the indigenous people reflected the three objectives laid down by the German Administration. These were (Valentine 1958, p. 118):

... the pacification and minimal external control of native society, including the elimination of customs most repugnant to European standards of the times; the absorption of many natives into the commercial economy, chiefly in order to provide a labor force but also with some idea of encouraging European-style industriousness generally; and the prohibition of the worst abuses formerly practised by Europeans against natives.

The establishment of the luluai and tultul system and the laws which forced the local people to enter the cash economy as workers were the most notable effects of the German period of administration. The methods by which land was acquired from the Tolai greatly influenced later events during the colonial period (Bradley 1982, p. 33). The use of the luluai system was 'one of the principal means of bringing a village under government supervision and control' (Reed 1948, p. 141).

Judge Hahl (later Governor Hahl) introduced the indigenous police force in 1896. The force was used in punitive expeditions (reprisals for attacks on traders and missionaries) and accompanied any government patrol into remote areas (Reed 1948, p. 142).

Pacification of the Tolai, weakening the influence of the traditional leaders, was achieved by the turn of the century. Pacification was probably the most significant change to traditional life since it effectively interfered with the established method of settling inter-group disputes (Valentine 1958, p. 142). Warfare, as a method of social control, was replaced by European arbitration of disputes. Pacification 'probably (caused) a general decline of the power of traditional leaders with the rise of appointed village officials' (Valentine 1958, p. 142).

The Germans outlawed the secret 'Iniat Society' after the discovery that the secret meeting grounds had been used to plan the murders of several Europeans. This caused its eventual decline (Australia. Governor-General 1922-23, p. 20; Brown 1910, p. 78).

The Europeans provided the profit-motivated Tolai with a new market for their trade goods. The Tolai were initially unyielding in response to the German attempts to encourage them to work the plantations necessitating the passing of several laws forcing them to work. As cash became more important amongst the indigenes and the enforcement of labour laws was diligently applied, recruiters gained more workers. Until the 1930s the Gazelle was the largest source of plantation labour (Reed 1948, p. 147). Tolai labourers were also sent to other centres (such as Queensland and the Morobe goldfields on the New Guinea mainland) and were significant 'agents of change' within the village upon their return. They questioned the authority of traditional leaders and 'were sometimes officially encouraged by being appointed as tultuls or medical tultuls' (Valentine 1958, p. 144).

The Australian military occupied the Gazelle from 1914 to 1921. During this period very little changed administratively. From 1921 to 1939 the Australians did little to change conditions in New Guinea since world copra demand was low and the Administration did not wish to encourage local activity which might compete economically with Australian enterprises (Bradley 1982, p. 34).

From the 1950s there was a flurry of activity to speed up development. The Tolai were quick to respond to these changes. The Village Councils Ordinance was passed in 1950 and local Councils were given taxation powers and generally became more involved in the administration and organisation of their local affairs (Salisbury 1970, p. 57).

The Tolai possessed a high degree of political awareness of issues 'both at home and abroad' (Patrol Report Rabaul No. 6/1964-65). This was attributed to the high level of education, the sophisticated network of communications and to the road system. The seed of women's political

activities was germinated in the formation of women's clubs, set up in the Gazelle (and across Papua and New Guinea) by the Administration, between 1949 and 1951. These groups were initially set up by female expatriate education officers in the villages. Group objectives included the development of 'educational and recreational activities and to work for the improvement of standards of living in the villages' (Australia. Department of External Affairs 1951-52, p. 80). However, within Tolai culture, women's political participation was not encouraged. Patrol Report (Rabaul No. 2/1966-67) stated: 'It was pointed out in all villages that women could nominate, (for the upcoming council election), but aside from causing some amusement, the people were not inclined to take this seriously'.

Nevertheless, Tolai women eventually became more political within parameters considered to be the concern of women. Bradley (1982, p. 277) notes that leadership was traditionally considered to be primarily the concern of men and 'power was derived from control of land and shell money, the possession of entrepreneurial, oratorical and magical expertise and prowess in warfare'. Due to the sexual division of labour women had little access to positions of leadership or to power. The traditional perception that women should be concerned solely with matters related to the home and family was also perpetuated in women's clubs whose activities concerned mainly domestic issues. The Tolai women's association 'Nilai ra Warden' (Voice of the Women) held a protest march in Rabaul to demonstrate against early Papua New Guinea Independence from Australia and were vocal critics of the liquor-licensing laws (Bradley 1982, p. 38).

Women exercised more choice in the selection of marriage partners despite their families wishes. A Patrol Officer reported one case, which involved a 'young girl, who had recently been married to a young man chosen for her. She refused to live with him and ran away . . . where the man of her choice was waiting for her' (Patrol Report Rabaul No. 3/1952-53).

One notable change which was discovered during census-taking was the fact that a number of single women and widows were staying in the town of Rabaul with or without work (Patrol Reports Rabaul No. 1/1952-53; No. 3/1955-56; No. 6/1964-65). This was at first disturbing to village officials and elders who complained to the Patrol Officers. However, within two years a Patrol Officer recorded that village elders had apparently accepted this situation and had in fact become 'nonchalant' about the issue (Patrol Report No. 3/1955-56).

No doubt the concern of the elders was the possible increase in promiscuity of the young women living away from the guidance and control of their families. Judging from the 1964-65 census there was an increase in the number of illegitimate births recorded. These women consequently faced the further social stigma of failing to find men who were willing to marry them.

In 1964-65 the percentage of women in the Rabaul work force was recorded as 11.1 per cent while in 1968-69 the figure recorded for female employment was only 6 per cent (Patrol Reports Rabaul No. 6/1964-65; No. 8/1968-69). Working women were mostly employed in education, health, domestic and clerical positions. In 1964 the disparity between the social advancement of women and men was wide. Patrol Officer, M.A. Pryke commented that it was most notable amongst the 30-45 age group (Patrol Report Rabaul No. 6/1964-65):

... ranging from the well educated Administration employee with a high standard 'European' material house, a well educated wife, and possibly business interest earning him a supplementary income, to the illiterate village native living in a sub-standard native material dwelling. This diversity too, is common within the family group. The father possibly pidgin speaking and semi-literate, the mother illiterate and not able to speak pidgin, and all the children at school, with possibly some at high school.

The Administration attempted to influence the Tolai system of matrilineal descent. Bradley (1982, p. 198) observed that: 'Patrol Officers reports from the Rabaul District from the 1920s onwards make reference to the officers' attempts to encourage the Tolai to emphasise the nuclear family rather than the wider ones of matrilineal kinship'. Participation in the cash economy appears to have assisted the Patrol Officers in their attempt to place more emphasis on the nuclear family. Patrol Report (Rabaul No. 3/1955-56) recorded:

... the clash between supporters of matrilineal and patrilineal forms of inheritance is becoming more important as the richer natives realise that according to local custom their children cannot inherit the possessions of their father. So also with widows who usually have to return to their birth place and rely upon relatives for support until such time as they can marry again. Efforts have been made to adopt the patrilineal system but the Tolai seem to be equally divided on the question. Some of the richer men are not taking any chances regarding the care of their wives should the man die. Natives ... are building a second house in their wives' village so that they can be independent [the wives] in the event of bereavement.

Mission Influence

The Methodist and Catholic missionaries aimed to eliminate several important institutions within Tolai society such as 'the cult of the dead, the men's societies, magic, brideprice, polygyny, warfare and cannibalism' (Valentine 1958, p. 129). The loss of some of these customs, particularly warfare, was later welcomed by the Tolai. However, the loss of others was resisted and some (sorcery and custom relating to adultery) secretly survived (Valentine 1958, p. 130). Polygyny was still in practice in the 1950s in the Rabaul District. Patrol Officer, E.S. Sharp (Patrol Report Rabaul No. 2/1953-54) recorded that there were 'approximately five polygamous marriages in the area' noting that this was 'outstanding in a sophisticated area such as this'.

The missionaries attempted to eliminate the Dukduk Society by using their knowledge of its inner workings. Reverend Danks threatened to breach the secrecy rules of the Society by disclosing the identity of one Dukduk to a group of uninitiated boys from whom the Dukduk was attempting to demand their wages (in Deane 1933, p. 282):

The young fellows instead of yielding as they would have done a little while before, came back to the house and told me their trouble. I went down to the beach and told the [Dukduk] to go away and let the boys alone. A dead silence ensued. I then went quite close to him and whispered that I knew him and would call out his name if he did not go away and let the boys alone. In frightened tones he whispered back: 'Don't do that, don't do that'. I persisted, however, and he hurriedly left. None of my young people were ever molested again in this way.

The missionaries were not completely successful in destroying the Dukduk Society as it still exists today, although in a less potent form. With mission assistance, the German Government was more successful in its bid to wipe out the 'Iniat' Society. Patrol Officer, M.A. Pryke noted that the 'Iniat' Society was still operating secretly in the mid-1960s amongst the older men (Patrol Report Rabaul No. 9/1965-66). The Tolai people whisper of its existence still, although there is little concrete evidence that this is so (Bradley 1982, p. 260).

After the second World War the incidence of divorce increased dramatically amongst the Tolai and in 'many cases, [marriage] last[ed] only a few months' (Patrol Report Rabaul No. 1/1952-53). This was attributed to the influence of both the Catholic and Methodist missions who had pressured the Tolai to 'fix' the amount of brideprice to be exchanged at lower levels. In the early years of contact Reverend Danks and his wife purchased unmarried Tolai girls and brought them to their boarding school. They, therefore, 'purchased from the friends of all the girls boarding with [them] the right to decide all questions relating to their marriage. [They] found that the recognition of their rights in ever so small

a degree was acceptable to the relatives. The price [they] paid for this was infinitesimal compared with the real purchase price of a woman' (in Deane 1933, p. 167). Thus, the missionaries condemned the practice of the exchange of brideprice viewing it as the 'selling of women'. In their bid to eradicate this custom they interfered with arranged marriages and protected the girls from angry relatives who would have killed the disobedient girl if missionaries such as Danks had not intervened. The missionaries were unsuccessful in completely eliminating brideprice but they did have some success in restricting the amounts to be paid. In 1952 the maximum amount of brideprice to be paid was six pounds. By 1964 the maximum amount to be paid for Catholic women was fifty fathoms (worth ten pounds) and for Methodist women, 100 fathoms (worth twenty pounds) (Patrol Reports Rabaul No. 1/1952-53; No. 6/1964-65).

By 1955 the high incidence of divorce had eased (Patrol Report Rabaul No. 3/1955-56). However, the incidence of adultery increased causing many disputes. Patrol Report (Rabaul No. 3/1955-56) states, '... adultery is common throughout the area patrolled and most cases are settled by the local committee. When these disputes are being settled feeling runs high and often blows are struck before the matter is finally settled'.

Missionaries also influenced some Tolai to ignore their customary rule that marriage or sexual relations were not permitted within the moiety as it was considered to be the same as incest (Parkinson 1907, pp. 66-7). However, these couples were so shunned by the rest of the community that they had to move onto mission property for their own protection (Bradley 1982, p. 163).

From the beginning of contact both the Catholics and the Methodists set up large numbers of schools, mainly in the villages. German Annual Reports (1910-11 in Valentine 1958, p. 131) show that the Methodists registered over 5,000 students that year and the Catholics taught over 4,000 students in 100 schools. The Methodists used the Tolai language in their schools and the Catholics used the pidgin language (Valentine 1958, p. 131). The extensive education system (as well as other factors such as early contact, and the rapid pace of political, social and economic development) eventually led the Tolai to view themselves as the 'elite' of Papua New Guinea (Bradley 1982, p. 38).

Village Courts

The Village Court system was established in East New Britain Province in December 1976. There are forty-three Village Courts and 427 Village Court Officials (*Annual Report Village Court Secretariat* 1988).

The elders and counsellors first attempt to settle disputes informally in the village forums (called Warkurai). The elders act as mediators while the

dispute is 'talked out'. These disputes are usually settled by the payment of tambu as compensation. If the parties are not satisfied with the settlement made in the village forum they will go to the Village Court.

In 1988 there were 118 applications for review of Village Court decisions (Melky Tokinala Provincial Village Court Officer, Rabaul). Of the 118 applications, fifty-seven were by females, forty-one of whom were Tolai women. Subsequently, thirty cases were sent as formal appeals to the Provincial Supervising Magistrate. Seven of the thirty cases were dismissed because the Magistrates found no grounds for an appeal, ten were sent back to the Village Court for a re-hearing and thirteen (43.3 per cent) cases were upheld.

The breakdown by offence of the thirty cases appealed by Tolai women is: ten cases of assault; ten cases of spreading false rumours and of using abusive language; eight cases of wilful damage to property and two cases of stealing. In the assault cases the reasons given for the appeals were usually related to an accusation that the other women involved provoked the assault by associating with their husbands or by committing adultery with them. Mr. Tokinala noted that generally the Village Court Magistrates do not consider the reasons why the appellant was motivated to assault the complainant.

In the spreading false rumours and abusive language cases the grounds of the appeals were that the Village Court had not investigated whether or not the women had actually gossiped or were merely stating what they believed were facts. The convicted women complained that they had been provoked and, in one instance, that the woman was only joking.

One of the wilful damage cases involved an intoxicated husband who returned home and became verbally abusive and physically violent toward his wife. After he fell asleep the woman took her revenge by tearing up his clothes, burning them and by causing much destruction to the household property. Afterwards she and the children went to stay with her own relatives. When the husband woke up to discover that his wife and children had left him and saw the damage to his property he took out a summons in the Village Court for wilful damage to property. This was an attempt to get his wife and children back. The Village Court supported the husband but the wife successfully appealed against the decision.

In the two stealing cases the women requested permission to take items belonging to their father. The elderly father's nephews were attempting to take over their uncle's property in accordance with the matrilineal system of descent. Before the Village Court they accused the women of stealing property. However, they were not entitled to their uncle's property until after his death. The Magistrate incorrectly applied custom by supporting the father's male relatives as it was the fathers' right to give his daughter permission to take possession of the items. Therefore, no offence had actually been committed.

Noah Tade, Senior Probation Officer for the Islands Region and a Tolai, noted that (1990, pers. comm., 10 January) Tolai women are strong-willed and aggressive and will fight to defend their reputation through whatever means are available. It is important to them to clear their name publicly if they feel that they have been wrongly accused. Sometimes they attempt to clear their name through fighting. Although many women do not appeal Village Court decisions because they are afraid, those that do appeal, do so because they feel that the Village Court Magistrate has favoured the other side in the dispute due to his relationship ties.

Bradley (1982, p. 234) noted that Tolai women who appear before the Village Court are placed at a disadvantage because of the cultural necessity to practise avoidance and respect behaviours when in the company of men. She stated that:

When men are around, women must be unobtrusive, keep their heads and eyes modestly lowered, and not speak unless spoken to even in greeting. They are expected to give precedence to men at all times. This puts women at a disadvantage, for example, at the Village Court, where many women feel unable to properly defend their own interests and simultaneously show proper respect and modesty toward male opponents, especially since women are in any case much less fluent and confident speakers than are men.

Bradley has done extensive work in the area of domestic violence in Papua New Guinea. She notes that one of the motivations for the use of violence in the Tolai marital relationship is control over wives and that this purpose receives 'a considerable degree of social approval' (in Toft 1985, p. 39). The most serious cases of domestic violence are taken to the Village Court, although the reason for the summons might be stated as something different (wife-assault frequently develops from the occurrence of other marital problems such as adultery). In her study of the Tolai village of Pila Pila, Bradley found (in Toft 1985, p. 41) that out of seventy-five marriages studied, wife-assault was involved in sixty-five (87 per cent) of them.

Bradley found in her earlier studies in Pila Pila Village that women were reluctant to take their husbands to Village Court for marital violence because they felt that Village Court Magistrates would treat their complaints unsympathetically due to their own attitudes towards disciplining wives (1982, p. 252). She noted the example of a Supervising Magistrate for Village Courts in East New Britain (also a Tolai), who informed her that (1982, p. 253):

... if a woman leaves her husband because he beats her, the Village Court should order the woman to pay between ten and twenty fathoms [of shell money] compensation to her husband. Since it is a man's right [and duty] to discipline [sic] his wife, she is in the wrong if she complains about it.

Probation Service

The Rabaul Probation Office was opened in October 1986. There are four Probation Officers serving the Province of East New Britain. In 1988 there were 129 persons placed under probation supervision by the Courts, 110 men and nineteen women. Two women and thirteen men were charged with breach in 1988.

Between October 1986 and January 1990, twenty-three Tolai women were placed on probation by the Courts. Of the twenty-three cases, twelve were of assault, two of damaging property, three of using insulting language, five of adultery and one of several charges including theft, forgery, false pretence and utterance. With the exception of the last case for theft, forgery and false pretence all cases involved relationship or marital problems although even that particular case was attributable to pressure from the husband and an expensive lifestyle. Eight of the women were ordered to pay compensation and one was ordered to pay restitution as well as to perform six months community work. Of the twenty-three Tolai women placed on probation only two were breached, one for failing to pay her compensation and the second for failing to pay her restitution. Only two of these women were placed under the supervision of a Voluntary Probation Officer.

Generally, educated women take their disputes to the District and Local Courts (Senat Pukai 1990, pers. comm., 10 January, Probation Officer, Rabaul). They bring adultery cases or apply to get custody of children or maintenance from their husbands.

Paul Vilamur, a Tolai who worked as a social worker with the Public Service between 1985 and 1989 and is now a Probation Officer, stated that (1989, pers. comm., 29 November) most disputes involving Tolai women are related to money and marital responsibilities. The typical urban dispute case involves accusations made by the wife that the husband is not providing the family with enough money but instead is drinking with his friends or that the husband has been unfaithful. He also noted that educational gaps between husband and wife are responsible for marital discord especially in the urban areas. In the villages, Mr. Vilamur noted that the marriages were more stable and that there was less fighting and quarrelling, although he acknowledged that most marriages in either urban or rural areas involved some form of domestic violence. He believed that he could be more effective in dealing with family problems as a Probation Officer than as a social worker. This he attributed to the implied threat of being taken back to Court during the period of probation to the availability of individual and family counselling by probation staff. He felt that probation was especially helpful to female probationers because of the counselling they could receive which aimed to strengthen the marriage and promote better communication between the couple.

Mr. Tade suggested that probation was helpful to female offenders not only because it provided family counselling but also because the counselling was given individually or with other concerned members of the family. By comparison, he noted that the Village Court usually did not provide women with counselling assistance. If they offered advice to the woman at all it took place in the public forum of the Village Court which women found very embarrassing and shaming. He observed that women wanted assistance with their problems but preferred the individual and family counselling services provided by the Probation Service because it was more private.

According to Deborah Clifton, Probation Service Adviser and member of the East New Britain Law and Order Committee, the Probation Service has tremendous potential for impact in the area of domestic violence. She noted that even the male Probation Officers (affected by typical male attitudes toward women) believe that a probation sentence is very appropriate for wife-abusers.

Post-Independence governments have introduced measures designed to raise the status of women such as sexual equality guaranteed by the Constitution and equal pay for equal work in the Public Service. Theoretically this has helped to raise the status of women; however, in reality many attitudinal and educational barriers remain. A significant example of the attitudinal barriers facing women who wish to make changes is the male reaction to the changing dressing habits and standards of women.

In a letter to the editor in the national newspaper the *Post Courier*, 23 October 1989, entitled, 'Take off those Clothes', a man, Yarax Nera, addressed this issue. He stated:

I'm really concerned about women putting on men's clothes. If you are this kind of woman please try to turn around and look at your back. Ask yourself one question: Were my ancestors like this? Or am I changing into a new being? . . . Because of your dressing, you are changing the way some of our gentle men think about you: They may want to attack you and that's why we hear so much about rape—because of women like this. Some men are good but some aren't: you must understand this. You must dress in the right way . . . You men should know that your wife's body is yours and yours is hers. What would your friends think if they saw your wife, sister or daughter dressed in that way? They'd think, 'Eh see his wife/daughter/sister: she's like this and that'. [sic] Finally, I think the government should look into this to try to reduce the number of rapes.

This letter was responded to in the same newspaper on 20 November 1989 by a woman who called herself 'Modern Girl'. She stated:

. . . There are 'unisex' clothes made for men and women. What you've seen women wearing are women's clothes and not men's jeans/trousers/shorts/shirts/tops: Of course these would look funny on men. Did you ever ask

yourself if your ancestors were like this before you wrote your letter? I wonder what you're wearing now when you're roaming the streets of Boroko: I'm sure you're not wearing your ancestral costume. PNG is a developing country; we're adapting the Western style of dressing; if Westerners can dress that way, of course we can, too. You shouldn't call rapists gentlemen, because they are no gentlemen—they're the lowest kind of animals. To reduce the number of rapes in this developing country, it should start with you and your friends. Stop having bad minds about women.

It is relatively easy for the officer to follow-up wife-bashing cases to find out if the man is still acting violently toward the woman. Yet, Ms. Clifton found that officers were still reluctant to check even after the wives had come to them to ask for help. She attributed this to the relative newness of the domestic violence campaign (by the Women and Law Committee) in changing traditional attitudes toward marital violence. She suggested that in Rabaul at least, people are as yet unprepared to confront other Papua New Guineans about domestic violence.

Chapter Six

Orokaiva

The indigenous people of the Northern District were culturally homogeneous (Williams 1930, p. 7) and spoke dialects of the Binandere language. The 'Orokaiva' people classified themselves into three groups by reference to the surrounding environment. These were the River People, the 'Umo-ke', (meaning water language); the salt-water people or the 'Eva-Embo' (coastal); and the bush people, the 'Pereho' (inland).

The Orokaiva occupied the Northern District of the Territory of Papua (now called Oro Province). The periphery of the area was marked by the Owen Stanley Range in the south, the German Territory of New Guinea in the west, the Hydrographers Range in the south and the coast along Oro Bay of the Solomon Sea. Their hamlets (of six to twelve houses) were constructed on the fertile slopes of Mount Lamington and on the eastern and northern plains surrounding the mountain. Theirs was a subsistence economy based on taro production supplemented with yams, sugar-cane, banana, coconut and some secondary hunting of small game animals.

The 'Orokaiva' people were divided into seven tribes occupying seven territories (Waiko 1972, p. 4). The tribes were divided into patrilineal clans each of which was comprised of several sub-clans who in turn were composed of one or two lineages. The most important units were the family and the clan. Each clan shared a common ancestor and totem or plant emblem called 'heratu'. Clans were exogamous (although exceptions did occur) (Williams 1930, p. 131). Residence was patri-virilocal (Baxter 1973, p. 28). Clan members did not restrict residence to one village and therefore the composition of villages usually comprised the members of several clans.

Tribes were migratory responding to the internal relationships between clan groupings. If they were at peace with one another, clans joined together in warfare but if internal disputes arose and resulted in in-fighting the group of clans would separate and move into other areas. Prior to settling in a new area the group raided it to flush out enemies.

This pattern of migration was discontinued once the Australian Administration was successful at pacifying the area (Waiko 1972, pp. 4-6).

Leadership

Leadership was based on seniority and influence (Schwimmer 1970, p. 8). The chief was a 'man of importance' who built his position upon the shrewd management of a network of relationships he established through trade and warfare alliances. It was necessary for the chief to be seen as a generous man who was a (Schwimmer 1970, p. 8):

. . . giver of inter-village feasts, and knowledgeable about matters of feasting etiquette . . . In the final analysis he owe[d] his position to an adroit manipulation of the exchange system: he [was] careful how he bestow[ed] his wealth and adroit in obtaining the help he need[ed] in his enterprises.

The Orokaiva chief was similar to a Melanesian 'bigman', yet his leadership operated within a more egalitarian society (Schwimmer 1970, p. 8). Orokaiva leaders were only slightly more wealthy than the members of their groups and there were no institutions existing within the culture that worked to help them build wealth. His position was based on exchange and on his use of the reciprocal system of obligations to build status and prestige. He was more an appointed arbitrator when issues arose than an authoritative decision maker with formalised powers.

As a warring society, the Orokaiva needed their male children in particular to learn the necessary qualities of a strong and fearless warrior. (The Orokaiva were noted to be some of the most fearless warriors in Papua.) This learning process took place through the stages of childhood (Reay 1953, pp. 112-13). From the time the child first learned to walk, he spent more and more time with his father who provided him with support and comfort. During this period, the adult men of the village attempted to frighten the young boys and laughed at them when the child cried in response and ran to his father for comfort. This process was repeated again and again by the older men until the child learned to laugh at himself for his frightened response and eventually learned not to be afraid (Reay 1953, p. 113). He would then emulate the threatening behaviour and laugh. Female children were frightened only incidentally as no real effort was made to condition them in the same way.

Both male and female children were initiated at puberty although the females were not required to participate in all three stages of initiation (Reay 1953, p. 114). Females entered a period of seclusion at the time of their first menstruation and were required to perform a purification ritual before being released from seclusion. There were three stages of initiation as outlined by Williams (1930, pp. 180-209; Reay 1953, p. 114). They

were: the 'terror', the 'seclusion', and the 'investiture' (Reay 1953, p. 114). Girls were not required to participate in the 'terror' stage of initiation.

During the 'terror' stage (or ordeal as Williams calls it) of initiation, the boys were first introduced to the bullroarers and the flutes. Initiated members of the clan dressed up as 'malevolent spirits' called 'embahi' and chased the young initiates around the village while the families admonished the spirits not to eat their sons. This ritual was designed to reinforce the respect for seniority in the youth (Reay 1953, p. 115).

The next stage was the period of seclusion where the initiates remained in the men's house ('oro') and were taught the secrets of the sacred flutes, instructed in the skills and techniques of weaponry and battle and inculcated with clan histories and the accounts of tribal enemies and allies. They were also instructed in 'otuhu' values of the clan including generosity, helpfulness, and diligence in hunting and gardening. An 'otuhu' man was one who did not quarrel, beat his wife or children, mistreat his livestock, steal or commit adultery. An 'otuhu' woman listened to her husband, avoided speaking angrily to him, practised fidelity, accompanied him everywhere and did not steal from other women (Williams 1930, p. 204; Reay 1953, pp. 110-11). As Reay (1953, p. 111) puts it:

To be otuhu, a man has to be generous; what is required of the woman is that she should concur in her husband's generosity. Wealth is valued, because the possession of enough pigs and a good supply of taro makes it possible for a man to hold a feast. Holding feasts is the epitome of generosity, which is the most important Orokaiva virtue. Men are encouraged to be highly individualistic. Women are individualistic too, but this seems to be a by-product of male individualism.

In the third stage of initiation, the boys were decorated and released from seclusion. Some were presented with 'otuhu' ornaments by a distinguished warrior. This was a recognition that he was ready to fight for the clan. He would then be required to prove his prowess as a warrior by killing a man in a raid (Waiko 1972, pp. 20-2). The 'otuhu' was sometimes given as a homicidal insignia or emblem signifying that its wearer had successfully killed in a raid (Williams 1930, p. 178). Both men and women could be presented with an 'otuhu' ornament as a mark of social distinction. If presented with an 'otuhu', an Orokaiva was under an obligation to live up to 'otuhu' values.

Position of Women

General

Within the family unit, the husband was the head of the household and could discipline his wife and children without any intervention from other

clan members. Domestic problems most commonly resulted from the husband being dissatisfied with his wife for lack of punctuality or general failure to perform her household duties to his satisfaction. In William's (1930, p. 25) description of a woman's daily activities, he noted:

If she be a dutiful spouse she seldom fails in punctuality, for the hungry Orokaiva husband is short-tempered and any break-down in the catering of his household will cause domestic disagreement. (Indeed, it would appear that neglect of household duties may be as just and potent a cause of divorce as actual infidelity.)

The patrilocal rule after marriage meant that the wife was considered a stranger within the clan and was even referred to as 'baira' or 'stranger'.

The Orokaiva woman had few actual decision-making powers within the clan. However, although she was dominated by her husband and other male members of the clan, the apparent flexibility of the Orokaiva social system allowed women a less subservient role. Williams found in an analysis of two Orokaiva villages that 'of a total potential working time, men were idle 50 per cent and women 33 per cent' (Williams 1930, p. 93). He (1930, p. 93) concluded that in relation to:

... the social position of woman we may say that she is nominally and often actually under the control of her husband, but that by virtue of his restraint on the one hand and her powers of personal expression on the other, the married couple usually get on very well together as a working unit.

Marriage

Traditionally the Orokaiva exercised four methods of obtaining brides. These were: capture, elopement, purchase and exchange (Williams 1930, p. 130).

Wives were often secured by capture. It was the normal practice in cannibal raids to kill and consume the men and older female victims, but to take some of the young women as captives for future wives. These wives were called 'jigari' meaning 'captive'. The relatives of women captured were only appeased when properly compensated for the young woman. This happened when the hostile groups established a truce or a peace which in fact was contingent upon the payment of compensation (usually in the form of bridewealth). Payment of bridewealth then allowed the two groups to establish normal relations between affines.

Within a tribe, the response to the capture of a bride was to demand that compensation in some form be paid. Failing this, there were unavoidable acts of reprisal since the economic balance between the two groups remained unequal until action had been taken to rectify it.

An elopement could be initiated by the young woman (as well as by the young man) who would secretly run off to her young lover's village.

This method of taking a bride also tipped the economic balance in favour of one group and the disadvantaged group required adequate compensation for their loss or relations between the two groups would remain hostile until the matter could be settled.

Compensation could also take the form of exchanging another marriageable female for the one lost.

Purchase or 'dorobu' was the purchase of a bride by the payment of brideprice.

Williams concluded that exchange or 'mine' was the ideal Orokaiva marriage (and therefore preferred) since it involved the exchange of two brides, one from each group so as to allow each group access to a marriageable female. This form was referred to by Williams as 'sister exchange' or 'mine'. It involved two men who provided two 'classificatory' sisters (each to the other). Thus, in 'mine' there was no economic imbalance.

The last two were considered the only legitimate methods of obtaining a bride and were therefore preferred. When either of the first two methods were resorted to, the only real resolution to this imbalance was compensation, usually following a period of hostility and acrimony. The demand for sister exchange or compensation in the form of bridewealth was an attempt to legitimise the methods of capture and elopement by transforming them into 'exchange or purchase' (Williams 1930, p. 149).

Residence after marriage was patrilocal, although Williams found again that there were many exceptions (1930, p. 131). It was not uncommon for men to live in their wives' villages for extended time periods since relations between the two families were usually favourable. However, even in situations of matrilineal residence, the children were always considered to be members of the father's clan and were identified with the father's clan emblem. The child, nevertheless, established relationships with his mother's relatives and sometimes spent time living with his maternal uncle taking on the identity of 'heratu' (plant emblem) of the mother's line during that period. This, Williams concluded, was another example of the bilateral nature of the Orokaiva system (Williams 1930, p. 94). Exogamy was also the rule yet Williams found that here too consistency was lacking.

After the couple had been married for a while, a marriage payment, 'a-dorobu', was made and disbursed amidst the wife's clan (Williams 1930, pp. 137-8). A 'return present' called 'bi-dorobu', usually of equal value, was given by the husband to his in-laws. 'Bi-dorobu' appears to have functioned as a check on the husband's treatment of his wife. The custom of 'bi-dorobu' was not always followed. It appears to have only been related to marriages involving exchange and therefore served to help maintain balance between the two groups of people.

Polygyny, although it existed, was not widely practised. When exercised, wives were housed separately and each had her own garden

plot to work. This mutual independence and the fact that the husband provided adequately for each of his wives were the reasons, according to Williams, that there was little conflict between polygynous wives although sexual jealousy did occur.

Social Control and Dispute Settlement

General

Orokaiva moral rules differed according to whether the dispute was intra-group or extra-group. Extra-group morality was based on the tradition that the Orokaiva were a warring people and could never feel completely secure in their environment since wars were continuous and treachery pervaded many extra-group relations. When peace was achieved, this state was at best tentative. Thus, bravery was an honoured attribute and was given much credence. Vengeance or payback was deeply embedded in their ideology and was a guiding factor in the relations between groups.

Intra-group morality, on the other hand, was relatively peaceful and full of accord. The Orokaiva ideal of *otuhu* meant that both men and women strived toward generosity with their fellow clan members and toward industriousness both in the garden and in hunting.

The Orokaiva, like other Melanesian cultures, judge members of their own group and those in other groups according to the closeness of the relationship.

Payback

The notion of payback was an integral part of the Orokaiva system of social control. The term for payback was 'Rirowa bari'. 'Rirowa bari' did not always take a direct form such as is implied in the maxim 'eye for an eye, tooth for a tooth'. Payback could take the form of a magical spell causing indirect 'rirowa bari' by creating a bad harvest that would precipitate even more suffering and harm than if there had been a more direct target. 'Rirowa bari' was not always immediate, but could take one or two generations to be executed. Payback entailed the principle of equivalence so that the amount of injury and the destruction of property corresponded in kind to the injury or destruction caused to the raiders by the opposing side in an earlier raid. The term 'mine mine' referred to these retaliatory killings and was described as 'an exchange [of deaths]' (Schwimmer 1982, p. 7). If the avenging side killed more than was required by the principle of equivalence, the killings would continue on both sides until equilibrium was again established. Schwimmer refers to this as the principle of negative reciprocity. Negative reciprocity worked in the following manner: ' . . . if you want to work towards a cessation of hostilities, you kill one man [*mine mine*] but if you find it advantageous to 'escalate' your conflict, you kill more, or as many as possible' (Schwimmer

1982, p. 7). The 'mine mine' principle was one that the clan always kept in the forefront of their minds since the kind of injury, humiliation and devastation they inflicted upon their enemies would be returned.

Extra-Group Social Control

Inter-Tribe Disputes Waiko (1970, p. 27) describes Orokaiva tribes as 'powerful' and 'warlike'.

Among the Binandere the practices of cannibalism, payback, raiding and looting were the rule rather than the exception. The practices were an integral part of tribal responsibility; they were obligatory as well as necessary for the survival of the Binandere community. Binandere tribes believed that they must fight, defend, revenge, kill, eat and live rather than run away, give in, save, starve and die.

The Orokaiva techniques of warfare were sophisticated involving scouts, strategists, sorcerers to parry with enemy spirits and three lines of men on the actual battlefield (Waiko 1972, pp. 22-4).

The various strategies included 'ambush killing' where many people were massacred, and the annihilation of an entire clan within a village. The choice of strategy was dependent upon how the aggressors had been treated by the victims during the last battle when their roles had been reversed. Account was taken of the numbers killed and the degree of looting and dishonour experienced during the previous attack. The tribal raids were known as 'isoro' and cannibalism was practised on the victims of the raid. Williams (1930, p. 170) notes that the reason for the 'cannibal raids' was retaliatory vengeance for previous victims in earlier raids. This practice meant that all slain victims in a raid were eaten. The victims were left behind: ' . . . when the fear of counter-attack made the raiders leave in too great a hurry to be encumbered, or, as some informants have said, when the victims were so old, scraggy, and wrinkled as to be not worth the carrying' (Williams 1930, p. 171).

According to tradition, the slayer was not permitted to eat his victim for this would risk elephantiasis of the scrotum. Nor was he permitted to carry the club that he had used in the slaying for fear of his shoulder swelling and therefore he exchanged his club for the club of another warrior.

Women escorted the men on the tribal raids supplying them with food and sometimes acting as weapon carriers (Williams 1930, p. 164). They also encouraged the perpetuation of the blood feud. When the tired warriors returned home, they were met by the women including those who had become widows. These women painted their faces with the mud of mourning. They incited the men to avenge their husband's deaths. Raiding and attacking enemy tribes was an important means of maintaining and building the prestige of a clan. This was essential in

carrying out their social responsibility to their dead ancestors and to future generations.

Inter-Clan Disputes Disputes within tribes were usually the result of a dispute between two individual clans within a village. Williams (1930, p. 163) outlined the causes of inter-clan fighting ['embogi'] to be: ' . . . the depredation of village pigs, the killing of a dog, the defilement of a water-supply, and frequently the suspicion of sorcery'.

Waiko (1972, pp. 13-14) explains that war would often follow after a fight between two women in a village over some taro stolen out of one of the women's garden. Harsh words were exchanged between the women; this was called 'Ge Baiari'. When the dispute led to violence between the women, it was termed 'Kaewa Gatari' and involved the women assaulting each other with their garden sticks. In order not to lower themselves to the position of women, the men remained neutral and would not intervene in either form of the squabble. If the dispute escalated to a level that was unresolvable and the clan members took sides in a clash with one another, the clans would often separate, migrating and settling in new areas.

Dissension between husband and wives did nothing to diminish the husband's prestige; such disputes were tolerated. They were labelled 'Ge baiari' if started by the woman and 'Dudono Ge' if started by the husband. If the 'Dudono Ge' dispute was between two men, women did not remain neutral but supported their husbands by participating in the altercation alongside them. These quarrels were mostly spontaneous and did not extend past the village boundaries (Waiko 1972, p. 14).

In the case of adultery, the husband would often kill his wife. The aftermath of such punitive action on the part of the husband was often a retaliatory war declared by the wife's line who were out to seek vengeance (Waiko 1972, p. 14).

Individuals could approach the bigman and request that he organise vengeance against an enemy clan member. Arrangements could also be made through the bigman to have a husband killed so that his widow would be available for a particular man to marry (Waiko 1972, p. 24).

However, fights between clans of the same tribe appeared to have some limits imposed by clan members and they were described by Williams (1930, p. 163) as 'more of a lusty sham fight than a struggle to the death'. Casualties were fewer than those which resulted from a tribal raid, and cannibalism within the tribe was not practised except under unusual circumstances.

Intra-Group Social Control

General Within the clan, the Orokaiva were generous, cooperative, courteous and helpful toward each other. These qualities were encouraged and admired and those who were ill-tempered and aggressive were scorned. However, outside the clan, this attribute of aggression was admired. Again, it was the social context within which the behaviour took place and how that behaviour affected the relationships and therefore the security of the group that mattered.

Williams is somewhat unclear when he speaks of the issue of wife-beating. He claims that it was part of the 'otohu' value system that a man should not beat his wife and children (Williams 1930, p. 204). Later (1930, p. 323), he restates the 'otohu' value as 'not to beat one's wife overmuch'. One can only conclude that the 'otohu' value reflects the case of an excessive wife-beater. The custom of 'bi-dorobu' appears to have served as a restraint on the husband's treatment of his wife. However, the 'bi-dorobu' payment was made only in marriages formed through exchange (Williams 1930, p. 139).

There was no central authority within the Orokaiva clan with the power to punish offenders (Williams 1930, p. 325). The 'embo kiti' or 'clan headman' had no such authority and could only express his displeasure and disapproval toward inappropriate behaviour. According to Williams (1930, p. 327), there were three types of sanctions regulating conduct. These were: retaliation, fear of public reprobation, and, the sympathetic sanction.

Retaliation took on two forms: violence and sorcery (Williams 1930, pp. 327-9). Traditionally, responses to adultery were violent, the husband having the right to use spears and stone clubs on both the wife and her lover. The Australian Administration forbade the sanction of death for adultery and replaced it with a gaol term. This caused much consternation amongst the Orokaiva men who felt that women were subsequently much more promiscuous (Australia. Department of External Territories 1926-27, 1934-35). A woman who questioned her husband's fidelity would publicly charge him by loudly expressing her suspicions. If he was unable to defend himself to her satisfaction, she would return to her own village stating as she left: 'Now you will have no one to cook for you!' The husband in fact had little difficulty in finding some other woman to cook for him (by arousing her pity), but nevertheless his life was disrupted (Reay 1953, p. 116).

Theft Theft also was met with violent redress. A woman who had committed theft might be attacked with a club or a stone, but the intent was to cause injury and not death. Waiko describes an incident where two clansmen were fighting over some stolen betel nut. In the clash, spears were used and one man was injured. He noted (1982, pp. 118-19), however, that: 'the depth of the spear thrust was carefully calculated. This

was simply because kin were fighting among themselves; they had no intention of killing'.

The result of a clash between clan members was always a conciliatory gift given to the victim by the offender. The victim, too, gave the offender a gift as a measure of the achieved peace between them. Thus, there was an exchange of gifts after an offence in order to resume friendly relations between group members (Williams 1930, p. 238).

Sorcery Sorcery as a form of retaliation was an insidious but effective sanction against unacceptable conduct (Williams 1930, pp. 328-9). Its deterrent effect on transgressors was compelling. Sorcery was used as a means of protecting property, but it was also used to control the misconduct of individuals against one another. In the *Territory of Papua Annual Report* (Australia. Department of External Territories 1923-24, p. 46) the Patrol Officer recorded the following sorcery anecdotes:

A woman told me that she had secured some semen of a man who had fornicated her against her wish, and that she had given it to a sorcerer, who killed the fornicator within the space of a few weeks. Another woman relates that she had married her present husband, not because she had any regard for him, but for the fact that he had wiped her face with a leaf and secured some of her sweat. If she had not married him the aid of a sorcerer would probably have been solicited to terminate her earthly existence through the agent of sweat.

Some of the physical effects of sorcery included disablement as well as the appearance of boils on one's skin.

Public Reprobation Another form of sanction was that which Williams termed public reprobation (1930, pp. 329-30). By this he meant the strong influence of public opinion on clan behaviour. The approval of fellow clan members was important to the Orokaiva and each individual would suffer great shame or 'Meh' if he were to become the subject of anger, derision, or loathing within his clan. 'Meh' was such a strong element affecting Orokaiva behaviour that individuals who had committed some act of deviance were frequently compelled to confess their crimes and to offer a conciliatory gift as compensation. Such contrition resulted when public disapproval was demonstrated by the offended party placing a symbol in the village (that is a taro leaf when a man's garden has been pilfered). Upon seeing the symbolic chastisement, the offender would experience pangs of 'meh'. An interesting custom was that of wearing the 'heratu' or clan's plant symbol in one's armlet as a symbol that the individual had been wronged and as a symbol of abstention thus causing a feeling of 'meh' and therefore discomfort in the known or unknown offender.

The heratu was worn to signify a dispute or complaint through abstinence. For example when a man had a disagreement with his wife, he would wear the heratu symbolising his unwillingness to accept food cooked by her. As long as he wore the heratu, the dispute was considered unreconciled. He did not starve however, since others would often cook for him in the meantime.

Sympathetic Sanction A third form of sanction was called the 'sympathetic sanction' (Williams 1930, pp. 330-3). This involved 'meh', but added to the force of public opinion were the elements of the victim's anger and self-pity. In this extraordinary form of sanction, the victim would retaliate against the unknown offender who had caused his hurt feelings by inflicting injury upon himself. Williams provides two examples of this method of social control called 'sisira'. The first was the case of a man who upon discovering that one of his water-melons had been stolen hacked a dozen more to pieces and placed the destroyed crop on the public path so that the thief would feel his shame. The second involved a case where a man whose spear had been stolen decimated his house where he had kept the stolen spear. As Reay (1953, p. 116) puts it:

The injured man aggravates his own injury, so that pity for him will induce shame in the culprit. This attitude on the part of the injured man is largely a blend of anger and self-pity.

Williams (1930, p. 333) suggests that 'sisira' results from the 'fear of injuring the feelings of any member of the sympathy group'. (Williams uses the term 'sympathy group' to describe the unit to which the individual is obliged to give his allegiance and to whom he gives 'his sympathy, and from them he expects to receive sympathy; and their limits are the limits of his intra-group morality' (1930, p. 310).) The motive for this he felt expressed the need for peaceful internal relations so that clan members could be united in their raids against external groups.

Naname Another form of intra-group social control was that of institutionalised friendship called 'naname' (Reay 1953, p. 117). A man's 'naname' were his mates from his period of seclusion during initiation and the friends he had made since then. The bond between those who were 'naname' was very strong and presumed a sense of obligation and loyalty between them. An 'otuhu' man must not quarrel, yet if he did so in defence of a 'naname' he was considered to be exemplary in practising 'otuhu' values. It was forbidden to commit offences against one's 'naname' or even the friend of an 'naname'. This greatly reduced the number of persons one could offend against.

This system of institutionalised friendship also affected warfare in that 'the conduct of warfare depended upon these personal links between

naname, who had a binding obligation to fight for one another' (Reay 1953, p. 118).

'Naname' also worked as a negative social control in that the impact of any punishment for offences (as outlined earlier) was lessened by the fact that a man who was shamed for some action by his fellow villagers could go to the village of his 'naname' and stay as long as he wished as an honoured and worthy guest. Ultimately there was no such thing as a social outcast.

Reay argues that the Orokaiva system of social control was weak given that the sanctions against transgressions of the moral code were 'diffuse' and often unsuccessful (1953, p. 117). The controls were dependent on the internalisation of the moral code and the subsequent feeling of shame ('meh') if one were to break it. However, she admits that the code, especially in light of the institution of 'naname' diminished the likelihood that deviant acts would take place by reducing the number of people one could offend against.

Administration Influence

The Northern Coast people were first contacted by Captain John Moresby in 1874 (Waiko 1972, p. 53). They believed that the white men were the ghosts of their ancestors.

On one of his 'inspection tours' in 1894, taken to the Mambare River region in the Northern District, Lieutenant-Governor MacGregor of British New Guinea, discovered gold near Tamata Creek. This discovery attracted many miners into the area to work the Yodda Goldfields. The intrusion of these foreigners into 'Orokaiva' territory was not welcomed by the local people who interpreted this foray 'in light of the pattern of traditional warfare, alliances and enmity among the tribes at the time of contact' (Waiko 1972, p. 37). There were numerous clashes and both sides lost much in bloodshed. In response to this, the Administration ordered that resident Magistrates be established in the area to help pacify the region so that gold production could proceed unhindered by tribal attack (Schwimmer 1973, p. 33).

Resident Magistrate C.A.W. Monckton led many exploratory and punitive expeditions in response to the local resistance to the white invaders until 'his immoderate punitive expeditions led to his being eased out of the service in 1907' (Schwimmer 1973, p. 34). These expeditions 'resulted in pitched battles in which many clansmen were shot dead; many gardens were looted by some members of the party' (Waiko 1972, pp. 73-4).

When Australia took over the responsibility of administering Papua, it followed a policy of 'peaceful penetration', but the Monckton style of

maintaining law and order had already shaped the opinion of the Orokaiva about their colonial invaders (Schwimmer 1973, p. 34).

By 1912, gold mining operations had declined as the presence of gold decreased. The result of the enforcement of Administration prohibitions (on homicide, cannibalism, head-hunting and sorcery) was that inter-tribal warfare ceased (Waiko 1972, p. 101). Since it is argued that '... eating of one another's flesh, payback, raiding and looting were usual practices' and it was through these practices that prestige and status were established, the effect of pacification on the Orokaiva was the loss of the traditional means to achieve prestige relationships (Waiko 1972, pp. 58, 101).

As a means of achieving prestige the Administration introduced appointments as village officials (village constables and the Armed Constabulary) and the cash economy through earning cash money as indentured labourers (Britan 1951, p. 52). In the early stages of control, government officers captured men from uncontrolled areas, led them to a government station to teach them the ways of the white man and some English (Britan 1951, p. 45). Later, they 'educated' the villagers through imprisonment for petty transgressions against the numerous Native Regulations. Britan (1951, p. 44) noted that: 'By 1924 a fair percentage of the adult males had passed through the Armed Constabulary of the Territory'. In the *Territory of Papua Annual Report* (Australia. Department of External Territories 1923-24, p. 24) the following statement was made regarding contact: 'It is safe to record that there is hardly a male adult who has not worked on plantations, or in some other capacity for Europeans'.

The head-tax imposed in 1918 forced many young men into indentured labour and the knowledge of the new ways gained as a result of that employment was also a source of prestige. However, the failure of the missions to gain a hold in Orokaiva territory in the early years of contact meant that replacement values for the void in prestige relationships created by the prohibition of warfare were not effectively instilled. According to Britan (1951, pp. 56-8) this void made the Orokaiva more susceptible to 'nativistic movements' such as the Taro Cult.

Despite the fact that the Administration legislated against it, sorcery did not disappear amongst the Orokaiva (Williams 1928). After the pacification of the area Waiko claims that a new form of resistance to the white man appeared in the form of cults (1972, p. 101). These particular cults appear to have been a 'system of psychological warfare' and not the kind developed in response to the considerable material discrepancies between the villager and the Europeans (Schwimmer 1973, pp. 35; 1982, p. 13).

It is evident in the post-war Patrol Reports on Orokaiva territory that the main focus of the Administration was on the economic development of the area. The lag in economic development was attributed to geographical factors since much of the area is 'low lying swamp or

seasonal swamp . . . wide, shallow, fast meandering rivers traverse the area splitting it into factions without providing a good means of transport [river boats] their flood and meander planes so wide as to be impracticable [sic] to bridge' (Patrol Report, Aiga and Binandere Census Divisions, No. 1/1969-70). A mass exodus of the youth resulted from this failure to develop the area economically.

In the early days of contact, Resident Magistrate Monckton noted that the people were not using the Native Magistrate's Court to deal with their disputes (British New Guinea. Administrator 1903-1904, p. 38). From the Patrol Reports in the post-war period this situation appeared not to have changed dramatically. Patrol Report (Aiga Census Division NO. 9/1969-70) recorded that '[t]here were no complaints brought up and the people appear to be law abiding, at least when the patrol was in the vicinity'. However, in the Binandere Census Division it was found that most '[b]reaches in law and order [were] particularly caused by young people in sexual problems by that I mean impregnating young ladies' (Patrol Report No. 10/1969-70).

Williams (1930, p. 321) stated that petty thieving became a common occurrence.

The Patrol Officers paid much attention to village cleanliness and hygiene and conducted regular village inspections (Britan 1951, p. 44). Administration policy insisted that: '[i]nter-village tracks and the villages themselves had to be kept clean, houses were to be raised off the ground, people were encouraged to live in central villages rather than scattered hamlets, and 'inactivity' was discouraged. Exhortations by government officers for the people to become civilised and to 'live like Europeans' were common' (Baxter 1973, p. 35).

The Administration also influenced traditional marriage customs. The custom of 'bi-dorobu' had functioned as a check on the husband's treatment of his wife. However, Williams (in the late 1920s) observed that this custom was beginning to be abandoned due to acceptance of the judicial role of the kiaps.

In establishing control the Administration prohibited warfare and by so doing stopped also the traditional method of capturing wives in battle (Hogbin 1966, p. 82). The choice of marriage partners increased with the broadened range of movement throughout the area (and outside the Northern District). Inter-tribal marriage and inter-village marriage became commonplace (Hogbin 1966, p. 82; Patrol Report Binandere No. 2/1971-72). However, the women often remained in the villages while their husbands left the District to find employment and while the men were away, there was an increase in illegitimate births and therefore an increase in the population. Some young men married women from outside the district and did not return.

The replacement of traditional sanctions by the adultery law was cited as one of the reasons for an increase in adultery. The *Territory of Papua*

Annual Report (Australia. Department of External Territories 1934-35, p. 31) notes:

Such evidence as is available seems to show that the native population of Papua is increasing . . . yet in some districts the increase, if there is one, is less than one might expect. Husbands true to masculine tradition, blame their wives for this, and, incidentally, the Government as well. 'Before the Government came we flogged our wives hard. Now we can not flog them, and they run from one man to another, and so we have no children'. It is possible that adultery may have increased since the administration 'purged the gentle weal' by abolishing the former drastic punishment, though I can find no direct evidence on the point.

Sir Hubert Murray noted in the *Annual Report* that marriages in Papua had become destabilised due to contact with the European cash economy. Orokaiva men (along with many other Papua and New Guinea men) did not feel that the Administration law against adultery was beneficial to their society. They felt that females became much harder to control and that promiscuity increased once they were no longer permitted to discipline them by traditional means (through beatings, compensation demands, or murder). Williams provides an example when he discusses the prevalence of retaliatory violence (1930, p. 328):

There is no lack of instances of retaliatory violence, however. In the case of adultery it was recognized as an ordinary thing; so much so that informants have reckoned the Government punishment of gaol as but a poor substitute for the old-fashioned use of spear and stone-club. Not only was the co-respondent formerly liable to attack from the husband, but I have a case in which a husband, finding his wife *in delicto*, killed the woman while her lover made good his escape.

Mission Influence

As with the Administration, mission influence was slow to take hold in Orokaiva territory. At the turn of the century an Anglican Mission was set up on the Mambare River (Barker 1979, p. 66). Prior to 1922, the Anglicans had failed in their efforts to convert the indigenes. Barker (1979, pp. 68-9) attributes this to their belief that the role of the missionary was 'the careful nurturing of a church form which should incorporate the culture of the people among whom it arose' (Barker 1979, p. 69). Following this precept the Anglicans extended their mission work amongst the Orokaiva people gradually and did not participate in the Administration's punitive expeditions as the Methodists had done in the Gazelle. Waiko (1982, p. 249) notes that, '[y]ears passed without a Binandere being converted to Christianity'. Missionary, David Tatu, 'complained that the local people were still indulging in their traditional

beliefs and customs' (Waiko 1982, p. 249). Even after eleven years the conversion rate remained at zero (Patrol Report Giria Census June 1911 in Waiko 1982, p. 250).

The Binandere peoples' resistance to the Administration was paralleled by their resistance to the church for more than a decade. Waiko (1982, p. 251) notes that '[b]y then [1911] the subsistence system was undermined. The people thought that traditional magic was not working so they turned in part to Christianity as white man's magic'.

In 1922, Reverend R.M.S. Gill was sent to the Binandere people and he remained in charge until his death in 1953. He focused on teaching manual trades such as carpentry rather than on literacy and as a consequence the standard of education amongst the Binandere people was quite low until after 1953. At the end of his tenure 'almost every village had an evangelist in charge of a school and a church building . . . ' (Waiko 1982, p. 251).

In the 1950s Missions and the Administration clashed over issues related to marriage customs. Patrol Officers dealt with the Mission's lay personnel whose actions were considered to be 'interfer[ence] with matters of native custom associated with marriage . . . [and] infringements of the law. Instances of assault and deprivation of liberty had been met with and a legal opinion was sought . . . ' (Patrol Report Binandere and Aiga Census Divisions No. 3/1954-55). The Patrol Officers' actions created hostile relations between the Administration and the lay missionaries which resulted in further infringements of Administration Regulations.

The conflict between these two agents of change was strongest in the area of education. By 1955 there were both government and mission schools in the area. The missionaries saw the government schools as a threat to their hard work and influence. They threatened students with divine intervention (in the form of floods) and even assaulted them if they chose to attend the government school (Patrol Report Binandere No. 2/1964-65). One such incident was described as 'a deliberate and straight intimidation of three small boys, who had elected to attend the Administration School, and who by fear of violence returned to the Mission School' (Patrol Report Binandere No. 1/1955-56). The deteriorating relationship between the Missions and the Administration officers took several years to repair and created anti-government sentiments amongst the people since the Mission's power was seen to be much greater. The Patrol Report (Binandere No. 2/1964-65) notes:

The Mission has a very strong hold over the people, and they appear to 'fear' the Mission more than any other body such as those administering law and order. They would rather disobey a lawful Court Order than the Bishop.

Patrol Officer, Barry Holloway, recorded in 1957 that: '[t]o ensure cooperation of these people with the government, they must first of all be

aware that no animosity exists between the government officer and the missionary' (Patrol Report Binandere No. 3/1957-58).

The missions opposed the practice of polygyny (although it had never been that prevalent in traditional society) and gradually influenced the Orokaiva people to practice monogamy. As late as 1966, Hogbin noted that (1966, p. 83): '[i]n spite of Mission opposition there are still instances of polygyny but the great majority of marriages are monogamous'.

The missions tried to prohibit the transfer of bridewealth in marriage but were largely unsuccessful (Hogbin 1966, p. 83). However, the introduction of the cash economy influenced the content of brideprice payments; cash rather than traditional items became more desirable in the exchange. Most of the cash collected was kept by the father and his brother whereas most of the traditional items were distributed amongst relatives with lesser claims (Hogbin 1966, p. 100).

By 1970 women were reported to have taken a keen interest in voting in the Local Council elections and shown independence from their husbands in their candidate selections (Patrol Report Binandere No. 1/1970-71).

The Orokaiva were noted to be keen and sophisticated political observers even though they lagged in economic and social development (Patrol Report Binandere No. 2/1971-72). It was the young educated and travelled men who became the leaders in Local Government Council. Waiko argues that the tendency of the young people toward politics, education and the cash economy has undermined the role of the elders in traditional Orokaiva society. He (1982, p. 388) states:

Also the lives that are concerned with school books, political parties and making money are within a culture that is unknown to the old people. The function of the old as the instructor of the young and the guardians of the most valued elements in the culture has been reduced . . . The cycle of growth, instruction and replacement has been broken.

Women's clubs were very active in the region by the 1970s although some hired male clerks to perform functions they could not yet do themselves (Patrol Report Binandere No. 2/1971-72).

Village Court

The Village Court system was proclaimed in Northern Province (Oro) in June 1976. Northern Province has fifteen Village Courts and 164 Village Court Officials.

Village Courts have not yet been introduced to the Binandere language area of Ioma District due to the poor communication and transportation system in the area. John Kerari, a Binandere, and a Probation Officer stated (1990, pers. comm., 18 January) that there is need for a Village

Court system in the Ioma District since it is isolated and not connected to Popondetta (the capital of the Province) by road. The economy is still undeveloped and mostly comprises subsistence farming. All attempts at implementing economic projects have failed due to poor transportation. Rural Binandere men continue to be involved in a small way in prospecting for gold and a small income can be obtained from mining. A timber development project has recently started in the Binandere area. However, the people have viewed the company's tree-cutting and road development activities with suspicion. They responded causing damage to company property and were subsequently charged and brought to District Court.

The education level of most men and women in Binandere is Grade six. Most women do not receive further education. The men who pursue higher levels of education usually migrate from the Binandere area to larger urban centres since there are few opportunities in Ioma for them to use their education.

Most disputes within the village have to do with assault, adultery and domestic problems. The families attempt to sort out their disputes by using the traditional means especially by exchanging gifts and by paying compensation.

Mr. Kerari noted that there were few cases of excessive use of domestic violence amongst rural Binandere people due to the strength of traditional values and to the powerful influence of the Church. However, he stated that it was still considered necessary for a man to discipline his wife if she failed to look after guests properly by slapping her around her face and chastising her. A man who threatened his wife with a spear or axe was considered to have poor 'otuhu' values and was regarded as having little respect for tradition and was therefore poorly viewed by the community.

Mr. Kerari acknowledged that many of the younger men had lost touch with Binandere traditions due to their absence from the community and their lack of contact with village elders. Young men often do not feel as though they are part of the community and consequently spend little time at the village. They often marry outside of the village. Mr. Kerari stated that it was these men who experienced the most difficulties in their marriages and often resorted to wife assault to resolve those difficulties.

Mr. Kerari also suggested that the change from traditional brideprice payments to cash has greatly affected modern marriages. The use of cash has changed the way women are viewed and treated by their husbands. They are now viewed more like a commodity. Husbands seem to feel that since their families have paid a lot of money for brideprice, their wives should perform according to their every wish. If the wife fails to satisfy her husband he often resorts to violence.

In the urban setting of Popondetta and its surrounding area, marital problems are common (Kerari, J. & Vuvut, S., pers. comm.). Village

Court Magistrate, Gill Christ Kanadari, noted that most women appear before Village Court for assault, spreading false rumours and threatening behaviour. Most women accepted the decisions of the Village Court. However, in 1989 two women had appealed his decisions; one had been charged for non-payment of brideprice and the other had been charged for assault. Both women lost their appeals.

Officer-In-Charge of Popondetta Probation Office, Warrington Orere, stated that he believed women were less afraid to take their disputes to Village Court than they were of taking disputes to the District Court with its more complex procedures. However, women from his village had complained that cases before the Village Court were not heard quickly enough due to lack of sympathy by the Village Court Magistrates who were often related to the opposing side in the dispute.

John Kerari noted that in his previous job as a welfare officer for a local oil palm company he dealt regularly with women who were unhappy with the Village Court's ability to deal with their marital problems. They felt that the Village Court did not have enough power or enough interest in penalising their unfaithful husbands.

Probation Service

The Popondetta Probation Office became operational in January 1989. There are two Probation Officers serving the entire Northern Province. In 1989 there were ninety-five people placed on probation by the Courts, nine women and eighty-six men. One breach charge was laid on a man who failed to report to his Probation Officer. Four Orokaiva women were placed on probation between January 1989 and January 1990. Three of the women were placed on probation for assault related to domestic problems. The fourth was part of a group of offenders who had a fight over a motor vehicle. She received an order to perform two weeks' community work service along with the other group members.

In one female case, the woman assaulted a woman her husband wished to take as a second wife. He had not sought her consent and the wife attacked the other woman with a knife. During the preparation of the Pre-Sentence Report the Probation Officer talked to both the victim of the assault and to the husband and wife. An agreement was reached between the three that the husband would remain with his wife and that his girlfriend would return to her family. The wife was placed on probation for six months and was reporting regularly to the Probation Officer. The Probation Officer noted that he had successfully appealed to both the husband and the girlfriend's sense of shame in his attempt to help resolve the dispute during the preparation of the Pre-Sentence Report. By bringing the incident to public attention through taking it to Court the wife used

shaming as a means to settle the conflict. The Probation Officer also used shame to help settle the dispute.

A second assault case involved a woman who assaulted her husband during a domestic dispute over his failure to provide her with sufficient money to support herself and their child. The Probation Officer was attempting to counsel both the husband and wife and was focusing on the husband's need to fulfil his marital responsibilities.

Mr. Kerare stated that he believed that all men who were convicted of beating their wives should be placed on probation so that both the wife and her husband can receive family counselling. He felt that this was the best alternative to the District Court ordering a gaol term or a fine which would only cause greater hardship for the wife and family as it would affect the security of their home and family. In the Local and District Courts, men who are charged with domestic violence are frequently cautioned and discharged. This approach is ineffective in dealing with the issues which cause the violence and because she has received no support from the Court, the wife becomes hesitant to bring the issue into public attention again.

Chapter Seven

Conclusion

Inappropriateness of the Introduced System

Commonalities of social control

Within traditional Papua New Guinea societies there were common principles of social control and dispute settlement which were concerned with the social context and the social relationships within which the act complained of occurred. Offences committed in traditional society could be divided into two kinds: offences against the religious code and offences against human beings. Responses to the latter could be further divided into two categories: self-regulation, and self-help or retaliatory action. Self-regulatory forces which prevented wrongdoing included public opinion, shame, socialisation, and reciprocity. The most important of these was the rule of reciprocity defined by Lawrence (1969, p. 27) as 'where mutual obligations entailed by a relationship are observed, each party will derive material advantage from the other'. This rule permeates all relationships within traditional Melanesian culture. Reciprocity was derived from cooperation through the reciprocal exchange of goods and services which functioned as the currency of a subsistence economy. Cooperation between groups and individuals worked to build inter-dependencies. Individuals were tied together by this system of obligations and cooperation. Assistance and support could be found amongst those who satisfied the obligations which were built up in relationships. When individuals failed to meet their obligations they would be met with the withdrawal of all cooperation from other individuals and group members.

Moral obligation was only acknowledged when effective relationships had been established. The number of individuals to whom a person was morally bound was limited by the number of groups and individuals with whom one had established mutually beneficial relationships. Beneficial relationships were those where material gain by both sides was easily attainable. Outside of these established relationships no moral obligation existed since there were no advantages to be derived.

Self-help or retaliatory action was used when self-regulatory forces were ineffective or when there was no binding moral relationship already in existence. The strength of the retaliatory action was dependent upon the closeness of the relationship between the two parties. The closer the relationship the more restrained the response. The more remote the relationship the harsher the response and the greater number of people involved in the retaliation. Relationships were valued and any retaliatory action which weakened the in-group against external threats could not be tolerated. This code of conduct was necessary if groups were to survive.

The type of retaliation depended on the principle of equivalence which dictated that the extent of reprisal would be determined by reciprocity and through achieving a state of equilibrium. Once balance was achieved, justice was seen to have been accomplished. The goal of traditional techniques of dispute settlement was to restore balance between the disputants and repair damaged relationships. The payment of compensation often worked to achieve this outcome.

The Bena Bena had what Read called a distributive system of morality. Moral obligation within the clan was dependent upon the social relationships which existed between the individuals involved. Judgment about the wrongness of the act was reliant upon the closeness of the relationship and if it was close, upon the need for internal cohesion for the survival of the group. Outside the group, the mechanisms of social control revolved around the insecurity of the clan caused by unrestricted warfare and the constant struggle for survival. Social institutions involving the men's house and the men's secret societies were devised to teach the young men about the importance of strength and warrior abilities.

Within the Arapesh culture the importance of building cooperation and obligations through establishing relationship ties with relatives, trade friends and marriage was emphasised. Group survival was dependent upon the maintenance of these relationships. Internal conflict was avoided at all costs. Where it was impossible to avoid internal conflict, the Arapesh developed indirect mechanisms of social control which functioned to displace responsibility for hostility and aggression onto outsiders such as the Plains sorcerers. Within the group the tamberan and the ano'in relationship worked to keep the disputants separated. These methods of dispute settlement reflected the Arapesh need to maintain their personal ties and obligations to relatives and allies. Responsibility for violence was attributed to the victim who was required to pay compensation for his/her part in the incident. This assumed provocation as the cause for emotional and violent outbursts. Self-injury was used to invoke feelings of shame in the offender. Sophisticated mechanisms of social control were developed by the Arapesh in order to avoid confrontation or any possible harm to their important relationship ties.

The highly individualistic and sophisticated Tolai developed mechanisms of social control which reflected their emphasis on profit and accumulation. This was particularly so in the institution of kamara which worked to involve innocent third parties in disputes to revenge prohibited acts, especially acts which involved property loss. Kamara functioned to compensate for the lack of solidarity whenever individuals needed the support of other group members since no Tolai could count on the undivided loyalty and support from his group members. Internal Tolai mechanisms of social control involved religion.

The Orokaiva divided their mechanisms of social control into those that involved external groups and intra-group members. Extra-group morality involved warfare. Vengeance and pay-back were honoured traditions and retaliatory wars continued until equivalence and balance was achieved. Intra-group social control was governed by the 'otohu' values taught to group members as children and as initiates. The distance in relationship between disputants dictated the response to conflict. The closer the relationship, the more tolerance and restraint was exercised. This reflected the necessity for group cohesion in the face of constant external threats. Intra-group mechanisms of social control were relatively sophisticated and emphasised personal injury and shame to create sympathy for the victim by the offender. The resolution of such disputes occurred when the offender, feeling sorry for the victim, offered a compensatory gift. The offended party reciprocated by giving the offender a conciliatory gift so that friendly relationships were once again restored and internal solidarity assured.

The colonial experience

The Australian and German colonisers introduced western law and western systems of justice. Germany introduced the luluais and tultul system of appointed local leaders to represent the German Administration in their communities, settle minor disputes and report more serious offenders to the German authorities. Patrol Officers (kiaps) were the emissaries of the colonial Administration and brought the laws and regulations of the foreign systems to the village people. The Australian Administration adapted the German system when they took over after the first World War. They introduced the Courts for Native Affairs in New Guinea after 1923 which were modelled after the Courts for Native Matters in Papua. Under this system Resident Magistrates in Papua and the Patrol Officers of New Guinea were given judicial powers to hold Court in the rural areas while on patrol or in the out-stations using the Native Administration Regulations which empowered them to enforce the Administration's regulations and policies in the villages. Appeal could be made under this system to the Supreme Court of either Territory. The Patrol Officers and Resident Magistrates dealt with minor civil and criminal matters. Court held by the Patrol Officers was sometimes on an

informal basis and sometimes the kiaps encouraged the locals to settle their own disputes based on mediation and negotiation and the local customs.

In the 1960s the Australian Administration abolished the separate court system and introduced the Local/District/Supreme Court system which was set up to handle cases of all races and was intended to integrate indigenous people into the system as Magistrates. The kiaps were replaced by the Local Courts which were mandated to deal with minor offences. The Local Government Councils were also set up during this period to administer local community affairs. They were not given the power to settle disputes but some held their own 'Courts' anyway.

The Administration utilised the Christian Missions to assist in the goal of pacifying the indigenous peoples and to instil Christian values in an attempt to replace the traditional value system. Since western law is based upon Christian principles and values the Administration and the Missions were able to work toward these goals. The German Administration hoped the Missions would be successful in instilling the Protestant work ethic in the locals so that they would have cheap labour for their economic ventures. The Australian Administration encouraged men to accept indentured labouring contracts through the kiaps and did not rely directly on the Church to assist them. Both Administrations relied heavily on the missions to provide health care and education to the people.

After Independence the Government kept the western system of justice intact. However, it introduced the Village Courts system in an attempt to fill the gap created after the abolition of the patrol system and as a means of integrating custom into the formalised system of social control. The Village Court system emphasised mediation and customary ways of settling disputes, such as compromise, community participation, compensation and 'talking out the dispute'. It could exercise judicial powers when all attempts at mediation failed.

The Government introduced a probation system which has attempted to integrate aspects of the traditional techniques of social control into the procedure prescribed by the western court system. Probation Officers attempt to achieve this integration by ensuring that the stories of both sides of the dispute are related to the Court in their Pre-Sentence Reports; by attempting to investigate whether or not a compensation order is required under custom before the aggrieved party will see the dispute as being settled; and by seeking to involve the community in the 'rehabilitation' of the offender by appointing a Voluntary Probation Officer to supervise the probationer within his/her own community. The objective of using volunteers in the system of supervision is to reinforce the community's traditional role in upholding the cultural values expected of its group members.

Law and custom

The relationship between law and custom is crucial when examining the impact of western formalised legal systems on custom-based societies such as Papua New Guinea. Custom, or inner controls, is the internalised belief system based primarily upon cultural conditioning, and, for custom-based societies, may reflect the survival needs of the group in question (Pospisil 1978, p. 63; Hart in Lloyd 1985, p. 406; Yabsley 1984, p. 4). Outer controls, or codified law, include rules and regulations which are externally imposed on the individual or group by one or more persons, who have enough power and influence to coerce the less influential members of the society or group to submit to the imposed rules (Pospisil 1978, p. 30). Law can also be based on custom (internalised control systems) but this is not required for the particular rule to be classified as law (Hart 1961 in Lloyd 1985, p. 406).

In the relationship between law and custom, law is most persuasive when it is based on the groups' internalised beliefs, and, in the case of custom-based societies, the customary system of social controls (Yabsley 1984, p. 7). When no contradictions exist between the inner and outer controls, compliance with the external laws is strengthened. Law is less effective when it is not based on the society's internal point of view about what customs and practices will best serve the interests of its members. This is so because the group members cannot see the relevance or significance for their lives of the introduced legal code. Therefore, the commitment to abide by these rules is diminished. If coercion is involved, most individuals within society will eventually conform. However, the presence of coercion does not negate the confusion which arises from the inherent inconsistencies between internal beliefs and external controls (Yabsley 1984, p. 6).

In Papua New Guinea the colonial Administrations failed to take custom fully into account in the introduced system of justice. Melanesian notions of traditional dispute settlement and the different value system were not fully accommodated. However, the kiaps 'unofficially' took some customs into account by encouraging the locals to settle some of their own disputes, using custom which neither they, nor the Administration, considered repugnant. The kiaps permitted the locals to settle disputes which were based on customs unfamiliar to them (Townsend 1968, p. 120). There were exceptions, especially in matters concerning women. In such cases the kiaps regularly interfered in the customary solutions. When the separate Court system was abolished and the kiaps' judicial powers were handed over to the Local/District Courts the separation between the customary techniques of social control and the introduced system of justice became acute. Even though the Local Court had some power to recognise custom by adjourning any matter which it felt might be resolved by mediation, and, where appropriate, the Customs Recognition Act could be applied by the Courts, the gap between the two

systems widened and as Downs states (1980, p. 152): '... There was now a broken link between the central Government and the village people which local government could not replace ... Reversion to modified forms of traditional custom was inevitable when the Administration failed to provide a rural judicial system'.

Above all, the individual in Papua New Guinea is rooted in the community. It is the group which is important and not the individual members of that group. The introduced system of justice deals with individuals and not with groups and therefore fails to address the obligatory and reciprocal needs of the groups involved. An example of this is the issue of compensation. Compensation cannot be ordered by the introduced Courts other than by the Village Courts, except for certain summary offences and most recently, for adultery and enticement. Yet, traditionally, the injured party could not consider a wrongful action dealt with unless it retaliated against the offending party or exacted some form of compensatory payment. Without the payment of compensation the incident or transaction remained economically unsatisfactory to one side of the dispute and inevitably led to reprisal. A compensation payment was regarded as an act which worked to repair the imbalance between the two groups and to restore the social relationships. Any system of social control in Papua New Guinea which fails to integrate this essential act of 'balance' will run the risk of not satisfying the disputants.

Traditionally, the guilt of individuals was determined by the fact that people *believed* that they were guilty and was not necessarily based on evidence (accusatorial system) or truth (inquisitorial system). The appropriate justice system for Papua New Guinea is one which takes mediation and traditional mechanisms of dispute settlement into account. Melanesians are less concerned with the truth, than they are with issues of compromise and saving face. Lawrence (1970, p. 42) notes that:

... as there is no separate and centralized system of authority—no state—law or social control is, in Barnes' (1961) phrase, 'politically active': there is no impartial justice. Decisions are based on other factors—the factors he [the lawyer] would dismiss as irrelevant, extra-legal: considerations of patching together social relationships, very often irrespective of what we should regard as individual rights.

The traditional systems of leadership were severely undermined during the process of pacification and colonisation. The people became more reliant on the kiaps to settle their disputes rather than depending on their leaders to mediate and make such decisions. In the post-independence period the leaders have less control over their group members as their powers of leadership have been undermined. The absence of an authority to settle disputes appropriately and quickly has resulted in a great deal of frustration.

Custom is alive and vital in Papua New Guinea in the post-Independence period. It must be tied to the legal system if that system is to have any success at all. Since Independence, the Government has introduced two systems of social control in an attempt to reconcile the imported western system with the needs of this developing country and its custom-based society. These systems have a number of characteristics similar to that part of the colonial system represented by the kiaps. Probation and Village Court attempt to bridge the gap between custom and law. It has been argued that the Village Courts have effectively emulated the western court system especially in procedure and setting (Paliwala 1977, pp. 167-8). Unfortunately, this has meant that the Village Court does not really meet the immediacy needs of the traditional system. The Probation system, in its attempt to integrate custom into the western court system, has after a fashion, made use of the patrol system started by the kiaps. Inherent within the system of supervision, Probation Officers regularly visit rural probationers and their appointed Voluntary Probation Officers who help supervise their own community members who break the law. The philosophy of the Probation system in Papua New Guinea reflects the law/custom debate by focusing on the relationship between law and custom and attempting to integrate customary social controls into law.

In modern day Papua New Guinea not all custom can be condoned by the state. Traditional payback killing for example, could hardly be endorsed. Nevertheless, there are changes that could be made to the legal system which would make it more relevant to the people. Procedurally, the state could incorporate the traditional techniques of mediation, community participation and 'talking out the dispute' more effectively into the imported system. Additionally, as the INA/IASER Report on Law and Order in Papua New Guinea recommends, jurisdiction in most civil cases could be given to the Village Courts (Clifford et al. 1984).

Substantively, the Courts could be given the power to make compensation orders for most cases which came before them in order to satisfy reciprocity demands. Other kinds of customary sanctions might be difficult to incorporate into the introduced system. Shaming is one example that might become sensitive but the main objective is to establish reciprocity between the disputant groups. The Papua New Guinea Law Reform Commission Report No. 11 on Customary Compensation (1980) argues that the Courts should have power to order groups to pay compensation to restore the balance.

Traditional systems of justice were not always objective or fair, especially to women. They also lacked due process to safeguard the 'rights' of individuals. The implementation of some traditional sanctions and techniques of social control is not without its difficulties because of Papua New Guinea's western style Constitution with its human rights provisions. (The Papua New Guinea Constitution contains a number of

rights and freedoms including the right to full protection of the law which is in effect a due process guarantee. It also includes a guaranteed right to bail 'unless the interests of justice otherwise require'.)

Traditionally, reprisal for wrongs was swift and violent. During the colonial period, the kiaps made decisions on the spot about the disputes raised during their patrols. In the introduced court system this speed has been lost due to procedural delays. One way of taking account of custom is to have the modern court system respond more quickly. This would decrease the people's frustration and satisfy some of the traditional perceptions about the appropriateness and pace of judicial sanctions.

Women and Social Control

The position of women in traditional Papua New Guinean societies was determined almost entirely by the fact that they supplied the labour for the production of food. Also of significance, however, was the system of descent and the rule of residence. Matrilineal horticulturalist societies have been demonstrated to have internal political stability (Martin & Voorhies 1975, pp. 227, 229). This stability was combined with fertile ecological systems which minimised the need for internal economic competition. There was a large degree of internal cooperation between groups of related women within matrilineal groups using the matrilocal rule of residence, since the men (who marry into the group and are therefore considered 'strangers') were often required to journey long distances to fight wars (Martin & Voorhies 1975, p. 227). In their absence women hold the control over resources so that the group's common property and human well-being can be safeguarded. Polygyny was not prevalent in matrilineal societies using the matrilocal rule.

Due to a declining trend in the number of matrilineal societies, some matrilineal groups have adapted their rule of residence to the avunculocal rule (which requires the bride to move to her husband's mother's brother's land) in order to keep their matrilineal descent system. Thus, related women are dispersed and become the strangers within the group they marry into. Matrilineal societies using the avunculocal rule, change the group which controls access to the allocation of resources and wealth from women to men (Martin & Voorhies 1975, p. 227). The incidence of polygyny increases with such a shift as the society becomes more competitive and concerned with the accumulation of wealth. Polygyny functions to increase productivity, and therefore wealth, in production systems without benefit of the plough or paid labour (Martin & Voorhies 1975, p. 232). Polygyny results in women labouring on individual plots of land and being placed in a position of competition with one another for the attentions of their husband. There is little cooperation between women.

The avunculocal rule of residence gives women from matrilineal societies the same status as women in patrilineal groups which use the patrilocal rule of residence, although in matrilineal groups the bride's relatives continue to have obligations to her. Women from groups using the patrilocal rule move to their husband's kin's land and become strangers within the group. Competition and the accumulation of wealth is prized in patrilineal societies and women are valued for their reproductive capabilities and for their labour. Patrilineal societies compete over limited resources which often results in extra-group warfare (Harris 1975, p. 348). Group survival necessitates the centralisation of groups of men and the emphasis on customs which value male solidarity and strength in preparation for the constant threat of warfare. Relationships between men and women are significantly influenced by these factors. Control over women by men is maintained in both types of descent systems.

Polygyny was present in all four groups studied although in practice it was not prevalent amongst the Orokaiva and Arapesh groups. Its greater prevalence in both the Tolai and Bena Bena cultures reflect their systems of achieving leadership and their preoccupation with the accumulation of wealth. In the Orokaiva and Arapesh groups, leaders functioned to redistribute the wealth as equitably as possible and a more egalitarian society was developed. These societies appear to have had some matrilineal derivations since they both developed customs which worked to protect women from potential abuse by their husbands. Affinal kin in both groups continued to hold an interest in the welfare of the woman.

The position of women of the three patrilineal groups was influenced by the patrilocal rule of residence which made women strangers within the group to which they married and meant that men viewed them suspiciously until they had proved their loyalty by producing a child (particularly a male child) (Martin & Voorhies 1975, pp. 237-8). Male group members feared the 'insidious' powers of women which threatened male strength.

An examination of the systems of social control and the position of women of all four groups reflected their position within the general social organisation of their respective societies. The competitive Bena Bena and Tolai groups gave women no expression in their systems of social control even though they were often victimised by these systems. Internal relationships within the Orokaiva and Arapesh groups were less competitive and women were more valued. The exchange of Orokaiva, Arapesh and Tolai women functioned as an extra-group social control mechanism which worked to ally men with outside groups and reduce warfare. Bena Bena women were not used in this way since mechanisms for extra-group relationships remained undeveloped other than for the use of unrestricted warfare. Consequently, married Bena women lost all ties with their affinal group, which upon the woman's marriage, abdicated all responsibility for her.

Internal Bena Bena relationships between men and women were significantly influenced by the need for survival since male solidarity was critical if the group was to endure the constant threat of warfare. Women were seen as having a divisive influence on the loyalties of men and therefore as a threat to group survival. The Bena Bena culture developed male institutions which functioned to teach the required male characteristics symptomatic of a warring society. Within these male institutions, men were taught about male dominance and superiority, that women were 'nothing' and had 'no value'. Initiates were also instructed to fear women for their polluting abilities, as well as the dangerous consequences for men who spent too much time in their company. Consequently the relationship between men and women was fraught with antagonism and aggression. Violence toward women was a recurrent theme in traditional Bena society. A woman alone was considered as a natural target for rape often by several rapists.

Arapesh women were valued, assigned an equal role in procreation and were respected for their part in the process of 'growing' children. Women became the blood-ties between groups of men. An individual's blood was considered the property of the woman's relatives and any spillage of either men's or women's blood required a payment of compensation to the mother's brother. Child betrothal was the observed marriage practice, and created trusting, if not paternal relationships between husbands and wives. Women were not killed if the men's secrets or the 'tambran' were accidentally revealed to them. Instead they were sworn to secrecy. Divorce was realised through a contrived abduction thus making women collaborators in the decision to go to war with another group. Violence toward women was not prevalent in the non-aggressive Arapesh society. Rape was nonexistent since sex with wives (which was based on a trusting relationship) was considered dangerous enough if taboos and restraint were not followed. Sex with other women was fraught with the dangers of sorcery.

Tolai women were restricted from having any involvement in the men's secret societies which controlled the Dukduk and Iniat institutions. These institutions were a significant source of wealth for men. They functioned to monitor and penalise the misbehaviour of group members. Women were often the victims of these social control mechanisms and faced severe punishments for acts considered to contravene the Tolai moral code. Women were subjected to a great deal of violence from men; including husbands and male relatives. Disciplining women through corporal punishment was an accepted practice. Wives who objected to ill-treatment from their husbands and wished a divorce were not encouraged by their relatives who did not wish to repay the brideprice. They sometimes beat her until she capitulated. If a woman committed adultery or was believed to have committed adultery she was sometimes killed.

Women provided the labour, the profits from which the Tolai accumulated their wealth. Their role was one of extreme subservience.

Orokaiva women were generally valued. The marital relationship was relatively cooperative although domestic violence was used by husbands for the purpose of disciplining their wives for failure to fulfil their duties. The culture shamed men who 'excessively' disciplined their wives. These men were considered to be bad men who had failed to adhere to 'otohu' values. The payment of '*bi-dorobu*' to the groom's relatives after the payment of brideprice, worked to protect women from 'excessive' ill-treatment from their husbands since their relatives still maintained an interest in her well-being. Women were included in initiation ceremonies and were not required to avoid discovering male secrets relating to initiation and the men's house. Adulterous women were killed or stoned. Relationships between men and women reflected the flexibility of the Orokaiva system and their affable internal relations.

Amongst the western laws introduced to Papua and New Guinea Administration were a number of Regulations which significantly affected women's lives.

In the Native Administrative Regulations the Australian Administration treated customary marriage and divorce as lawful except when the couple had been married by the Christian Church. They stipulated that the custom of the wife's group regulated the divorce. The Administration retained the right to arbitrate in customary marriages where women were being pressured to marry someone they did not choose (Native Administrative Regulations 1924 Section 65(2)). Kiaps were permitted to intervene in cases where the woman had been 'educated in European surroundings' or had 'acquired European ways'. One of the effects of their interference was the introduction of a new law called '*laik bilong meri*' (what a woman wants) and kiaps sometimes went as far as to ignore the wishes of men when women informed them of who they would like to marry in court.

The Patrol Officers had a significant impact on customary marriage since they tended to treat marriage and divorce as an individual contract rather than as an exchange between two groups (Reay in Epstein 1974, p. 207). In divorce, the return of brideprice was seen as the final act concluding the marriage. This failed to recognise that the brideprice was distributed amongst relatives and other clan members to reciprocate for past obligations. When the kiaps treated divorce as separate from clan relationships, they did not account for the difficulty involved in returning an equivalent amount of goods to the original brideprice. Traditionally, this difficulty had worked to deter the incidence of divorce.

The kiaps treated women as jural equals to men and consequently, significantly raised the status of women within the system of social control (Reay in Epstein 1974, p. 207). This change was especially significant to the Bena Bena and Tolai cultures where women had little recourse in the

systems of social control. Women were given the same rights to take complaints to court, to own or sell property, to lay civil claims, and to sue for divorce. As Downs states (1980, p. 154) the '... courts seemed to Melanesians ... to have a biased regard for the status of women ...'. The traditional penalties for adultery were replaced with a three pound fine or imprisonment for six months or both. A man now had to face the kiap if he attempted to discipline his wife through traditional ways.

The Administration also introduced policies which allowed women to become employed in Administrator approved job positions, especially in domestic areas. They were prohibited from working in what the Administration regarded as unsuitable female positions such as mining, seafaring or jobs which involved heavy physical labour.

Orokaiva and Arapesh women were less affected by these changes due to their relatively higher status within their societies. Yet the prohibition of traditional penalties for adultery certainly had an impact, especially for the Orokaiva who had traditionally killed adulterous women. However, the effects of these changes were not all positive. The Orokaiva abandoned the practice of *'bi-dorobu'* which worked to protect women from ill-treatment. They gradually became dependent on the kiap to settle marital disputes and this traditional protection for women was lost. In all four groups, the incidence of divorce, adultery, and of children born out of wedlock increased. These changes had a devastating effect on marriage stability and led to family breakdown.

Pacification had an important impact on the four groups especially the Orokaiva and the Bena Bena whose cultures were very warlike. The change from war to peace impacted on the relationships between men and women. Many of the traditional ceremonies and rituals which taught the prescribed relationships required for a warring group were abandoned soon after the cessation of war. Bena men began to spend more time with their women. The Arapesh were less restrained in arranging the elopement of women. Interestingly for the Arapesh culture, pacification decreased the danger for sorcerers travelling the trade-paths and had the effect of increasing the incidence of sorcery. The means of achieving leadership within all groups changed after contact and this had a significant effect on their systems of leadership.

The missions were successful in weakening traditional value systems and they were able to increase the options available to women. They were particularly influential in changing attitudes toward the choice of marriage partner, brideprice and polygyny. They also succeeded in encouraging groups to allow some of their women to receive an education. Both the Administration and the missions worked to raise women's status. They were, however, in conflict on occasion about how to achieve this goal. The missionaries prohibited converts from practising polygyny and this had the effect of leaving discarded wives with no support especially since those abandoned were often the older women who had less opportunity

for re-marriage. They were also against brideprice, dancing, and divorce. The kiaps were less rigid in their approach toward changing these traditional customs although they also favoured their eventual change.

After Independence the Government's introduction of the Village Court system and the Probation system has also had an effect on women. The Village Court system in Papua New Guinea decides on cases which come before it on the basis of the appropriate custom. However, many of these traditional customs are predisposed toward the male point of view. Traditionally women were accorded less status than men and many of the customary ways, especially those to do with customary family law, create marital imbalance. These customs include those concerning brideprice and polygyny. Most disputes involving women which come before the Village Court involve family problems. Most of these problems have to do with domestic violence, desertion, adultery and sexual jealousy. All of these either directly or indirectly involve men.

Women are attempting to use the Village Courts to help raise their marital problems in a public forum. Since the Village Courts are often reluctant to hear family problems except when they involve divorce or violence because they feel they are too minor for their Court to have anything to do with, this suggests that women are resorting to the more public Village Court forum because they have failed to be satisfied at the informal level. Since sex-related cases most commonly involve assault the degree of violence toward women satisfies the Courts' seriousness requirement.

When women appear before Village Court Magistrates they are at a disadvantage due to their inexperience in the public sphere and to the demands of some cultures (such as the Tolai) of maintaining proper respect behaviours toward the very men they are opposing in court.

Village Courts order women to pay fines and compensation which they frequently cannot pay. These women serve the default time in gaol instead, leaving their families and communities behind for the duration of the default period. This sometimes results in further hardship, especially when their dispute has involved assaulting their husband's new girlfriend in public. If sent to gaol, these women have difficulty in maintaining their position in their homes once they are released.

Village Court Magistrates have been noted to insist on 'an excess of traditionalism' on women who come before them (Paliwala 1982, p. 222). This was in contrast to their attitudes toward most other disputes in which Magistrates appeared willing to compromise custom in favour of westernisation.

Women in all four groups were shown to have expressed some dissatisfaction of their treatment by the Village Courts. They have come to view the imported Court system as a more objective forum for them to raise their disputes. Some women expressed their dissatisfaction by appealing the decision of the Village Court.

The Village Courts do not regularly offer any assistance in the form of counselling or support to the women who require such help. If they do offer their advice it is given in the public Village Court forum which causes the woman embarrassment and shame.

The Probation Service has attempted to assist women who come before the Local and District Courts by relating the woman's side of the problem to the Magistrate in the Pre-Sentence Reports. Since women who come before the imported court system are often afraid and confused the Probation Officer acts to vocalise her point of view so that the Magistrate can consider both sides. In making their recommendations the Probation Officers often consider the customary practice of making a payment of compensation. Yet, if a woman is unable to pay, the Probation Officer will report this to the Court and perhaps recommend a condition of community work to satisfy this traditional requirement.

Probation Officers have been less likely to involve the community in the supervision of women's cases by appointing Voluntary Probation Officers. This appears to reflect their own interest in providing counselling and support to female clients. Since women are mostly involved in domestic disputes and this kind of dispute usually could not be described as 'criminal', one of the Probation Service's main goals in relation to women is to help keep them out of gaol. The Probation Offices dealing with Bena Bena and Tolai women have been largely successful in persuading the Courts that Probation is a more appropriate disposition in family related cases. Those Offices dealing with Arapesh and Orokaiva women have been less successful but this is partly attributable to the relative newness of these Offices and to the fact that these women come from cultures which have traditionally valued women more. These groups are relying on the Village Courts to deal with family cases or on informal methods. Nevertheless, in the present day it is disturbing to find that domestic violence against women is increasing as compared to its incidence during traditional times.

The Probation Service regularly deals with cases of domestic violence. During the Probation period attempts are made by Officers to counsel the couple to help prevent future attack and to stabilise the family situation. The counselling is done privately so little embarrassment is experienced by those concerned. Since domestic violence is endemic in Papua New Guinean cultures, and the campaign against domestic violence is relatively new, Officers appear to be reluctant to check that the men are not continuing to hit their wives. This is partly the result of a general attitude of unwillingness to interfere in domestic violence cases until they reach a crisis point and also to the need for training in how to supervise and counsel such cases.

There has been a dramatic improvement for women in their status and in their rights *within the system of social control* since traditional times. Since the traditional period, women's status within the justice system has

changed from being 'jural minors' to that of 'jural equals'. Yet the introduction of the Village Court system has meant that in that forum, women have returned to their previous status of 'jural minors'.

Aspects of the accusatorial system have worked to improve women's status within the system of social control. Women have done better under the introduced system because the system requires that accusations made against offenders are proven. Traditionally, proof was not necessarily required. It seems evident then, that the imported system has contributed to an improved status for women. Despite this conclusion, however, the system still treats women as dependants of men and as such, subordinate.

An examination of the relationship between law and custom pertaining to Papua New Guinea women reveals an interesting twist. As has already been demonstrated, the imported system was inappropriate for Papua New Guinea cultures because it did not fully take custom into account. Yet, ironically, these imported laws (outer controls) have provided the mechanism for partly freeing women from some of the extreme controls which have been exercised over them through custom (the system of inner controls). Custom in Papua New Guinea has not remained static. It has been influenced through contact with other cultures, economic systems, religion and systems of social control. Attitudes toward women have taken the longest to change.

As Papua New Guinea society continues to change, and women's roles also change, it will need to adjust itself to meet the new problems which arise reflecting those changes. Probation is in a position to help women meet these new problems by adapting aspects of both custom and the imported system. This is especially true in the urban settings where the loss of community is more acute.

As has been demonstrated through descriptions of the four traditional groups, traditional Papua New Guinea was a society replete with violence. Traditions and customs are still very much part of the fabric of Papua New Guinea society especially in the rural areas where the majority of the population still live. It follows that contact with the colonial Administration and Independence have not eradicated traditions which command or permit the use of violence. Indeed, violence against women in the forms of domestic violence, rape and gang rape continue unabated.

Despite the differences in the cultures of the country (and these are illustrated in the four groups) there are clearly commonalities which, if properly analysed and adopted within the legal system could contribute towards a system more appropriately Papua New Guinean. This proposal has implications for the development of justice policy in the country and commonalities such as reciprocity and mediation can be creatively used to render the system more appropriate to the needs of the country.

Probation has been demonstrated to have had a positive effect on the status of women. However, further work needs to be done on the overall effect of Probation Orders on for example, husband and wife

relationships, reaction from the community, and reasons for breach of probation orders. It is considered however, that of the introduced sanctions for social disorder, Probation must continue to be developed, researched and generally nurtured, as it currently represents the only sanction capable of meeting the needs of people.

Probation has had a positive effect on the status of women in that an intermediary, the Probation Officer, is permitted to assist in ameliorating the often harsh judgments of custom. The Probation Officers themselves are functioning as agents of change in bringing techniques such as counselling into play to settle marital disputes.

It is unfortunate that a woman has to be convicted of an offence before she can receive the benefits of a probation sentence. Perhaps there is scope for probation, in a modified form, to be used in the Village Court as a means of bringing to that forum the reality that excessive traditionalism is not the most appropriate way to deal with the problems caused by the rapid changes in society that have occurred and continue to occur in Papua New Guinea.

Contemporary justice policy emphasises the settlement by the community of its own disputes. In Papua New Guinea, programs which place the onus on the community have been implemented. The Village Court system and the Probation system (as it is adapted to the needs of Papua New Guinea) surely reflect contemporary solutions to problems of law and order. It is ironic that whilst western states try to turn back to community values and community support, countries such as Papua New Guinea are still firmly rooted in a traditional society based on that very same community. The challenge for Papua New Guinea is, in the words of the Preamble to its Constitution, to honour and 'acknowledge the worthy customs and traditional wisdom of the people' and at the same time, discard those customs and traditions which all societies would abhor as being inconsistent with 'respect for the dignity of the individual'.

Glossary

<i>a-dorobu</i>	marriage payment
<i>abullu</i>	feast where decorated piles of yams are displayed and quantities of meat collected
<i>agelu</i>	feasting and ceremonial ground
<i>ano'in</i>	rival, competitor
<i>aramagowen</i>	effeminate men
<i>avunculocal rule</i>	the couple resided with or close to the groom's mother's brother
<i>bi-dorobu</i>	return present from husband to in-laws
<i>buanyin relationship</i>	relationship between adolescent boys whereby youths were trained in qualities necessary for leadership. The relationship was one of exchange where reciprocal feasts and displays of gifts, particularly meat, were organised for the other partner.
<i>Dukduk</i>	male mask
<i>exuvia</i>	emanations of the body, such as semen, half-eaten food and saliva, used for sorcery practices
<i>garamut</i>	slit gong; type of drum instrument
<i>gipina</i>	warrior
<i>gunan</i>	sub-district; parish
<i>heratu</i>	clan's plant emblem
<i>kamara</i>	custom of using third parties to obtain assistance in avenging a wrong
<i>kiap</i>	patrol officer
<i>lualua</i>	senior elder
<i>luluai</i>	interpreter
<i>marsalai</i>	supernatural guardian of clans
<i>matrilineal system of descent</i>	corresponds with societies who reside on fertile land and have the capability of supporting small, stable groups of people
<i>matrilocal rule</i>	the groom marries into the bride's homeland

<i>meh</i>	shame
<i>nama</i>	a pair of bamboo flutes
<i>naname</i>	institutionalised friendship: friends from a man's period of seclusion during initiation
<i>ngala</i>	big men (higher status than lualua) who had personal followers and the sponsorship of a 'corporate' group
<i>otuhu man</i>	man who did not quarrel, beat his wife or children, mistreat his livestock or commit adultery
<i>otuhu woman</i>	woman who listened to her husband, avoided speaking angrily to him, practised fidelity, accompanied him everywhere and did not steal from other women
<i>patrilineal system of descent</i>	corresponds with less fertile ecological systems where competition over available resources is necessary for group survival
<i>patrilocal rule</i>	the bride moves to the groom's homeland
<i>pulu</i>	incest
<i>riowa bari</i>	payback
<i>rova</i>	large-scale war
<i>sisira</i>	sympathetic sanction whereby the victim retaliates against the unknown offender by inflicting injury upon himself so that pity for him will induce shame in the culprit
<i>tamberan</i>	supernatural patron of the grown men of the tribe
<i>tambu</i>	traditional shell money of the Tolai
<i>taraiu</i>	sacred grounds of the Dukduk
<i>Tubuan</i>	female mask representing one's ancestress
<i>tultul</i>	assistant to the luluai
<i>uviana</i>	wealthy men who managed the tambu (shell money)
<i>waribim</i>	stranger, enemy
<i>wishan</i>	sorcery technique that targets any member of the intended party's locality, causing calamity and hardship
<i>women's tamberan</i>	ceremony conducted at a girl's first menses

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