

**WOMEN IN TRANSITION:
A STUDY OF THE STATUS OF WOMEN IN THE TRADITIONAL AND
INTRODUCED SYSTEMS OF SOCIAL CONTROL IN PAPUA NEW
GUINEA**

by

CYNTHIA LOUISE BANKS

B.A. (CRIMINOLOGY), SIMON FRASER UNIVERSITY, 1980

THESIS SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS (CRIMINOLOGY)

in the School
of Criminology

c Cynthia Louise Banks

SIMON FRASER UNIVERSITY

June 1990

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APPROVAL

Name: Cynthia Louise Banks

Degree: Master of Arts (Criminology)

Title of Thesis: Women in Transition: A Study of the Status of Women in
the Traditional and Introduced Systems of Social Control
in Papua New Guinea.

Examining Committee:

Chairperson: Ted S. Palys, Ph.D.

John W. Ekstedt, Ph.D.
Professor
Senior Supervisor

Margaret A. Jackson, Ph.D.
Associate Professor

Colin Yerbury, Ph.D.
Associate Professor

Ian Whitaker, Ph.D.
External Examiner
Professor, Anthropology,
Simon Fraser University

Date Approved: June 6, 1990

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A Study of the Status of Women in the Traditional and Introduced
Systems of Social Control in Papua New Guinea

Author: _____
(signature)

Cynthia Louise Banks

(name)

5 June / 90

(date)

ABSTRACT

Papua New Guinea, an independent nation in the South Pacific, attained Independence in 1975. From 'discovery' until 1975 it was administered by Germany and Australia with Australia being the principal colonizer. Some parts of the country were not visited by the colonizers until the 1930s. Other parts came under colonial influence from the 1880s. This study examines the status of women within the system of social control from their position in traditional society, through the Colonial period, and in the post Independence period until the present day. It considers also the extent to which the colonizers took custom into account in the introduced legal system and the degree to which it is incorporated at present.

The status of women in traditional society is examined by way of a focused ethnography, and traditional social controls are described. The period from first contact until Independence is described and related to developments in the position of women and changes in social control through three agents of change - colonial administrations, justice systems, and mission influence. The analysis shows a major improvement in the status of women in terms of their ability to seek the protection of the introduced court system and the weakening of harsh traditional social controls operating against them. Through the study of the period from first contact it is apparent that the colonizers did not fully take custom into account in the introduced system of social control. The post-Independence period is then examined. The status of women is looked at in relation to the system of Probation and the Village Court. The integration of custom into the Probation system is examined and the effect of the Village Court system on the status of women is analyzed.

The conclusion is reached that, although the introduced system of social control was inappropriate to Papua New Guinea cultures because it did not fully take custom into account, its introduction did nevertheless result in substantial improvements in the status of women in the system of social control. The discussion is supported by an

examination of the various definitions of the law/custom debate and the concept of incorporating custom into an introduced legal system is accepted and emphasized. Further areas of research are indicated including a study of violence and constraints to the continued development of Probation.

To James

ACKNOWLEDGEMENTS

I would like to thank every one who assisted me during the process of working through the many aspects of this thesis. Numerous people offered their help. The members of my thesis committee, John Ekstedt, Margaret Jackson and Colin Yerbury, offered their support and their faith that I would manage to gather everything that was required to put it all together in the end. They provided this support and guidance from the other side of the world despite the obstacles the mail, time changes and fax machines placed in the way.

The Probation Service staff in Papua New Guinea provided me with their 'stories', time, patience and genuine interest in the research I was doing. Certainly, special thanks go to the Chief Probation Officer for his assistance and support for my project and for sharing with me his culture and his insights, not to mention his dedication and commitment toward making a dream we both have shared come true. I thank also Noah Tade, Peter Worovi, Gerry Berry and Linus Lai for their assistance and cooperation during the field trips taken. In Goroka, Naomi Erebebe also shared her culture and home with me as well as with Colin Yerbury during his visit to Papua New Guinea. Elizabeth Passingan and Peter Worovi patiently answered my questions. In Maprik, Leo Tohichem, his family and fellow clansmen shared their experiences. Tony Hare and Paul Vilamur were most helpful. In Rabaul, Noah Tade offered his hospitality and assistance while his staff, Thomas Pasangu, William Wama and March Pukai spent hours with me sorting through cases. In Popondetta, Warrington Orere and John Kerare were most helpful. Suzy Vuvut and Gerry Berry's assistance at the NCD Office is also appreciated. Deborah Clifton's perceptive observations given during several marathon sessions were most beneficial.

I would be remiss if I failed to mention Rick Giddings for his time, hospitality, and willingness to share over 30 years experience and knowledge with me. Lynn Giddings, although she has been away for a few years, provided me with many important insights during the time we worked together in Goroka. Neil Leahy offered his hospitality and friendship and honored me by taking me to see his Great Uncle Danny Leahy. Thanks also go to my good friends Stella Miria for the hours she spent talking and listening to me about PNG culture and Diana Doherty, who provided long distance moral support and valuable aid in handling the bureaucracy.

Thanks go to CIDA for providing me with the funding to come back to Papua New Guinea to complete this research and the Papua New Guinea Law Society for allowing me to use its computer.

Most of all, I would like to thank James Baker for his never ending support, his invaluable contribution in knowledge, acumen and editing, and for being there.

TABLE OF CONTENTS

Approval	ii
Abstract	iii
Dedication	iv
Acknowledgements.....	v
I. Introduction.....	1
Culture.....	2
Commonalities of Culture.....	2
Commonalities in Systems of Social Control.....	5
1. Offences Against the Religious Code.....	6
2. Offences Against Human Beings.....	7
Self-Help or Retaliatory Action.....	10
Social Control within Plural Legal Systems.....	11
Law/Custom Debate.....	12
Functionalism.....	12
The Evolutionalists.....	21
Definitions of Custom.....	25
Discussion.....	27
The Relationship Between Law and Custom.....	28
Methodology.....	30
II. 'Taim Bilong Tumbuna' (Traditional Period).....	37
Introduction.....	37
Bena Bena.....	38
Background.....	38
1. Social Organization.....	38
2. Leadership.....	40

The Position of Women.....	42
1. General.....	42
2. Men's Institutions and Their Effect on the Role of Women.....	42
a) Initiation.....	43
b) Nama Cult.....	45
c) Male/Female Antagonism.....	46
3. Marriage.....	48
Social Control and Dispute Settlement.....	52
1. Inter-group Control - Warfare.....	52
2. Intra-group Social Control.....	53
a) Theft.....	55
b) Lying.....	56
c) Homicide.....	56
d) Rape.....	57
e) Adultery.....	59
Summary.....	60
Arapesh.....	61
Background.....	61
1. General.....	61
a) Plains.....	62
b) Beach.....	64
c) Mountains.....	64
2. Social Organization.....	67
a) Class One Relationships.....	69
b) Class Two Relationships.....	70
3. Leadership.....	72

Position of Women.....	74
1. General.....	74
2. Men's Tamberan.....	75
3. Marriage.....	78
4. Women's Tamberan.....	80
Social Control and Dispute Settlement.....	83
1. General.....	83
2. Ano'in Relationships.....	87
3. Warfare.....	87
a) Inter-locality Disputes.....	89
b) Inter-clan Disputes within the Locality.....	90
4. Sorcery.....	91
5. Tamberan and Social Control.....	95
6. Adultery.....	96
7. Kinship Curses.....	97
Summary.....	98
Tolai	100
Background.....	100
1. Leadership.....	101
Social Control and Dispute Settlement.....	104
1. General.....	104
2. Kamara.....	106
3. The DukDuk.....	108
4. 'Iniat' Society.....	111
Position of Women.....	113
Summary.....	118

Okokaiva.....	120
Background.....	120
1. General.....	120
2. Leadership.....	121
Position of Women.....	124
1. General.....	124
2. Marriage.....	125
Social Control and Dispute Settlement.....	129
1. General.....	129
2. Payback.....	130
3. Extra-group Social Control.....	131
a) Inter-Tribe Disputes.....	131
b) Inter-clan Disputes.....	133
4. Intra-Group Social Control.....	134
a) General.....	134
b) Retaliation.....	135
c) Public Reprobation.....	137
d) Sympathetic Sanction.....	137
e) 'Naname'.....	138
Summary.....	139
Conclusion.....	141
III. 'Taim Bilong Masta' (Colonial Period).....	149
Introduction.....	149
Agents of Change.....	151
1. Colonial Administration (New Guinea and Papua).....	151
2. Justice System.....	162
3. Mission Influence.....	167

Impact of Change.....	176
Bena Bena.....	176
a) Administration Influence.....	176
b) Mission Influence.....	186
Arapesh.....	191
a) Administration Influence.....	191
b) Mission Influence.....	196
Tolai	198
a) Administration Influence.....	198
b) Mission Influence.....	204
Okokaiva.....	207
a) Administration Influence.....	207
b) Mission Influence.....	214
Conclusion.....	217
IV. 'Nau Taim Bilong Yumi Yet' (Post-Independence Period).....	223
Introduction.....	223
Village Courts.....	225
Village Courts and Dispute Settlement.....	228
Village Courts and Women.....	231
Types of Cases Involving Women.....	233
a) Entry into Marriage.....	233
b) Disputes Arising During Marriage.....	234
c) Dissolution of Customary Marriages.....	235
Difficulties Experienced by Women before the Village Court.....	236
Probation Service.....	238
Probation and Dispute Settlement.....	243
Constraints on the Probation System.....	248
Probation and Women.....	250
Cases Involving Women.....	253

Impact of Agents of Change.....	255
Bena Bena.....	255
a) Village Court.....	255
b) Probation Service.....	257
Arapesh.....	260
a) Village Court.....	260
b) Probation Service.....	264
Tolai	265
a) Village Court.....	265
b) Probation Service.....	268
Orokaiva.....	270
a) Village Court.....	270
b) Probation Service.....	272
Conclusion.....	274
V. Conclusion.....	279
Inappropriateness of the Introduced System.....	279
Women and Social Control.....	289
References	302

CHAPTER ONE

INTRODUCTION

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 (Stephen Laycock in S.A. Wurm 1982). The Melanesian languages can be divided into two major language phyla, these being the Austronesian and the non-Austronesian (Wurm 1982). Since the societies are fragmented, customs, beliefs and practises, 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 (A.L. Epstein 1974:25).

This thesis focuses on the topic of social control and women in four cultural groups in Papua New Guinea; these being the Bena Bena, the Arapesh, the Tolai and the Orokaiva. Using a focused ethnography and making a survey of the literature on the four groups chosen this thesis will demonstrate 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, it will be demonstrated that it 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 discussion of the commonalities of Papua New Guinea cultures and of their social control systems, will be presented. This discussion will be followed by an examination of the relationship between law and custom in this chapter.

CULTURE

According to Kroeber and Kluckhohn (1952 in Eleanor Leacock 1971:228) "there are hundreds of definitions of culture" which can be placed into two groups. The first group defines culture by (in Leacock 1971:228):

"...refer(ing) to structures of values, world views, ideologies, orders of knowledge (including technology), religions, mythologies. In short, it refers to the entire *system of meanings* of some population which is delimited by possession of a unique configuration or pattern of such cultural meaning structures, by sociogeographic isolation, or by political boundaries."

The second group of definitions refer to (in Leacock 1971:229):

"...the interwoven network not only of meanings and behaviors but also of social bodies and relationships characteristic of some population delimited by the unique configuration or pattern of such a network, by sociogeographic isolation, or by conventional political boundaries"

Both sets of definitions include (in Leacock 1971:229): "the conception of independent, structural transmission through time of the unique ordering of relationships which is referred to by the term 'culture'. The dynamics are internal, part of the structured system of social relations of the delimited population, not epiphenomena to both."

The working definition used in this thesis is the one espoused by Roger Keesing (1981:67) who equates the concept of culture to a system of ideas. He says that:

"Cultures in this sense comprise systems of shared ideas, systems of concepts and rules and meanings that underlie and are expressed in the ways that humans live. Culture, so defined, refers to what humans learn, not what they do and make."

Keesing (1981:70) concludes that: "Culture consists not of things and events that we can observe, count, and measure: it consists of shared ideas and meanings."

COMMONALITIES OF CULTURE

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 1974:25; Lawrence 1969:21). 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. 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 (Peter Lawrence 1969:21).

Papua New Guinea is made up of patrilineal and matrilineal societies. Lawrence (1969:21) 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 one, which is relevant for this thesis, includes matrilineal groups who base their ancestry on a dual organization by dividing themselves into two moieties (or halves). This type consists of many matrilineages, divided into matrilineages. Each matrilineage belongs to one of the two moieties. This third 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 (1969:22).

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.¹ 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

¹ For a full discussion on the position of women in relation to horticultural societies and the matrilineal or patrilineal systems of descent see the conclusion in chapter two of this thesis.

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 to generally work toward 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 matrilineal 'strangers' within the group. As mentioned earlier, matrilineal systems of descent (using the matrilocal rule) tend to have stable, abundant subsistence economies. 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. 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 IN SYSTEMS OF SOCIAL CONTROL IN PAPUA NEW GUINEA²

Just as there are uniformities in Melanesian culture generally, there exist common principles in traditional mechanisms of social control and dispute settlement (Epstein 1974:8, 25). Both Epstein (1974:25) and Lawrence (1969:25-34) 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 1969:24). This is due to the fact that Melanesian societies have no centralized 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 organizing trade, feast-exchanges, and initiation" (Lawrence 1969:24). They have the ability to manipulate and influence the members of their group. Yet these leaders differ from those in authority in western societies in three ways (Lawrence 1969:24-25). Firstly, 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. Secondly, their authority does not apply judicially. Lawrence (1969:25) notes:

² The term social control used in this thesis is the one defined by Stanley Cohen (1985:1-3). His conception of social control includes the "organized ways in which (a) society responds to behavior 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.

"The leaders and the elders in each community do not give legally binding decisions. In some societies, such as the Garia, they do not play any special part in the settlement of disputes: their suggestions may be ignored or even rudely dismissed by younger men with alternatives to offer. In other societies, such as the Kuma of Minj in the Highlands, they may be of considerable importance in this field, but, unlike the actions of western officials, which are governed impartially by the law of the state, the solutions they offer must be acceptable to their followers to be taken seriously. Thus, in the context of disputes, they must be regarded as exercising influence or *de facto* power rather than true authority."³

Thirdly, the jurisdiction of the leader's authority or 'social range' is limited by the fact that his authority does not apply to outside groups.

Lawrence (1969:26-34) 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: 1) offences against the religious code which include failure to recognize ritual and initiatory taboos and to observe the secrecy surrounding male cults and; 2) offences against human beings which can be sub-divided into a) wrongs of omission (for example disregarding obligations to relatives, affines, exchange and trade partners); and b) wrongs of commission such as adultery, rape, homicide, theft and proscribed marriage.

1) Offences against the religious code

Lawrence (1969:26) 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 offences 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-

³ In theory there is impartial law in western societies yet in practice it may not be as impartial as Lawrence implies. This is evident in Rita M. Bienvenue and A.H. Latif's Canadian study comparing the disposition and recidivism rates for Indians and whites in Winnipeg, Manitoba (1974:105-15). The study shows that Indians are over represented in police arrest rates (Indians comprise approximately 3% of the population but are arrested for 27.2% of all male offences and 69.5% of all female offences.) Most offences committed by Indians were minor alcohol related crimes. The conviction rates were similar in that 27.9% of males convicted were Indian and 70.6% of convicted females were Indian.

luck in agriculture, fishing or hunting, or illness, deformity, and even death" (1969:26). 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.

2) Offences Against Human Beings

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

Self-regulatory forces work through the processes of socialization, shame, public opinion, criticism and the rule of reciprocity. The socialization processes at work during child-raising were very strong. Children were impressed upon 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 (1969:27) 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 censure(d) his action. It soon induce(d) a sense of shame, which...result(ed) in either suicide or, more frequently, exile."

Socialization and public opinion functioned to sustain the moral code and it was through these forces that the traditional values were internalized and perpetuated (Lawrence 1969:27). 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 (1969:27) 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 (Lawrence 1969:27):

"The man who does not share the meat of the pigs he kills at feast-exchanges receives no share of those killed by others. The man who does not help his clansmen or kinsmen clear land for gardens or build houses will find himself without a labour line when he wants similar tasks performed for himself. The man who does not attend the funerals of his kinsmen will have nobody to mourn at his own."

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 (one which is not dependent on the use of money), binding individual members to a "system of chains of interdependence" (Lawrence 1969:27). 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 (Lawrence 1969:28). Nadel says focal activity describes any activity of such importance that "others depend on it in a practical and instrumental sense" (in Lawrence 1969:28). All other activities are therefore contingent on focal activity being carried out.

Lawrence (1969:29) discusses the relationship between morality, social control and self-regulation. He says, firstly, that statements of moral obligation merely recognize 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" (1969:29). 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 recognized where there are effective relationships which can offer material advantages. Lawrence (1969:29) 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 'penalization.' As Lawrence (1969:30) says, "self-regulation is obviously a feature of western society but is not recognized as a legal principle." Kenneth Read (1955a: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 internalized 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 organized legal system, self-help assumes maximum importance (Lawrence 1969:30). 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 1969:32-34). 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 (1969:34) 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 emphasize impartial justice and punishment being determined by the wrong committed. Relationships between the individual wrong-doer and the victim have less relevance.

SOCIAL CONTROL WITHIN PLURAL LEGAL SYSTEMS

Keesing argues (1981:320-21) that one can go astray in approaching the issue of social control by looking for 'the' legal system in that society since there may be more than one legal system in the society being examined:

"Different people may make decisions in different kinds of groups, or cases, or settings, with reference to different sets of standards. The different legal subsystems in a society may involve different spheres of life. They may involve different kinds of violation. Thus our distinction between civil and criminal offences may be mirrored in a Non-western society with a contrast between 'private delicts' and 'public delicts'. Or they may involve different groups. Thus cases involving members of a lineage may activate one set of legal mechanisms, cases involving members of a larger community another, and cases involving members of different communities a third."

It is important that the distinctions between law and custom be kept intact because the conceptual debate between law and custom can lead to a better understanding of both. If the distinctions are understood an assessment can be made of the impact that custom in simple societies has on the implementation of western legal systems and institutions. An attempt to evaluate this influence should lead to a better understanding of why custom continues to be a crucial consideration when examining the impact of western formalized law and institutionalized justice systems on custom-based societies. Since traditional "legal systems" may be very different from western legal systems, problems result when western systems are imposed onto traditional cultures without accounting for the beliefs and traditions of the people because a conflict of values and systems is created. Having established that circumstances arise where there is a need for different legal systems the task of identifying the components of a legal system or process can be undertaken.

LAW/CUSTOM DEBATE

The law/custom debate has traditionally been concerned with examining the various elements of both law and custom in order to ascertain whether or not the two serve qualitatively different functions within society. Approaching the debate in this direction carries with it the implication that one may find law to be more complex and abstract and thus inherently superior to custom. The truth or otherwise of this assertion revolves around the extent to which the theorist bases his assumptions on western ethnocentric attitudes about what constitutes progressive and mature law.

Nevertheless, the concept of law is western in origin and as such, is codified. It has elements of sanction, formal authority, universal application and formalized mechanisms to enforce codified criminal and civil legislation (Pospisil 1978; Hoebel 1954). Custom on the other hand is made up of a variety of internalized beliefs and traditions which include the element of sanction, but sanction without an authority-base (Malinowski 1959; Hart 1961 in Lloyd 1985).⁴ Empirically it can be shown that both law and custom have many of the same elements (Malinowski 1959; Moore 1978).

It is proposed to examine the law/custom debate conceptually by overviewing the definitions offered in the literature of law and custom. This examination will highlight the distinctions between law and custom and will show that these distinctions are of considerable importance when assessing the impact of western judicial systems on other custom-based cultures. Firstly however, it is important to offer a definition of functionalism since many of the definitions of law and custom take the view that both should be viewed in terms of what function they play in society.

⁴ The term authority-base is used here in the sense of a formal institutionalized source of authority.

FUNCTIONALISM

Much of the debate on what constitutes law has been based on the functionalist perspective (Malinowski 1959; Pospisil 1978). Functionalism has been summarized by Dahrendorf (in Lloyd, 1985:616) as having the following components:

1. Every society is a relatively persisting configuration of elements.
2. Every society is a well-integrated configuration of elements.
3. Every element in a society contributes to its functioning
4. Every society rests on the consensus of its members.

The functionalist perspective is largely a descriptive one and is based on a consensus view of society (Nader 1965). It has been criticized for "focus(ing) on what produces stability and continuity in society rather than what produces change and alteration" (Lloyd 1985:616).

DEFINITIONS OF LAW

In Crime and Custom in Savage Society, Bronislaw Malinowski (1926, Reprint 1959) described the Melanesian attitudes toward social control. He emphasized that when studying other societies it should not be assumed that the same legal systems found in the west can also be found in these societies. As a functionalist, he said that in non-western societies, "law ought to be defined by function, and not by form, that is we ought to see what are the arrangements, the sociological realities, the cultural mechanisms which act for the enforcement of law" (Rasing 1984:20). Malinowski argued that (1959:64):

"The fundamental function of law is to curb certain natural propensities, to hem in and control human instincts and to impose a non-spontaneous, compulsory behavior-in other words, to ensure a type of co-operation which is based on mutual concessions and sacrifices for a common end."

By primarily looking at function he failed to delineate clearly what form legal systems or processes take.

Malinowski attempted to distinguish law from custom but failed to make the distinction explicit because his broad definition of law includes all forms of social control

that contribute to order within society. He incorporates in his concept of law (Rasing, 1984:20):

"...the rules which curb human inclinations, passions or instinctive drives; rules which protect the rights of one citizen against the concupiscence, cupidity or malice of the other; rules which pertain to sex, property and safety...."

Malinowski failed to elucidate the inherent differences between the rules of law and custom. He discussed the fact that custom must have the element of sanction to ensure conformity and outlined the various types of sanctions according to a continuum. At the lower end of his continuum is the (Malinowski, 1959:65):

"...mere sanction of tradition-the conformatism and conservatism of the 'savage'-operates often and operates alone in enforcing manners, customary usage, private and public behavior in all cases where some rules are necessary to establish the mechanism of common life and co-operation and to allow of orderly proceedings...."

His continuum proceeds to address the sanctions concerning religious ritual, burial, mourning and "the imperatives of behavior between relations" (1959:65). On the other end of the continuum lies the "sanction of tribal punishment" that deals with human life, property and personal honour. These last rules are the Melanesian's equivalent to 'criminal law,' the previous rules being related to 'civil law' (1959:66). Malinowski concluded that, "the rules of law form but one well-defined category within the body of custom" (1959:54). He defined the rules of law by stating that (1959:55):

"...they are felt and regarded as the obligations of one person and the rightful claims of another. They are sanctioned not by a mere psychological motive, but by a definite social machinery of binding force, based ...upon mutual dependence, and realized in the equivalent arrangement of reciprocal services...."

Wm. Rasing (1984) notes that Malinowski, in his attempt to reject the western overdependence and emphasis on the law side of the debate, "actually does the same in taking law to be the whole of reciprocal relationships that extends into all departments of social life...."custom", rather than "crime", comes to be emphasized" (Rasing 1984:20). And, we are left with the notion of 'customary law' instead of a clear understanding of the distinctions between custom and law.

A. R. Radcliffe-Brown (1952) based his concept of law on Roscoe Pound's; one which he admits is limited. Law is for him, "social control through the systematic application of the force of politically organized society" (1952:212). Contrary to Malinowski, Radcliffe-Brown felt it important to make clear the distinctions between law and custom "even if this meant that law was not a universal phenomenon" (Rasing 1984:21). He defines law as the following (Radcliffe-Brown 1952:212):

"...the field of law will therefore be regarded as coterminous with that of organized legal sanctions. The obligation imposed on individuals in societies where there are no legal sanctions will be regarded as matters of custom and convention but not law; in this sense some simple societies have no law, although all have customs which are supported by sanctions...."

The explanatory power of this definition of law is not sufficient to account for the way in which law or order is conceived and disputes unraveled and adjudicated. It focuses on legitimate authorities that are empowered to impose sanctions, two of the four elements of law outlined by Leopold Pospisil (1978). The physical sanctions are often imposed by institutions, usually political in nature, that are found outside of legal institutions and thus are not adequate elements to define the concept of law (Pospisil 1978:12).

Leopold Pospisil (1978) discusses the idea that the form of law influences the inquiry into where we can identify legal systems or legal processes. He says that when looking to the abstract rules of law we are limiting our study to mostly western societies since the existence of abstract rules within most non-western societies is a sporadic occurrence at best. Abstract rules have mainly existed in western societies since the 'codification of Roman law'. Instead, he thought the focus of the inquiry should be on the principles of law. This allows us to make cross-cultural comparisons since, "by accepting the principles contained in the decisions as the form of law, we make the concept of law exact, cross-culturally comparative, and universal" (Pospisil 1978:27).

Pospisil agrees with Malinowski that law is a functional component in all societies and it is therefore erroneous to look only to abstract codified legal concepts to measure the presence of 'law' in society. The point of contention between Pospisil and

Malinowski is Malinowski's belief that reciprocity is inherent in all social relations. Pospisil argues that this is not the case for all social relations in that his research showed subjects to be much less idealistic and pragmatic in their responses to the 'socially recognized legal and ethical code.' He states (1978:23): "A reciprocity consideration is certainly responsible for some behavior, but to elevate it to a panacea of universal social control is not realistic and has little basis in empirical studies."

Pospisil (1978) notes that others investigated the notion of law as a phenomenon rather than a concept and falsely surmised that law could be "objectively and absolutely defined." Pospisil contends that: "Law stands for a concept" and is a "category of human constructs" and as such is neither 'objective' nor 'absolute.' It has (1978:10): "...heuristic value as an analytical device. Thus, since the law concept is not absolute, and since the phenomena dealing with social control are an objective, unsegmented continuum, law can and has been defined in many ways."

He proposes that the definition of law exists within the identification of 'multiple attributes'. One attribute, the form or principles underlying law, has already been discussed. In addition, he postulates four other attributes of law; authority, universal application, obligatio and sanctions.

Pospisil's attribute of authority includes the rules and guidelines for behavior that are made by a recognized and accepted authority. The group or person making the rules must have enough power "to enforce the verdict-by persuasion or by psychological or physical compulsion" (1978:30). This person or group, he labels legal authority. Pospisil borrows his notion of authority from Austin who argues that, "law (is) really no more than a series of orders given to human beings, with penalties or sanctions attached for disobedience" (Lloyd, 1985:255). Pospisil then separates his use of authority from leadership which he argues involves decision-making powers exclusively.

He explains universal application by stipulating that the "legal authority making legal decision intend it to be applied to all similar or 'identical' cases in the future" (1978:43).

Obligatio pertains to the aspects of the decision which specifies 'the rights of the entitled and the duties of the obligated parties'. Obligatio is two-directional and combines the elements of the obligations and duties of both the victim and the offender. Obligatio bears resemblance to Malinowski's definition of the rules of law stated earlier.

He notes that sanction is an integral aspect of law. Pospisil denies that sanction is the equivalent of law since "many nonlegal (e.g., political) decisions, which are made ad hoc, do carry sanctions" (1978:48). Sanction includes both negative and positive penalties. The negative involves withdrawing or disallowing rewards or privileges and the positive involves "inflicting some painful experience, physical or psychological" (1978:51).

In his chapter on "Legal Dynamics" Pospisil (1978) classifies two types of laws, customary and authoritarian. Both types are present in complex and primitive societies, their differences being quantitative rather than qualitative. By this he means the differences lie in the 'degree of internalization' of the laws by the members of the group.

Customary law refers to those legal "rules that were not codified...or that were unwritten and had been used in the group from time immemorial" (1978:63). Customary law must include an internalized commitment to the rule by the members of the community. If a customary law is breached the act is followed by feelings of guilt or shame. As Pospisil puts it, "Conformity to a customary law is achieved mainly through an internal psychological mechanism rather than through external pressure, punishments, or threats" (1978:64).

Authoritarian laws are those that have not been internalized by the group but have been imposed upon them externally and is against the 'will of the majority of the people'. Compliance with authoritarian laws is enforced through the types of external

pressure referred to previously. Thus, feelings of internalized guilt do not accompany infractions of authoritarian laws. People generally are "afraid only of being detected" (1978:64).

The important distinction between customary and authoritarian law for Pospisil is that unless customary law is recognized by a 'legal authority' then it is not law but 'mere custom.' He nevertheless concedes that both types of law are present in primitive societies. He ascribes to 'law' "...virtually every form of rule pertaining to an organized group in any society" (Moore 1978:18). However, Pospisil fails to define his concept of custom. This is noted by Dickson (1987:129) who argues that, to Pospisil, "custom is what law is not - the object of authority." She goes on to assert that (1987:130):

"If custom law refers to those traditional practices which are so internalized as to render their violation improbable how might custom be revealed if its breach and the ensuing response to that breach reconstitute custom as law?...If a crime is not a crime until it is detected is custom only a custom if it is to remain unviolated?"

Morton Fried (1967:149-53) discredits the research on which Pospisil based his theory of custom and law (1967:150):

"...but his own case record requires him to dilute each (criterion of a legal system) to the point of abandonment. Of 176 cases presented in his monograph exactly fifteen were personally observed by him....Many of the episodes observed and recorded are devoid of even law-like character."

He also refutes the theory because Pospisil "removes formality from authority" and "power from law" (1967:152) in that he makes authority embody, "one or more individuals who initiate actions in a functional group whose decisions are followed by a majority of the group's members" (Pospisil in Fried, 1967:152). Fried argues that none of Pospisil's cases shows the decision being followed by the majority of the group.

In contrast to Pospisil, is E. Adamson Hoebel's (1954) theory of law. His search for a definition of law lead him to examine the functionalists "fusing of law and custom" (1954:21) in non-western societies, an error he felt was born in the "failure to apply Western legal concepts to other societies" (Rasing 1981:6). Hoebel contended that this

failure to make a distinction led the functionalists to conclude that there is no law in simple societies. Hoebel formulates his concept of law as follows (1954:28):

"A social norm is legal if its neglect or infraction is regularly met, in threat or in fact, by the application of physical force by an individual or group possessing the socially recognized privilege of so acting."

Hoebel argues that the two important elements of law are legitimate authority and physical coercion. According to his conception, there must also be the element of regularity of application. Sally Falk Moore (1978:18) argues that the difficulty in Hoebel's definition lies in the fact that effective coercion can be found without "the use of or even the direct threat of physical force." This denies the other forces involved in conformity to societal norms and practices. Moreover, it neglects to consider psychological sanctions inherent in the reactions of individual members of the community. Hoebel's work suggests an evolutionary model of societal development which includes diverse stages of economic complexity (Nader 1965:13).

Hoebel maintained that theory and method must be integrated so that 'jural postulates' (elements of law) could be identified enabling the researcher to make cross-cultural comparisons of law to be taken within their cultural contexts. He emphasized the study of trouble-cases which he felt led to realistic legal jurisprudence. (1954:37) This may have influenced him to only consider, "cases that had reached a 'crisis point'" as legal thereby omitting the numerous minor breaches predominant within simple societies (Dickson 1987:131). However, the trouble-case method has focused legal anthropologists' attention onto the actual apparatus of the law and has thus allowed them to scrutinize the disputing process itself. Llewellyn and Hoebel (1941) used the case method to discover their theory of law-jobs which they hoped would lead them to a clearer understanding of the question, 'what is law?' This new focus on process allows theorists to look at disputing cases and ascertain what elements in them contribute to the evolution of law within the group. The difficulty here is that he fails to acknowledge

and adequately establish that law and procedure are sometimes mutually exclusive and that a change in one can influence the other (Dickson 1987:134).

Van den Steenhoven (1955) bases his work on the Inuit of the Keewatin District, North West Territories on Hoebel's definition of law. He takes a formal law position instead of a functional approach in that for him, law must embody physical coercion or compulsion and be administered by a legal authority. He adds to Hoebel's concept by using Professor De Josselin De Jong's perception that another crucial element of law is that members of society must view the law as law and hence recognize its separateness from other norms "in that (an) infraction calls for a tendency towards a special procedure..." (1955:62). Using Hoebel's definition, Van den Steenhoven concluded in his own study that there was no system of law among the Inuit. Rasing (1984:8) argues that although his conclusion is consistent with Hoebel's definition, Van den Steenhoven does not go far enough. He feels that Van den Steenhoven equates law and social control and fails to distinguish law as a "definite organized form of social control" which will address the "interrelationships of the mechanisms or forms of conflict management...with the nature and organization of the Inuit society...." (1984:8).

Paul Bohannan (1965) differentiates law and custom by a process of double-institutionalization. He argues that Malinowski's claim that law based on the reciprocity of "binding obligations regarded as right by one party and acknowledged as the duty by the other" is not law but custom (1965:36). In order for a custom to become law it has to become "reinstitutionalized within the legal institution so that society can continue to function in an orderly manner on the basis of rules so maintained" (1965:36). This double-institutionalization involves a "statement and restatement of rights". To Bohannan, custom includes norms or (1965:35-6):

"...the 'ought' aspects of relationships between human beings but is both greater and more precise than norms, so law includes custom, but is both greater and more precise. Law has the additional characteristic that it must be...'justiciable' (meaning) that the rules must be capable of reinterpretation, and actually must

be reinterpreted, by one of the legal institutions of society so that conflicts within nonlegal institutions can be adjusted by an 'authority' outside themselves."

Nonetheless he acknowledges that his concept does not sufficiently account for societies where there is more than one culture or more than one centre of power. To rectify this problem, Bohannan provides us with a typology of his model of double institutionalization (Bohannan 1965:38).

	Unicentric Power	Bicentric or Multicentric Power
One Culture	Municipal Systems of Law	Law in Stateless Societies
Two or More Cultures	Colonial Law	International Law

Municipal systems of law describe a single legal culture (one that is subscribed to) such as the one found in southern Canada. Also under unicentric power is colonial law involving two or more cultures, one of which governs the other. There have been many historical examples of this. A primary one is the Australian colonizers ruling over the nation of Papua New Guinea prior to the nation's independence in 1975. In Papua New Guinea as well as other colonized nations, the colonizers typically have a vastly different perceptual ordering of the world than those colonized. This difference largely affects how the colonialists deal with disputes and the result is that their decisions are usually arbitrary.

Law in stateless societies is included under bicentric or multicentric power. Here there is no unicentric power system but instead, leadership roles between groups are involved. The resolution of disputes is usually through compromise. The second type of bicentric or multicentric power is international law involving two or more cultural

groups. Each group has a highly developed system of law which is based on legalized custom. Settlement of dispute in this case is complex due to the "cultural differences in the two or more primary legal systems" (1965:40).

Falk Moore (1978) points out that one of the strengths of Bohannan's typology is that it does not focus on central authorities. She suggests that central authority is an inadequate criterion for cross-cultural analysis since in non-European societies there are several organizational types including kinship lineage and bands. It also guides our inquiry into legal systems in terms of the relationship between law and social structures.

THE EVOLUTIONISTS

The notion that law evolves in its relationship with society was espoused by the historian F. K. von Savigny in the late eighteenth century. He perceived (in Lloyd 1985:868-69):

"...a nation and its state as an organism which is born, matures and declines and dies. Law is a vital part of this organism. Law grows with the growth, and strengthens with the strength of the people, and finally dies away as the nation loses its nationality."

Sir Henry Maine (1861) also asserted that law has an evolutionary component. He based his argument that societies progress and change as they advance through determined stages on his research into Roman, Greek and Hindu societies. He also maintained that as societies change so do their institutions, including law.

Maine developed an evolutionary stage model of law which began with a primitive stage where kinship groups settle disputes through the ad hoc decisions of the eldest male. He stressed that law is not present at this stage since there are no underlying principles being used in decision-making and there is no formalized process of dispute settlement. The second stage involves the merging of several kinship groups into one territory which, according to Maine, meant that there is a possibility of a mature law emerging. Mature law develops in the third stage where identifiable leaders use the principle of universality to make consistent decisions in similar circumstances and base

these decisions on underlying principles. This newly achieved mature law becomes the dominion of a few recognized leaders. In the later stages, "these legal principles - legal rules - are codified in order to eliminate the prejudice against the elite and to disseminate knowledge of these legal principles" (Rasing 1984:17). Later stage societies who were able to juxtapose changes in their legal rules with the changes that were taking place within their societies were called progressive. They developed 'mechanisms' to attune their legal rules in line with societal changes and those who failed to develop such mechanisms were designated as 'stationary societies.'

Maine bases his evolutionary theory on the metaphor of the family suggesting that primitive societies were organized on the basis of kinship. In the early stages, the ruler (patriarch) dictates over the ruled. This is called fixed status. As evolution takes place the authority of the family declines and there is "growth of individual obligation in its place" (Lloyd 1985:897) leading to individuals negotiating within society with free agreement. This is called free contract. There is a movement from family-organized society possessing collective property to individual-organized society incorporating the notion of private ownership. In terms of law, primitive family-organized groups resolve disputes through internal compromise, (civil and criminal law are indistinguishable), and more progressive societies resolve conflict on the basis of the individuals involved or through the notion of an individual committing an offence against the society as a whole (i.e. the state).

The generalizability of Maine's thesis is questionable since "he looked only at complex, currency-based economic systems (with) intricate political systems and, and perhaps most significantly, literacy" (Dickson 1987:138) and concentrated on in his words, "the communities which were destined to civilization" (in Harris 1968:190). His thesis does not account for societies organized on a system of matriarchy since he did not regard such societies as civilized. The theory does not permit cross-cultural comparisons to simple societies nor does it allow societies to bypass any of the stages as is the case

when a society is colonized (usually by conquest) and must accept the imposed laws of the colonizer. Consequently, Dickson argues that these conquered societies would still have law but questions whether those laws would "constitute laws which are obeyed" (1987:139).

Maine's evolutionary model of law focused western legal jurisprudence on changes in law "due to internal rather than external or acculturative influences" (Nader 1965:13). This began a lengthy tradition of western ethnocentric perceptions of western legal superiority.

Maine attempted to distinguish between customary law and codified law. He defined customary law as unwritten rules, the domain of the aristocracy, "which no longer permits the solution of particular disputes to be explained by supposing an extra-human interposition" (in Lloyd 1985:896). Codified law, or written law, allowed law to become 'objectified' so that the principles behind it could become known to all members of the society rather than merely a few. This distinction between customary law and codified law is insufficient in that both 'custom' and 'law' embody much more than the presence or absence of the written word.

H. L. A. Hart (1961) shuns the preoccupation with defining law. When addressing the question of 'what is law?' he borders on cynicism (in Nader 1965:5):

"What officials do about disputes is...the law itself"; "The prophecies of what the courts will do...are what I mean by the law"; "Statutes are sources of Law...not parts of the Law itself"; "Constitutional law is positive morality merely"; "One shall not steal; if somebody steals he shall be punished....If at all existent, the first norm is contained in the second norm which is the only genuine norm....Law is the primary norm which stipulates sanction." These are only a few of many assertions and denials concerning the nature of law...."

Hart's concept of law is that it is a system of social rules (Lloyd 1985:402-13). By social he means that "they regulate the conduct of members of societies" and that "they derive from human social practices" (Lloyd 1985:403). He outlines two types of rules; primary and secondary. Primary rules are the rules of criminal and tort law. Secondary rules are those related to civil law, rules governing the administration of justice as well as

jurisdictional matters. Secondary rules have a distinct relationship with the primary ones in that they dictate how the primary rules are administered.

These social rules are of two types; internal and external. The internal can be found in the 'ought' principles guiding behavior and producing conformity within the community. They are to be distinguished from habits and are found "in the normative terminology of 'ought', 'must' and 'should,' 'right' and 'wrong'" (Lloyd 1985:407). The internal also embraces the element of how the group feels about its own behavior and includes the subjective meaning the rules have for the members of society. External rules include the 'is' aspect rather than the 'ought' in other words, the observable component of social activity. The external rules include both the attitudes and behaviors of those who conform to the rules and the response to those who fail to conform to them.

Hart proposes that law in most societies possesses both the external and the internal aspects but that law does not necessarily include both. Implicit within primary law, (law which is based on compliance to internal rules), are the following inadequacies:

1. The uncertainty of primary controls is based on the loose interpretation inherent in a uncodified system of control;
2. There is a distinct lack of mechanisms to implement changes if a rule is antiquated;
3. There is no system or mechanism for determining an infraction and this determination is delegated to the individuals immediately involved which leads to a lack of objectivity.

It is necessary then, according to Hart, to organize and systematize the primary rules thus leading society to the achievement of external law. This is accomplished by formulating the rules of recognition and codifying external rules. Rules of change permit law to respond to the changing environment within society and the rules of adjudication formulate procedures that the officials must adhere to.

When there is an integration of primary and secondary rules a society can be said to have a legal system which will mature when the rules are observed by the majority and when the rules of change, validity and adjudication are "accepted as common public standards of official behavior by its officials" (Lloyd 1985:404).

Hart's model of law fails to account for the underlying principles which can conflict if several rules are in question. When they do, more rules are required to resolve this discord amongst the principles (Dworkin in Lloyd 1985:412).

Hart and other evolutionists have lead the law/custom debate into more specialized arenas where discussion revolves mainly around "the institutional and organizational contexts of legal obligation" (Falk Moore 1978:222). This focus eclipses the role of custom in the ethnological analysis of law. Paul Radin (1953) epitomizes this view in his statement: "A custom is, in no sense, a part of our properly functioning culture. It belongs definitely to the past" (in Lloyd 1985:935).

DEFINITIONS OF CUSTOM

In the anthropological literature there appears to be an attempt made to 'elevate' the notion of 'custom' to the status that 'law' has in western societies in an effort to establish that the two are 'one and the same' in terms of their function within society. This approach has led to a discussion of 'customary law' and an attempt to distinguish 'customary law' from 'mere custom'. The difficulty here, which has been argued by Colin Yerbury and Curt Griffiths in their discussion of North American Indians, is that although, "law existed...we should remain guarded about applying the term law to customary action, based on the idealized versions of social control mechanisms...." (in Kane 1984:20).

It is important to clarify what is meant by the term custom. According to Gary Yabsley (1984:4) custom "is often the embodiment of a society's most deeply felt principles of justice and public utility." He feels that it is necessary to understand the relationship between law and custom since it is this relationship that is the significant

element in what gives law legitimacy in society. This relationship becomes more crucial to a society as it matures on the evolutionary scale. He notes that (Yabsley 1984:5):

"...as society makes a transition from a non-institutionalized to an institutionalized form...law becomes the domain of the law-makers. It does not necessarily reflect the generally held views of the members of the society. This is particularly the case where the legal institutions and perceptions are those of another race altogether."

In a contribution to a definition of law which sees it as a dynamic process, Sally Falk Moore (1978) uses the term *reglementation* instead of law. She argues that the use of this term is broad enough to incorporate 'government law and non-governmental sites of rule-making and/or rule-enforcing.' 'Law' can then be used to label 'government enforceable' rules within complex societies. Those simple societies with the mechanisms or recognized authority figures or groups who can enforce the rules can then be said to be analogous to government in complex societies. Using Hoebel's definition of law, Falk Moore concludes that the rules to be enforced by this authority can be considered as law.

According to Falk Moore (1978:21), Vinogradoff (1925) uses the term *custom* in three senses which are relevant to her notion of *reglementation*:

"...it refers to the received 'traditional' law of a cultural community (colonial peoples or historical forebears). It alludes to the practices of certain transacting individuals (or groups) which gradually become general usage and are ultimately acknowledged as binding rules for those transactions, whether there is a state or not. And last...the rules and usages deliberately generated by non-governmental formal organizations and arenas to run their own affairs in the presence of the state."

Falk Moore asserts that by making these distinctions we are led away from the error of deceptively blurring the notion of custom into "a residual category for what is not law" (1978:21). This error neglects to pay heed to the derivations of the law or 'rule' and the social environment from which it came. As Falk Moore states (1978:21): "This fits very well with the perspective that all rule-making agencies other than the state are fully subordinate to it, and hence are analytically of little importance to the study of law itself."

DISCUSSION

One way the debate discussed could be summarized is by arguing that it is a discussion about inner and outer behavioural controls. Inner controls involve internalized belief systems about what constitutes good and proper codes of conduct within the group for the benefit of the entire group as well as for the individual (the concept of the group or community being the most integral to the survival of the individual in simple societies). H.L.A. Hart agrees with this assessment. He (in Lloyd 1985:406) states that: "...in 'primitive' societies an internal point of view on the part of its members is necessary for the preservation of group cohesion and solidarity." Yabsley (1984:4) also supports this notion in his statement:

"Within non-literate and non-institutionalized societies, custom formed the social bonding mechanism that provided for the survival of that society. To the extent that the custom needed to be enforced, by whatever means, it took the form of customary law."

This category of behaviors represents the custom side of the debate.

Outer controls are those rules and regulations imposed upon the individual and the group externally by one or a few persons in a compelling enough position to coerce or control the less powerful members of the group or groups to abide by those imposed rules. These outer controls are labeled law. Hart maintains that (1961 in Lloyd 1985:406): "In legal systems...certainly in stable, mature ones, it is not necessary...for citizens to possess an internal point of view. It is sufficient if the officials of the legal system have this view, though it is clearly desirable that citizens also experience it."

Laws can be, but are not necessarily based on the internalized control system of beliefs by the individual members of the group. The situation arises therefore where some customs or internalized control systems are also endorsed as law by those formulating them.

THE RELATIONSHIP BETWEEN LAW AND CUSTOM

For law to be most effective it must be based on custom or internal controls and belief systems. For when law is based on internal belief systems, guidelines for external behavior are consistent with the internal controls guiding the individual. Yabsley (1984:7) says that customary law should be acknowledged because: "...social adherence to a code of law is greatly increased if that code of law could be shown to be premised upon customs that have been and are being observed by the society."

Yabsley quotes Williams (1947) to further illustrate the significance of and the interrelationship between law and custom within society (1984:4-5):

"Custom is to society what law is to the state. Each is the expression and realization, to the measure of men's insight and ability, of the principles of right and justice. The law embodies those principles as they commend themselves to the incorporate community in the exercise of its sovereign power. Custom embodies them as acknowledged and approved, not by the power of the state, but by the public opinion of the society at large. Nothing, therefore, is more natural than that, when the state begins to evolve out of the society, the law of the state should in respect of its material contents be in great part modelled upon, and coincident with, the customs of the society. When the state takes up its function of administering justice, it accepts as valid the rules of right already accepted by the society of which it is itself a product, and it finds those principles already realized in the customs of the realm."

Law is ineffective in situations where members of society do not internally believe in its relevance or significance in their lives and therefore do not feel bound to comply with these rules unless of course, they are coerced.

In a discussion about the relationship between custom and law, Keesing (1981:328) notes that:

"...implicit normative codes are enormously flexible, adaptable to the uniqueness of the situation. In rendering normative codes as explicit normative codes, we 'freeze' them. We then need enormous human wisdom and skill to reintroduce this flexibility into a system of courts - to follow the 'spirit' of the law rather than the 'letter', to recognize and cope with the uniqueness of each case."

This does not suggest that there are never breaches of custom. It simply suggests that in simple societies unaffected by western influence (an improbable possibility in the twentieth century) there are fewer breaches and those breaches that do occur can be

dealt with quite effectively with little or seemingly little external action. The individual who has made the breach understands that he has committed an offence against the customs of his group and has therefore in a small or large way (depending on the offence) caused harm to or jeopardized the survival of the community. This is dealt with by the community on a level comparable to the harm the infraction causes to the survival of the group. Such techniques may include shaming, soaking and smoking by some tribes in Papua New Guinea or dropping the bound offender on the edge of enemy territory, an act inevitably leading to death (personal communication Rick Giddings 1985).

In simple societies breach of custom is usually community knowledge. Hence, the shaming technique is a very powerful tool for sanction. Simple societies have forms of external controls which are strongly based on an internal belief system. The threat of such sanctions or the knowledge that the group can impose such sanctions is an effective deterrent since individual members understand internally what these rules or customs mean to the survival of the community.

When external factors and controls are imposed from the outside on the community such as is the case when a colonial power imposes its system of law upon another culture, confusion and difficulty arise. These new and foreign rules or external laws are not based upon the internal belief system of the conquered group and commitment to abide by them does not exist. The newly imposed external controls are obeyed simply because the pressure or force to do so is greater than the force or power the community has to defend itself against this external power. It becomes easier and perhaps integral to the survival of the group to abide by the external rules. However, this does not eliminate the confusion caused to the individual members of these simple societies whose external behavior is made incongruous with his internal belief system regulating his perception of his world. As Yabsley puts it, "the inability of a legal order

to embrace these customary rules and perceptions can...have a devastating effect upon the members of that society" (1984:6).

METHODOLOGY

The methodological approach used in this thesis is that of a focused ethnography which has been defined by Keith Otterbein (1977:10) 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."

Part of the law/custom debate concerns the desirability of including custom in the formal legal system of any society. This thesis demonstrates the inappropriateness of the imported system in Papua New Guinea in that it failed to fully take custom into account. In order to establish 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 and especially within the traditional system of social control. Peter Lawrence (1970:44) 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."

This approach has been followed in chapter two of this thesis to establish the position of women within traditional society.

After the traditional position of women has been established in chapter two, an examination will be made in chapter three of the changes experienced by women generally within their societies and specifically, within the introduced system of social control during the period of colonial administration. Finally, a comparison will be made in chapter four 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 chapter dealing with 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 thesis relies heavily on the works of Margaret Mead (Arapesh), F.E. Williams (Orokaiva), L.L. Langness and Kenneth 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 practises often reflected the cultural biases and particular purpose of the ethnographer concerned).

The ethnographers used to describe the four groups are secondary sources (not present at the scene but who received secondary information from informants who were eyewitnesses to the events studied or who read primary documents (Bailey 1982:301)).

In some cases primary document sources (or testimony of eyewitnesses who were present at the events (Gottschalk et.al. 1945:10-11)) were used, particularly in chapter three which covers 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" (Gottschalk 1945:16). 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 1980:117). Oral primary sources were also used to collect information for the colonial period. Interviews were conducted with two individuals who were present in Papua New Guinea during this period.

The 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. Both Austronesian and non-Austronesian language groups are present. One matrilineal group and three patrilineal groups have been chosen. The selection of the various groups within the four regions was made on the basis 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 chosen 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 chosen

allow an examination of the full range of traditional social control techniques available within Papua New Guinea.

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

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.

In chapter four, which deals 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.

Direct questions were used in a total of 21 active interviews to elicit the information. The types of direct questions asked of Probation Officers included: What kind of offences are women being placed on Probation for?; Under what circumstances did these women commit these offences?; What dispositions are being given to women for these offences by the Court?; What kinds of special conditions are being imposed on

women on the Probation Order for these offences?; What did you do to provide assistance to women placed on Probation for this offence?; Did these women successfully complete their probation period?; If not, what were the circumstances under which they failed to comply with their Orders?; Does Probation supervision help women?; How does Probation supervision compare to other Court dispositions that could be given?; Are you familiar with any female cases which have been dealt with by the Village Court?; How has the Village Court dealt with these cases?; Did these women tell you that they were satisfied or dissatisfied with the decision of the Village Court?; If they were dissatisfied, for what reasons?

In relation to probationer's files, an examination was made of all the case files of women from the particular group being studied. 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. Questions asked included: For what kinds of offences do women appear before Village Court?; Are women satisfied with the decisions of the Village Court?; If not, why are they dissatisfied?; How many women appeal Village Court decisions?; Why did women file appeals?.

Interviews were also conducted with members of the Justice Department and other appropriate Government agencies regarding the treatment of women who come before the District Court, the Village Court and the Probation Service.

Official statistics from the Village Courts and from the Probation Service were used. Written materials include government reports and publications, ethnographies, policy manuals, newspapers, patrol reports, historical books, community group reports and Probation Service case files.

Participant observation techniques were used during two year period when the author worked with the Papua New Guinea Justice Department prior to the implementation of this study and observations were drawn from this period to support the assertions made in the post-independence chapter of this thesis.

CHAPTER OUTLINE

Chapter one of this thesis outlines the general characteristics of Papua New Guinea societies. It also examines the commonalities of traditional mechanisms of social control and the relevant issues and types of offences committed which must be considered before any application of the definitions of law and custom can be made. The definitions of law and custom are reviewed leading up to a discussion of the importance of ensuring that custom is accounted for when devising any formalized system of law for a nation such as Papua New Guinea.

The second chapter describes the traditional setting from which each of the four cultural groups have come. A general description of each group's social structure and internal relationships is given. Within each structure, the general position of women is outlined. Following this, the factors and institutions affecting the groups approach to social control are described as well as the types of wrongs which occurred within traditional society. The treatment of women within the traditional system of social control is also shown. The chapter ends with an analysis of the reasons why the four societies developed their chosen mechanisms of social control.

Chapter three sets out the changes experienced generally by all four societies as a result of three agents of change; the Administration, the introduced legal system, and the missions. Two of the agents of change, the Administration and the missions, were

applied to each of the four groups to demonstrate the effects experienced by women in these groups.

Chapter four examines two agents of change within the post-independence period, the Village Court system representing custom and the Probation Service representing the imported legal system. A comparison is made of the relative treatment of women by these two institutions and conclusions drawn about their respective ability to provide women with a vehicle for improving their status within the system of social control.

Chapter five offers the conclusions of the thesis. There is a discussion of the status of women in Melanesian culture as it is affected by the degree of violence shown toward them by men in Papua New Guinea.

CHAPTER TWO

'TAIM BILONG TUMBUNA'

INTRODUCTION

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, A.L. Epstein (ed) (1974:11-12) 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."

This chapter will look at the traditional methods of social control of four particular Melanesian societies, the Bena Bena, the Arapesh, the Tolai, and the Orokaiva prior to contact with the western world. Firstly, it will be necessary to establish the social context within which these traditional methods of social control were set. Secondly, the traditional institutions whose purpose within the societies appears to have included redressing acts considered morally wrong and harmful to individuals or to society as a whole will be detailed. And, thirdly, as part of the descriptive ethnographic view of each society, a discussion of the traditional position of women within the social organization during this period will be included in order to illustrate how the social controls were used in relation to them.

BENABENA

BACKGROUND

In 1930, when Michael Leahy and Michael 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 its 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.

The area known as Bena Bena is located east of the town of Goroka in the Eastern Highlands Province. In the 1960's, the area was populated with approximately 14,000 people (Langness 1969:38).

1. Social Organization

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:11, Langness 1967:161). Kenneth Read, the first anthropologist to study the eastern highlands cultures,¹ (1954b:24) asserts that the Gahuku-Gama behaviour patterns appear to be 'typical' of the eastern highlands region. Read's research on the Gahuku-Gama gives the social organizational details and the essential characteristics of the relevant groups that Langness agrees is similar in most respects although not identical, to the cultural characteristics of the Bena Bena people (Langness 1963:152, 1987:1).

¹ Kenneth Read is a social anthropologist whose involvement with Papua new Guinea began during the Second World War. Subsequent to the war he conducted two years of field work with the Gahuku-Gama people located in the Asaro Valley near Goroka in the Eastern Highlands Province.

The people the Leahy expedition discovered in 1930 were described as "cannibals, all armed with bows and arrows, and using stone axes" (Clune 1951:329). 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 1936:229). These villages were specially constructed to ward off would-be attackers. 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 1967:164).

The Bena Bena people are members of the non-Austronesian language phylum speakers of the highlands region (Read 1954b:6). The Bena Bena divide themselves into approximately 65 separate tribes. Each tribe consists of two to five patrilineal exogamous clans (Langness 1967:164).² The clan is the most important political group within the Bena Bena social structure. Each clan is autonomous and controls some territory. The clan is usually situated on a ridge top and is composed of one to three villages. Clans may help each other in warfare if they belong to the same tribe but 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 1967:165). 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.

² A patrilineal system of descent is one where descent is determined exclusively through males (Harris 1975:664). The exogamous rule "forbids an individual from taking a spouse from within a prescribed local, kin, status, or other group with which they are both affiliated" (Harris 1975:662).

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

2. Leadership

Leahy and Crain (1937:109) wrote that "there seemed to be no chiefs or persons of recognized authority" amongst the Bena Bena. His 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 mobilize 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 sizable 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 1968:191):

"...a man had to be able to organize 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."

D.K. Feil (1987:99) 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." He argues that it is only when a society evolves culturally to emphasize exchange as a method of social control

between groups that the leaders can be called bigmen. When the focus is on aggression, then the society is based on despotic leadership.

Langness (1968:191) notes that oratorical ability was valued but not to the same degree as western highlands groups. '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 1968:194).

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

Thus, it can be seen that leadership was clearly related to ability in warfare and the ability to ensure security for the clan members. In order to ensure security, it was necessary to emphasize male aggression and strength and to promote the qualities of clan loyalty and male solidarity within the society (Langness 1967:163). Hence, social institutions were designed to focus on the necessary qualities required to counter the perpetual threat of war.

THE POSITION OF WOMEN

1. 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 1974:191). 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. As Read (1952b:14) noted:

"...even in procreation, the woman is assigned a secondary part. She is merely a receptacle for the man's semen. Without a man, it is said, a woman is nothing; but the converse does not apply, for a man always carries around with him the potentiality of fatherhood, requiring only the submissiveness of a woman to achieve expression."

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:1974:202).

2. Men's Institutions and Their Effect on the Role of Women

Within the male institutions of the Bena Bena and Gahuku-Gama one can see in perhaps a slightly more dramatic form, the societal values and attitudes on relationships between the sexes. The attitudes of male solidarity, superiority and 'rigid separation of the sexes' were necessary values in their struggle for survival (Feil 1987:174-5; Langness 1967:163). Langness (1974:208) asserts that separation of the sexes and the antagonistic and oppositional nature of male/female relationships was necessary to the survival of the group:

"Young men are naturally attracted to females and must be forcibly kept in line lest their loyalties stray. If a man, in the depths of his passion, or even in his everyday routine, came to favor his mother or wife and wanted to please her more than he wanted to please and help his fellows, the foundation of the New Guinea social order would collapse. Men's loyalties would be divided between their own clansmen and their wives and their clansmen."

Not only was the oppositional nature of male/female relationships necessary to the survival of Bena Bena society, but men's control over women's labour and their bodies was absolute (Langness 1974:205). 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.

a) 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 organized. Within this institution, male superiority and solidarity were stressed. This was the result of the instability caused to society by the relentless fear of annihilation, and correspondingly, the requirement that its 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 five years old (Langness 1967:165). At this stage, they were taken from their mothers and ceremonially had their ears pierced. At age seven, they were once again taken from their mothers and this time 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 a long initiation period (Read 1954b:25; Langness 1967:165). The boys were secluded in the men's house for the duration 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 moulded after 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:27; 1955b: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. As Read (1954b:26-27) states:

"For the boy, manhood and physiological superiority are more a matter of chance and have therefore to be guarded, even engineered, in order to redress the balance of physiological inferiority. Initiation rites in consequence serve the same purpose for the male as menstruation for women. The one is explained in terms of the other, and the same idea, the cyclical expulsion of blood, lies behind the men's ritual of nose bleeding....Manhood, in fact, is never regarded as the certain result of a natural process, nor is it established by sexual maturity alone, for its supreme expression is cultural, the result of a demonstrated ability in those activities which are designated male."

A concise summary of the purification rituals learned by the young novitiates during initiation is found in the following (Simpson 1954:136):

"Here (says Read), his tongue and his penis are cut with a sliver of bamboo. Long canes are thrust down his throat to make him vomit - ridding him of any impurities which he may have absorbed through his association with women - and plugs made from a very sharp leaf are pushed up his nostrils. These are sawed up and down to make his nose bleed."

These rituals were practised repeatedly throughout the initiation process so that by the end of it, the boys were able to perform the purification rites themselves. The rites were to be observed by all men of the community after they had contact with women, particularly sexual contact. Women were not permitted to see the cane-swallowing ceremonies "under pain of instant death" (Leahy 1936:230).

b) 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 'nama' flutes themselves, she would be killed instantly (Read 1952b: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 1974:195).

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 1974:195). If a woman was successful in spearing a man, she was paid back with an arrow shot into her thigh. This act symbolized the antagonistic relationship between men and women.

Both Read (1952b:8) and Langness (1967:174) agreed that the women knew that the flutes were played by the men and not by the 'nama' bird. However, there were many aspects of the 'nama' and initiation rituals that they knew nothing about (Langness 1974:196). Both Read (1952b:8) and Langness (1974:209) 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. The men demonstrated male solidarity and their superior knowledge through the 'nama' cult. 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 1974:208).

c) 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 1974:207). 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 1967:172). The taboos taught were numerous and included (Langness 1967:165) 1) women must not touch a man's head or hair; 2) she must not enter a garden nor cook food for her husband when menstruating; 3) she must seclude herself in the tiny and cramped menstrual hut for its duration; and she must not step over a man. 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 1967:166). 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 1969:40). 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. Inconsistently, 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 1967:172).

After the initiation ceremonies were complete, the age-mates resided in the men's house and lived secluded from female influence for 6 or 7 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 1967:166). 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 to be upheld while a bride was found for all the age-mates.³ 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: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 1967:169). After several failed attempts, the youth began to feel

³ 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:23).

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. Marilyn Gelber (1986:85) suggests that highlands men demonstrate their own prestige, showing off to other men, by being brutal toward their women. In this, she (1986:85) 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 behavior. 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.⁴ Traditionally female infanticide was practised, although not assiduously (Langness 1967:166). This meant fewer eligible women of marriageable age when it came time to locate brides for age-mates (Langness 1964a). Pragmatically, the people, however, felt 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.

3. Marriage

The cultures of the eastern highlands do not "marry those (they) fight" as Marvin Meggitt (1977) has reported for the Mae Engan groups. Langness (1964b:178; 1968:193; 1969:49-50) and Feil (1987:125) conclude that there appears to

⁴ Both Langness (1967:175) and Read (1954b: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:25-6). He further states that women: "admit practising manual abortion and claim a knowledge of pharmacological specifics to induce sterility" (1954b: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:26).

be no causal relationship between marriage and warfare within the eastern cultures since war was waged with most groups within their range of contact. Langness (1969:50) 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. After marriage residence was patri-virilocal (Read 1959:425-427).⁵ Once a woman married, her personal and economic security was linked to her husband and not her natal group since as soon as the natal group accepted the brideprice it relinquished any of its obligations to look after her.

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 1969:51-53). Langness (1969:51-53) 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 important factors, which had an impact on established relationships, were patrilineal descent and male solidarity. Thus, in keeping with the 'paramount'

⁵ Patri-virilocal is the practice of women relocating to their husband's village which is located at or near the husband's father's residence (Marvin Harris 1975:664,666).

obligation of clan solidarity (Langness 1964a), marriage patterns allowed the clan to find brides, but did not inhibit the clan from breaking relations with an affine group if clan welfare was made vulnerable by the maintenance of such ties.

The theme of dominance and submission permeated the marital relationship. This was symbolized in one of the rites practised once the elders permitted a married couple to co-habit. 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: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.⁶ Langness found during his research with the Bena Bena village of Nupasafa in the 1960's, that between 25 and 30% 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 1969:47-8).

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 minimize or avoid the cost of brideprice by encouraging a married woman to abscond from her husband and come away with him (Langness 1969:47). Additional wives could also be obtained through capture in battle.

⁶ Polygyny is the "marriage of one male with two or more women simultaneously" (Harris 1975:665).

Polygyny was often the cause of much friction within Bena Bena marriages (Langness 1969:48). Fighting amongst co-wives was very common and often became violent.⁷

The incidence of divorce in the Bena Bena tribes was very high (Langness 1969:49). 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 1969:49). 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 1969:48). 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 women and this created tension between them (Langness 1969:49).

⁷ Langness (1967:171) 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.

SOCIAL CONTROL AND DISPUTE SETTLEMENT

1. Inter-Group Control - Warfare

Ronald Berndt (1964:200) 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 (1968:184) found similar causes of warfare within Bena Bena society. Berndt also noted that "warfare was bound up with the struggle for power and prestige."

Feil (1987:69) uses Langness' delineations of 'restricted' and 'unrestricted' warfare when discussing warfare in the highlands groups as a whole. The western highlands methods in warfare were 'restricted' since the possibility of resorting to warfare in inter-group disputes was mitigated by the fact that marriage was used as a method of building relationships of alliance and exchange, therefore minimizing the risk of warfare and producing greater stability and security. In the eastern highlands areas, warfare for the Gahuku-Gama and the Bena Bena constituted the 'unrestricted' variety since "extragroup relations (were) weak and undeveloped" (Feil 1987:88). These groups had failed to develop effective inter-group social control mechanisms other than 'unrestricted' aggressive warfare due to a high degree of insecurity within their external environment.

A clan reacted as a single group if it found itself attacked by an external force, but there was less solidarity involved when someone within the clan tried to mobilize men to attack another enemy group.

Once a group of intruders broke through the village barricade, they headed straight for the men's house, which were constructed with tunnels and special blocked doorways in an attempt to prevent attacks. Some groups even built bogus menstrual huts where a few men slept at night to help in the counter-attack once invaders were discovered. 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 1968:192; Feil 1987:69; Read 1955a:253). Leahy (1936:242) 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 population of the eastern highlands was more fragmented than the west, and this was due to the constant state of warfare involving anything from small scale 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 1968:188). The former, (called 'hina' by the Gahuku-Gama) were feuds following some dispute within the tribe (Read 1954b:39-40). These temporary feuds 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 latter, ('rova') involved a perpetual state of warfare between traditional enemy tribes (Read 1955a: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 1968:188; Leahy 1937:109). 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.

2. Intra-Group Social Control

Retribution was a recurring theme throughout the Melanesian systems of justice and social control, 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. Mick Leahy (Leahy Diary 1934 in Griffin 1978:183-4) 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 according to Read (1954b:23).

The Gahuku-Gama and the Bena Bena cultures traditionally did not appeal to abstract moral principles. Instead they "emphasize(d) the practical consequences of moral deviation" (Read 1955a: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 with whom one had social obligations. The social context within which any act of deviance had been committed was the measure of 'rightness' or 'wrongness.' Therefore, 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 on one's own clan (i.e. retaliatory action). As Read (1955a:256) puts it:

"...the manner in which people behave who are outside the tribal system of inter-group and inter-personal relationships is virtually a matter of indifference. More than this, the individual does not regard himself as being bound to them by any moral obligation: it is justifiable to kill them, to steal from them and to seduce their women."

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 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. The 'distributive' system of morality, "recognizes significant differences in the individual's moral obligations and responsibilities to other people...according to the positioning of other individuals within the system of inter-personal and inter-group relationships" (Read 1955a:257).

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:256, Langness 1987:15). 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.

a) 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: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; 1) whether members of the same subclan were involved; or, 2) members of different clans but of the same

tribe; or, 3) members of clans of different tribes considered allies; or, 4) a member of a group with whom the subclan had no recognized social ties.

Read (1955a: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. Langness' (1987:16) findings among the Bena Bena concur with Read's as he too found that pig stealing was condoned as long as the pigs stolen did not belong to clan members.

b) 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: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. As Read (1955a:263) puts it:

"To lie and to be deceitful may be regarded as bad, but almost in the same breath people joke about the manner in which they have either misled others or have escaped the consequences of some of their actions."

c) Homicide

Similar to the traditional Tolai value system, 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: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.

Social context, and therefore the degree to which an individual was socially bound to another, was the measure of morality. The emphasis was on social bonds between individuals and groups more than on the intrinsic value of human life (Read 1955a:262).

d) 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 1987:15). Unaccompanied women in the pre-contact period were considered vulnerable to physical and sexual attack. Thus, women simply did not go anywhere outside the village alone (Langness 1987:15; Berndt 1962:166). When discussing women's perception of the universal wrongness of the act of rape, Langness reported that he could not make comment. However, he observed that: "The information (he) gathered from women (led him) to believe only that they felt women should not allow themselves to be found alone" (1987:15).

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 1962:147-178).⁸ His analysis maintains that (1962:163): "...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)."

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" (1962:168). 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" (1962:168). Thus, 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.⁹

⁸ Read (1954b: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.

⁹ 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 1962:173).

Berndt (1962:172-3) gives several other examples of 'plural copulation,' which do not include any element of consent by the woman involved. These cases included the abduction of a woman from another district, or a woman from another district who had eloped, or who had been captured during battle. These women, considered outsiders, were victims of aggressive acts committed against non-clan members.¹⁰

e) Adultery

Adultery outside the clan was not acknowledged as a serious problem. Concealment was considered necessary, but Read (1955a: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: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 1974:204). This promiscuity threatened male power and control and therefore made it necessary to control female sexuality. Read (1954b: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

¹⁰ The woman was punished for her involvement in the gang rape both by her victimizers and sometimes by her own people if they were successful in demanding or purchasing her return: "There she may be beaten, sexually assaulted, or wounded for having been abducted or for having eloped" (Berndt 1962:173).

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:264).

SUMMARY

The most important socio-political unit within traditional Bena Bena society was the clan. However, internal cooperation was greatest within the sub-clan. The critical concern of the clan was its own security. Traditionally, eastern highland societies were aggressive and warlike, and male solidarity and aggression were the most valued qualities in the continual struggle for survival. Inter-group disputes were settled by warfare.

The position of women within the Bena Bena was one of absolute subservience and submission. Their role was bound to their husbands' need for male heirs and for labour in the garden and for care of the family's pigs. Male institutions and rituals emphasized oppositional and antagonistic relationships with women and stressed male dominance and superiority. Women were described as 'nothing' and as having 'no value.' Men continually reinforced the notion that women were polluting and therefore dangerous to men's strength and warrior abilities.

Since survival of the clan within an insecure and warring environment was the most important value, the divisive abilities of women were feared. If men were to become more loyal to their mothers or wives, they might choose not to fight against their affines when the clan was threatened in warfare. Divided loyalty could not be tolerated if the group were to avoid annihilation.

Within the clan, the closeness of the relationship between those involved in a dispute determined the wrongness of the conduct of each party. Acts that threatened the solidarity of the clan were punished with death. If clan security was unaffected by the conduct, it was not judged to be wrong. This wholly pragmatic

approach to the judgement of social behaviour was seen by the Bena Bena as a vital element in the process of ensuring the survival of the group.

ARAPESH

BACKGROUND

1. General

The family of Arapesh languages belong to the Torricelli Phylum and can be broken down into three major groupings: the Mountain Arapesh, the Southern Arapesh, and Bumbita (Tuzin 1976:18-19). The Arapesh language is a non-Austronesian language (Mead 1947:20). The group that will be the focus of this chapter is the Mountain Arapesh.

Margaret Mead's (1934b, 1935, 1938, 1940, 1947, 1950, 1967) and Reo Fortune's (1939, 1942, 1947) work on the Mountain Arapesh was based on seven months of fieldwork between 1931-32. 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: Beach, Mountain and Plains Arapesh. The same language is used by all three of these groups, but is curiously known as the 'Mountain Arapesh' language (Glasgow and Loving 1964 in Tuzin 1976:18).

The Mountain Arapesh are located in the northwest 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 (see map). Mead (1967:20) estimated their population to be 7,000 to 8,000 overall.

The Mountain Arapesh were culturally homogeneous being described by Fortune (1939:22) as:

"...a country of a common social culture, a common religion, a common technology, and a common language, despite petty differences of culture and of dialect, and despite the soil and climatic changes from coastal plain to hills to inland plains."

The Arapesh had no common name for themselves. They were designated 'Arapesh' by Mead and Fortune (Mead 1933-4:37 footnote) a word which was taken from their local language ('arapen' - singular and 'arapesh' - plural) meaning 'human being.' Fortune (1939:23) reports that the word 'arapesh' meant 'friends' and was also used to refer to 'distant personal connections'.

Of the three sub-groups which comprise the Mountain Arapesh language group, Mead and Fortune primarily studied the Mountain Arapesh and referred to the Beach and Plains Arapesh for comparative purposes. Fortune spent some time with the two latter groups; however, the main focus of his and Mead's research was on the mountain group (Mead 1967:20; 1950:417). This research will also refer mainly to the Mountain Arapesh as there appears to be no other research available on the two other 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 1967:20). 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 like their coastal brothers 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. This, they

did with the knowledge that the Mountain Arapesh feared their malevolent powers of sorcery (Mead 1967:23; 1935:11-12).

Mead (1938:326) suggests that a reciprocal relationship existed between the Plains people and the Mountain Arapesh because of the trade in 'exuviae.'¹¹ She stated (1938:326) that "the exuviae of most of the adult males of a Mountain community are filed in a particular Plains hamlet." She 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. Mead (1938:326) illustrates how the Plainsmen based their trade upon the threat of sorcery:

"In the Mountains near the Plains, it might be necessary to have exuviae of a member of the same hamlet; for exercising wishan on a man from the Beach, any exuviae from any Beach locality will suffice. So the sorcery power of the Plains acts as the narrow end of a funnel, drawing the attention and the fear of the Beach people towards the Plains. Out through this funnel-shaped area the Plainsmen walk safely to the sea, to get sea water and shells from which they manufacture rings."

The Plains people used both the Mountain and Beach Arapesh's fear of their powers of sorcery. They capitalized on this fear 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 1935:11-13). There was an economic interdependency among all three groups based upon the trading skills of the Beach

¹¹ Exuviae is defined by Mead (1947:419) as "emanations of the body used for sorcery practises." 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.

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 and lived in large villages.¹² 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 1935:8; 1967:22). 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 1938:321). They too sought access to the Mountain Arapesh's trade routes for particular trade goods such as feathers, net bags and tobacco (Mead 1947:210). Their need for access also included the search for 'exuvaie' 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 1947:207).

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:377). Mead noted that they were the poorest of the three groups due to their "technological inferiority" and their poor land (1938:320,329). Because of this inferiority, the Mountain Arapesh relied on the

¹² The houses were built on piles and were fifty to sixty feet long (Mead 1935:3).

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.¹³ He 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 1967:22). 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 instead of direct barter (Mead

¹³ 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 (1938:322) 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.

1938:329). Real profit did not often result from these trading practices. As Mead (1938:329) puts it:

"...because there is no chaffering over return and no set procedure prescribing the repayment for a gift on the spot, or that a solicitory gift go in a given direction, or that a certain kind of object be returned for another kind of object, there is no good mechanism for checking up on profit and loss. The confusion resulting from lack of fixed exchange procedure is very marked....Because of this confusion, many individuals actually walk in the wrong direction for profit. Probably only the very meager scale of all of the transactions prevents the recognition of this muddle or at least some resentment of uneven returns for goods and labor."

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 1967:22).

The extent to which a man participated in the business of trading was up to each individual. 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 involve himself to a greater extent. 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 1947:222).

The trade paths were also used for sorcery (Mead 1938:323-25). 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 sorcerized 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 (1947:222) all economic activity outside that involved in running a household was organized around two categories:

"...those which serve to strengthen ties between individuals or groups and which are therefore primarily sociological and only secondarily economic in function, and those which serve to redistribute within the group any surplus which may have accumulated and be temporarily in the hands of one of a few individuals. Very often one feast serves both functions."

In the first category equivalent exchange was given more weight than real gain. In the second, redistribution was emphasized. 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 1967:29).

2. Social Organization

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 awhile a woman was given property, but it was then considered as the property of her husband or sons (Mead 1947:218). 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 1947:182, 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 1935:45; 1947:190, 198). Trust was implicit within these

relationships since individuals could count on support and assistance from such established ties when they requested it. Mead (1947:203) explains:

"The Arapesh view of social relationships is congruent with his conceptions of kinship. He calls by some kinship terms all of those whom he can trust. Similarly, anyone who cannot be classified in some way, through identification with a series of intervening human links, as a blood or affinal connection, is potentially an enemy."

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 1947:204).

Mead classifies Arapesh kinship into two groups. Class One includes direct descent ties and same sex links such as sisters, brothers, mother's sister, father's parents, mother's parents, sons daughters and so forth. Class Two kinship ties includes all cross-sex links such as wife's brother, mother's brother, father's sister, husband's sister. The underlining assumption of the kinship system was that husband and wife were considered equal in the sharing of relations. Each took on the other's siblings of the same sex and siblings of the opposite sex. Matrilineal and affinal ties were thus considered as one in terms of emotional ties. Mead (1947:190) states:

"It is necessary to assume only two points: first, that the Arapesh regard differently all relationships which are counted through a sibling of opposite sex, and second, that husband and wife are equated and take over each other's kinship terminology and behavior. Every marriage between a sibling of the same sex and a new affinal relative endows ego with a whole set of relatives who fall into Class One, and every marriage between a sibling of opposite sex endows ego with a whole set of relatives of Class Two."

a) Class One Relationships

Only one relationship within this category was considered complimentary and that was the division between generations. Seniority was given "slight extra deference" (Mead 1947:192) and elders were given the moral obligation to care and provide for the young as well as to advise and assist them. Those younger were bound to accept the advice provided and to care for the senior members when they

were incapable of doing so themselves. Even amongst siblings this notion of seniority applied and younger siblings paid respect to their older brothers. Food was divided into two groups and assigned to the very young and the very old on the one hand and on the other, to those in their reproductive years according to the Arapesh value of 'growth' (Mead 1947:191, 220).

Aside from seniority, all other relationships were considered symmetrical within this category. Mead (1947:192-93) argues that this was demonstrated in the lack of taboos towards a brother's bride and the absence of formal avoidance or respect behaviour between brothers. This absence functioned to obscure competition between brothers particularly between the eldest son and the younger ones. Instead of competition, attitudes of friendliness and mutual helpfulness were encouraged (Mead 1947:194).

b) Class Two Relationships

Significant within the Arapesh culture was the importance of the mother's brother. The Arapesh system however, did not give more favour to the mother rather than the father. As Mead (1947:194) puts it, "...among the Arapesh there is no differentiation either in the ethos of men and of women or in the attitude of a man towards his own or his sister's child."

The special relationship between the husband and his brother-in-law was founded on Arapesh beliefs surrounding conception. They asserted that a child was the product of the mother's blood and the father's semen in equal proportions. The building of the child continued through repeated intercourse (called "work") for six to eight weeks after conception or "until the mother's breasts (were) discolored" (Mead 1940:350). In this way the volume of the husband's semen deposited was seen as matching the contribution of the wife's blood. Unlike the Bena Bena, where it was maintained that the mother made no contribution toward conception other than

that of being a receptacle, the Arapesh assigned an equal responsibility for the creation of their offspring.

Since brothers and sisters were made of the same blood so too were the sister's children and the mother's brother. The Arapesh tradition of child betrothal (see section on marriage) meant that the husband and his family purchased the blood of the bride with brideprice. Nevertheless, the bride's blood still belonged to her affines. This was institutionalized by the rule which required that the mother's brother be compensated whenever a man was injured and his blood spilled, when a man beat his wife and caused her injury, and when a woman died requiring her offspring to compensate her brothers for her blood (Mead 1947:195). It was also only the mother's sisters who were permitted to pierce the nose and ears of the infant and the mother's brother who scarified¹⁴ the daughter when she reached puberty. Mead (1947:195) notes that these practices signify a matrilineal derivation of beliefs even though the Arapesh superficially have a patrilineal system of descent.

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. However, this food was highly perishable and therefore could not be stored for feasts. 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 1967:31; 1934a:382).

¹⁴ Part of the ritual performed on the occasion of the pubescent girl's first menses is scarification. This was performed by the mother's brother. He decorated her shoulders and buttocks by making a series of cuts (Mead 1933:93).

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 (1967:24).

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 1935:19-22). 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, yet as Mead (1967:38) puts it:

"Each request (had) behind it the dignity of devotion; no ambitious man (was) subordinating others to his ends, requiring that others bask in his favor or work for him because he (was) rich and (could) pay them; each man (was) invoking the sanction of a common ideal."

Mead (1967:22) 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.'

3. Leadership

There was no formal political leadership (Mead 1967:20). The emphasis on men reacting to the requests of others and only rarely initiating activities contributed to their attitude toward leadership (Mead 1935:22). 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 1935:27-30).

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.¹⁵

The identified boys would be established early in a 'buanyin' relationship with a boy from another clan. The 'buanyin' relationship was one of exchange where reciprocal feasts and displays of gifts, particularly meat, for the other partner were organized (Mead 1967:33). 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'. The purpose of the 'buanyin' relationship was to train the youths in the qualities necessary for leadership. 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 (1967:33) 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 (1947:205) states:

¹⁵ The traits required for leadership included, "intelligence, energy, and a willingness to assume responsibility, to 'take his father's place' in emergencies"; good judgement, the ability to show angry aggression when necessary and successfully hosting 'abullu's' and other exchange ceremonies (Mead 1947:208).

"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."

The goal of balance is evident throughout the Arapesh society.

POSITION OF WOMEN

1. 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 (1947:202) 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 1947:213; 1967:40). Men hunted, cultivated yams, cooked the food for ceremonies, made fences and built houses (Mead 1935:39). 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 1967:44). 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 1935:62). 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.¹⁶ 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 1940:349). 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. All bad blood can be used in sorcery and is associated with sexuality, the non-observance of taboos and death.¹⁷

2. Men's Tamberan

The tamberan was a "supernatural patron of the grown men of the tribe" (Mead 1935:63) 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" (1967:38). 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 tamberan. The purification practices

¹⁶ 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.

¹⁷ It is interesting to note that menstrual blood was used as an emetic for those suffering from having been sorcerized. The menstruating woman would pound on the man's chest and her menstrual potency compelled the black magic to leave him. However, he carefully kept his 'hunting-hand' away from contact with her (Mead 1933:103).

performed in the latter situation were intended to protect the women from the harmful effects of the tamberan. It was believed that the tamberan hated women and would cause them harm through miscarriages and so forth.

Women were not permitted to see the tamberan 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 1935:68). Young uninitiated boys were not excluded from the tamberan but were permitted to observe and partake of the feasting. This benevolent attitude by the older men toward the women and uninitiated illustrates how they did not see the tamberan cult as an institution whose purpose was to maintain their distance and authority over women and children. It merely focused their attention on the importance of separating the different functions of men and women in Arapesh society (Mead 1935:63-69).

Since the tamberan cult was considered to be harmful to women, young girls learned to push all thoughts about the tamberan from their minds for if they were to allow their minds to contemplate its secrets, they might compromise their own safety and that of their families. Thus, Mead (1935:70) states:

"The feeling against women's participating in art and in the men's cult is one and the same; it would endanger the order of the universe within which men and women and children live in safety."

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 tamberan 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 tamberan'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 tamberan were revealed to the young boys during initiation. These secrets included the revelation that the voice of the tamberan was really made by the men playing bamboo flutes and banging the slit gongs called 'garamut' (Mead 1935:72-74). The women and the uninitiated were told that these sounds were the voice of the tamberan. 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 emphasized.

The young men entered the tamberan 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 1967:38). 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 (1935:75) 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. As she states (1935:75):

"Even the gauntlet that the initiates run between two rows of men armed with stinging nettles is not administered in a spirit of hazing, but so that the novices will grow. They are given no instructions that will make them hate, despise or fear women. They are subjected to a divinatory ceremony to find out whether they have been experimenting with sex or not, something that they know is forbidden because it will stunt natural growth. The boy who is found guilty is punished by being made to chew a piece of areca-nut that has been placed in contact with a woman's vulva, if possible with the vulva of the woman, usually his betrothed wife, with whom he has had intercourse. This ritual break of the most deeply felt taboo in Arapesh culture, the taboo that separates the mouth and the genitals, food and sex, is felt to be punishment enough; and while the guilty are punished, all are cautioned against similar indulgence. Sex is good, but dangerous to those who have not yet attained their growth."

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 1935:76).

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 anymore 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 1935:76).

3. 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. Thus, residence after betrothal was patri-virilocal (Mead 1947:196:1967:39).¹⁸

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 (1935:80) 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 1935:80; Fortune 1939:38).¹⁹ 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 1935:81-82). With the latter choice, the risk of possible sorcery

¹⁸ Patri-virilocal is the practice of women relocating to their husband's village which is located at or near the husband's father's residence (Marvin Harris 1975:664,666).

¹⁹ Mead also notes (1933:80-81) that: "The Arapesh believe that parents should be able to control their children whom they have grown, and on the same principle, they believe that husbands should be able to control their wives; they have grown them, they are responsible for them, they are older and have better judgement. The whole organization of society is based upon the analogy between children and wives as representing a group who are younger, less responsible, than the men, and therefore to be guided. Wives by definition stand in this child-relationship to their husbands, and to their husband's fathers and uncles and brothers, in fact to all of the older men of the clan into which they marry."

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 1947:197). The importance of increasing the number of ties between men was evident in the Arapesh attitudes toward incest that according to Mead (1935:84) 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."

4. Women's Tamberan

The ceremony conducted at the girl's first menses was called the women's tamberan (Mead 1940:349). The girl was segregated in the menstrual hut, which was specially built for the occasion (Mead 1935:92-93). 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 1935:95). 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 1935:96-97). 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 sorcerize 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.²⁰ Thus, widows would be married to their husbands' brothers or at least within the clan. Levirate brides integrated well within the existing marriage since the two women had already known and worked with each other for a few years.²¹ The first wife, who had been 'grown' by her husband and his family, did not lose any status through this

²⁰ Polygyny is the "marriage of one male with two or more women simultaneously" (Harris 1975:665).

²¹ Levirate is the "custom favoring the remarriage of a widow with her deceased husband's brother or surrogate close male relative" (Harris 1975:664).

arrangement and as a result the relationship between co-wives was generally amicable (Mead 1935:107-108).

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. Mead (1935:110) describes the Arapesh ideal of the manner in which marriages should develop:

"...the long years of betrothal during which two young people become inextricably used to each other, and the wife learns to look up to her older husband as a guide and near-parent; the first sex-experience an unforced, entirely private experience within this long-defined relationship; the gradual strengthening of the marriage bond as children are born and the young parents observe the protective taboos together; then as the husband approaches middle age, the entrance of an inherited wife into the household, a widow with children, one whom the wife had known always and whom she trusts."

This ideal was not always met when the husband took on a second wife from the Plains. According to Mead (1935:102), 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 "monopolizing all of her husband's attention..." (Mead 1935:103).

Divorce was only accomplished through arranged abductions (Mead 1947:196). Reo Fortune (1939:31) asserted that the "Arapesh approve(d) of divorce and promote(d) it only in hostilities, in bloodshed against enemies, and in the honor 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 (1939:38). In addition, Mead contended (1935:123) that the marriage system was not capable of handling conflict:

"...Arapesh marriage has no formal pattern that takes account of anger and hurt. The assumption is that the mild, gentle husband, eight years or so older than his docile and devoted wife, will live with her in amity. Her own kin keep no sharp surveillance over her. It is not customary for her to run home to her father or brother over some slight disagreement. Her husband is now as close to her as her own blood-relatives, as much to be trusted and relied upon. He and she are separated by no differences in temperament; he is simply older and wiser than she, and equally committed to the growing of food and children."

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 institutionalized relationship between brothers-in-law (Mead 1935:127). A fight often ensued between the husband's and abductor's group.

SOCIAL CONTROL AND DISPUTE SETTLEMENT

1. 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 1967:46). She notes that children were not trained to control their emotions but to ensure that they never harmed others when venting it (Mead 1935:50). 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. Mead states (1967:34):

"One's own indignation over an injury may be correctly expressed only in further injury to oneself. An angry man may actually cut down his own trees, destroy his own house, his pots or plates or rings, but he cannot inflict such injury directly upon the property of another."

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 1935:50).

According to Mead (1940:352), 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. Thus, Mead argues (1967:42) 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 (1967:33-34).

However, it was more difficult for the Arapesh to deal with the violent perpetrator. Mead states (1935:26):

"But against the really violent man the community has no redress. Such men fill their fellows with a kind of amazed awe; if crossed they threaten to burn down their own houses, break all their pots and rings, and leave that part of the country for ever. Their relatives and neighbours, aghast at the prospect of being deserted in this way, beseech the violent man not to leave them, not to desert them, not to destroy his own property, and placate him by giving him what he wishes. It is only because the whole education of the Arapesh tends to minimize violence and confuse the motivations of the violent that the

society is able to cooperate by disciplining those who provoke and suffer from violence rather than those who actually perpetrate it."

She posits 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 big men and who were not merely posturing (1967:43).

Mead further postulates that 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. As she puts it (1947:212),

"It now becomes intelligible why the final resort of anyone annoyed with his own close relatives and neighbors is to threaten to destroy his own property, his foothold there, and cease to work with them forever. This is a loss which no Arapesh community faces with equanimity."

Mead (1935:157) 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. Thus, 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 1935:141,145). She notes (1935:134) that the Arapesh:

"...regard both men and women as inherently gentle, responsive, and co-operative, able and willing to subordinate the self to the needs of those who are younger and weaker, and to derive a major satisfaction from doing so."

Fortune (1939:36-37) 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 1967:36). 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. The non-confrontational type of sanctions used within relationships included the following:

"...an angry man who feels a relative has been unhelpful and unresponsive to his wishes may tie a mnemonic knot in a draceana leaf, which means that he or she will never eat with the other person again. This tabu remains in force until the man who set it up looses it by giving a feast to the other person. It is very seldom resorted to, but more often threatened or ostentatiously deliberated over by disgruntled persons. Buanyins may dissolve their relationships forever by placing a wooden bowl set about with herbs in the feast place. A man who wishes to declare that his wife is unfit to feed pigs, because she has let so many pigs entrusted to her die, may set up a special sign outside her door, thus making the matter public and avoiding a private brawl" (Mead 1967:42).

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. Mead notes (1967:34):

"Quarrels between groups of individuals are always phrased as being a protestation against a friend's injury - the abduction of his wife or the loss of a strayed pig...Indignation of any magnitude is permitted only on behalf of another."

Outside the group the Arapesh employed the techniques of 'ano'in' relationships, warfare or sorcery. These are discussed below.

2. Ano'in Relationships

The term 'ano'in' meant "rival" or "competitor" (Mead 1947:205-206). 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 institutionalized mechanisms of social control through long-distance rivalry similar in fashion to the buanyin relationship, which competed through reciprocal feasting. Mead (1947:206) states:

"Such relationships may theoretically become hereditary, but as their only apparent function is to permit strong and disgruntled individuals to express hostility at a distance, it is not surprising that most ano'in lines are dead."

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 1967:41). If ano'in, the two men never met again but maintained their long distance rivalry. Mead states (1967:41):

"This one isolated institution, which has practically no cultural reverberations, is a refuge for those who, in spite of the training which their culture has given them, are still competitive and likely to see insult in another's triumph."

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.

3. Warfare

Mead (1935:23) argues that warfare amongst the Arapesh was virtually non-existent but that disputes between villages developed over women who were lured

away from unsatisfactory marriages. Reo Fortune (1939:24) refutes Mead's assessment in the following:²²

"...the continual piracy of women, with the women's consent, across sovereign frontiers was not left to the casual play of private sexual passions. It was a highly organized social pattern undertaken by sovereign communities against one another, and partly motivated by their collective rivalries and even hatreds....a social organization of women stealing from foreign localities prevailed amongst them, and was their traditional provocation for warfare, as head hunting, cannibal raiding, pig stealing, and revenge expeditions for sorcery are traditional provocations amongst other tribes of the area....The men of different localities were frequently on an explicit offensive and defensive in regard to their exclusive rights in women."

Fortune (1939:27) 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" (1939:27). 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 headhunting or cannibalistic purposes (Fortune 1939:28). Fortune (1939:26) 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 (1935:23) states that, "The feeling towards a murderer and that towards a man who kills in battle are not essentially different." Fortune notes

22 Donald Tuzin and Theodore Schwartz, in an article of appreciation commemorating Margaret Mead after her death, noted that even though Fortune refuted Mead's argument that the Arapesh (1979-80:245 - footnote): "...adhere(d) to an ideal of pacification...(a) close comparison of the two studies, however, shows that there is nothing contradictory in their respective arguments."

(1939:27-28) 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 sorcerize him.

Fortune (1939:29) argued that the woman's affines did not involve themselves in these disputes since the women's brother would not fight against his brother-in-law nor serve as 'bera libere'²³. The abandoned husband was a minor player in the dispute once a clan chose to fight since the elders and war leaders of the community were entrusted with the responsibility of the matter.

a) 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

²³ A 'bera libere' was a 'secret agent' retained by the individual(s) who wished to promote a war (Fortune 1939:28). This secret agent was related in kinship to the woman to be abducted. In this way his association with the woman would not be brought into question. The 'bera libere' would discreetly discuss her elopement with her and arrange the details if she proved amenable. Fortune noted that the 'bera libere's' job was made easier if the woman bore the marks of a recent beating from her husband.

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. Fortune (1939:31) concludes that: "The fact that such cases occurred shows that the team work between the absconding woman, the 'bera libere', the promoters, and all the people of their sovereign locality was often defective."

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 the prediction of 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' stolen²⁴ from them during previous periods of peace between the two groups. Tradition ruled that no man could die on the battlefield unless his 'exuviae' had been first handed over to the sorcerers.

The battle was usually considered decided when one side lost one or two men. As Fortune (1939:35) 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.

b) 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

²⁴ '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 double cross someone from his own group (Fortune 1939:31-32).

between hamlets over the abduction of women or over pigs began, according to Mead (1935:24), "...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 1939:33; Mead 1935:24).²⁵ Yet Fortune suggests that this restraint led dissatisfied factions to resort to retaliation through sorcery. He (1939:34) 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 1939:27).

The Arapesh did not engage in warfare to a significant degree. Nevertheless, they did fight with other localities and these fights were dependent to a large degree on the consent of women. Fortune (1939:37) states:

"...it is clear that Arapesh culture did not promote warfare to any very vicious extreme. Warfare was made dependent upon women's sexual consent in extramarital liaisons outside locality borders, and it was regarded with considerable distaste. The chances for domestic peace and for consequent peace abroad, were very high, and compare more than favorably with the chances for peace in other societies."

4. Sorcery

The greatest act of aggression an Arapesh could perform was "to open the door to death, by sending a portion of his neighbor's personality to the sorcerers" (Mead 1940:354). 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

²⁵ Wounded men had to compensate their mother's brother for the blood they spilled (Mead 1935:25).

to have died naturally of old age) (Mead 1940:356-7). Such aggression, according to Mead (1940:353), 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 rationalize this apparent inconsistency because they themselves did not perform the sorcery, but hired Plains sorcerers to do the job for them. Thus, all deaths, they believed, were caused by the hands of a stranger.²⁶ In other words, death was attributable to someone who was not tied to them in a friendly and trusting relationship.

The Mountain Arapesh did not have anyone within the group who understood the mysteries and skills with which to perform sorcery.²⁷ These 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' (leavings) 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 1940:356).

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

²⁶ The Arapesh word for stranger or enemy was 'waribim' which meant Plainsmen or literally, "men from the river-lands" (Mead 1935:54).

²⁷ 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 1935:158).

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 1967:43). Instead, the onus was attached to the individual who had "provoked this compulsive attack upon his personality" (Mead 1940:355). Provocation for the theft of 'exuviae' for both men and women included (Mead 1940:355):

"...disagreeing with others, by opposing their plans, by refusal to help, by any angry, unhelpful aggressive behavior towards others. This is the case for men....By illicit sex, a woman opens the way to sorcery. For a man, the surest way to risk death is through the sorcery opportunities given in illicit intercourse."

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 1947:251). 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.²⁸

²⁸ Mead (1933-34:49) notes that she did not specifically study in detail the actual methods used in sorcery because these practices were conducted only by the Plains Arapesh.

Methods of catching persons who stole 'exuviae' and passed it on to a sorcerer included staring ordeals, which exposed the culprit's guilt or innocence. Fortune (1947:252) explains:²⁹

"It is not uncommon to see a group of Arapesh men seeking to establish the identity of their evil-wishers in the magical line gathered in a half-circle round a suspect staring at him very hard indeed while he eats some of his accuser's food. If the suspect cannot contain the food under the staring ordeal, but vomits it, or fails to swallow it, he is judged to be the wanted man. His accusers do not usually assault him bodily as a result of such judgment, but they believe they have his external soul in the remnants of some food he has tried to eat, and they hire a sorcerer to work on these and take his soul from his body by magic."

If a Mountain Arapesh wished to kill someone, they could only do this through stealing 'exuviae' and hiring the services of an outsider or stranger to perform sorcery. Since these thefts were only thought to be committed in a state of anger, it was necessary for the thief to sustain his anger long enough to export the 'exuviae' packet out to the Plains sorcerer and then to send further payment to the sorcerer to carry out the necessary magical formulas to achieve the man's death. Mead argues that it was difficult for the mild and unaggressive Arapesh to sustain such anger for the required period. As she puts it (1940:354):

"So, to kill a man, one must first hate him, purloin his exuviae, hide it, keep it, dispatch it, and later, send a further and larger fee with specific instructions as to the manner of death from a lingering illness, a quick illness, from a wound, or from a hunting accident which one wishes visited upon him. Very few Arapesh men, schooled in gentleness and non-aggression, are able to sustain this degree of hatred."

Actions to counter or prevent sorcery included avoiding any illicit sexual encounter especially with strange men or women and following the safe customs surrounding

²⁹ Another method of black magic and divination included 'sagumeh' ('sanguma'), which was imported from the coast and was believed to have originated in the Madang Province further east along the coast. The Arapesh used only the method of divination (which involved chewing human bone dust and ginger) and did not use its powers of black magic. This form of divination caused the diviner to become possessed of the dead man's spirit and to reveal the identity of the culprit who had stolen the victim's 'exuviae' by answering questions or by leading the group to clues as to the culprit's identity (Mead 1938:341).

child betrothal in order to build up a trust relationship with a bride several years a man's junior. Mead notes (1940:355):

"In the case of women, the people say that a virtuous woman, who never yields sexually to anyone but her husband and who is careful to observe the marsalai taboos, will live to a ripe old age."

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 1940:355).

5. 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. Mead (1935:25) states:

"...the man who is injured in any way suffers not only in his person but in his supply of valuables: he must pay for having been in any scene in which he is injured. This sanction is extended to cover injuries in hunting, and involvement in a shameful situation. The general policy of Arapesh society is to punish those who are indiscreet enough to get involved in any kind of violent or disreputable scene, those who are careless enough to get hurt in hunting, or stupid enough to let themselves become the butt of public vituperation from their wives."

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 1935:26). In such circumstances, the voice of the tamberan (men playing flutes and slit gongs) 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 tambaran 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 (1935:117).

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 fire place 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.

6. 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 (1935:132) 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." Mead concludes, (1935:132):

"These adulteries within the clan are those which are most congruent with the whole Arapesh ideal of familiar love, and they make much less trouble than the situations in which old and established relationships between a betrothed pair are upset by death, or by the entrance of a Plainswoman with a different standard of life."

According to Mead (1935:104), 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" (1935:104). Given these attitudes the act of rape would have been viewed as inconceivably dangerous.

7. Kinship Curses

The most important kinship curse was embodied in the mother's brother curse, which "is the power which a man wields against his sister's husband and his sister's husband's children" (Mead 1947:199). This curse functioned within the Arapesh system to ensure that the brother-in-law fulfilled his responsibilities to the wife's brother. The curse called upon the ancestors of the wife's brother to curse the husband by making his wife barren or if she already had children, by causing their death through sickness. The curse was called upon when it was believed by the wife's relatives that her husband had not been fulfilling his duties toward his brother-in-law such as providing the expected affinal gifts and payments of rings and meat. Mead asserts (1947:200) that the real "failure is the failure to feel and therefore to act like a brother-in-law, the failure to cease to be a stranger." In other words the husband had neglected to engage in a friendly and helping relationship with his wife's brother thereby failing to honour the ties of kinship.

The removal of the curse could only be achieved by a ceremony that involved circling the wife's head with bark and fire tongs. However, the Arapesh allowed a

different mother's brother than the one who invoked the curse to remove it thereby weakening its intended effect. Mead concludes (1947:200):

"As it is so much more an expression of personal disappointment and affront than it is any sort of effective social sanction for the collection of debts or enforcement of obligations, this is not very important."

Other kinship curses included those invoked by older brothers and sisters against a younger sibling. The effect of the curse on the sibling was to make him a poor hunter and slothful. Mead notes (1947:200), "...it is merely part of the family pattern for keeping the young in line, by calling in the ancestors to help, if necessary." The elder siblings needed only to speak out loud in formal language to the ancestors to bring about the curse and it could be similarly terminated.

SUMMARY

The Arapesh social system was based upon the formation and maintenance of individual ties through genealogy, marriage and trade. The personal ties worked together to support the Arapesh ideal of cooperation and growth within the patrilineal group. Each man spent the major part of his time responding to requests received from those he called friend and therefore from those he was obliged to support and assist. A good man was seen by the Arapesh as someone who devoted himself to the needs of others in the community.

The survival of the group was secured through the large network of friendly relationships and through women in their crucial role of helping to 'grow' and nourish the patrilineal clan. In order to maintain these relationships, the Arapesh went to extraordinary lengths to avoid conflict. If conflict were permitted within the group, its survival would be threatened. If conflict could not be avoided, the Arapesh used indirect mechanisms that displaced responsibility for hostility and aggression. Outsiders (Plainsmen) were used to perform sorcery. Within the group, the tamberan and the 'ano'in' relationship distanced the disputants. Divorce was

achieved through a contrived abduction. It was necessary to construct ways of resolving disputes that enabled maintenance of their ties and obligations to kin and allies. The methods they devised reflected their abhorrence for conflict and confrontation. Their abhorrence was also expressed in the practise of allocating responsibility for any conflict situation to the individual who was unfortunate enough to be the weaker party. No responsibility was attributed to the violent offender. Their approach to conflict appears to have blamed the victim for it was the injured who had to pay compensation and bear the responsibility for the offence. They assumed that the underdog in such situations had 'provoked' the other person causing him such emotion that he acted in an aggressive or violent manner.

Mead suggests that the Arapesh valued their women and that both male and female had similar temperaments that were predominantly gentle and trusting.³⁰ Women and men were assigned an equal responsibility for procreation. The Arapesh believed that both men and women had good and bad blood and had to be alert for the harmful effects of the latter. The men's cult did not train the initiates to become antagonistic and hostile toward women. They did not punish women for accidentally learning the secrets of the men's tambran.

Marriage was arranged through child betrothal. The lengthy period of betrothal produced a paternalistic attitude on the part of the husband and secured each partner's trust in the other. Women were the blood ties between groups of men and were valued for their reproductive capabilities. Although women therefore enjoyed a relatively higher status, it was at the expense of independence of thought and action.

³⁰ M. Fortes (1936:126) questions Mead's assessment of the Arapesh temperament, "...the Arapesh, whose culture, she continually insists, is based on kindness, gentleness and trust. Why, then, we may ask, the obsessive fear of sorcery to which she frequently refers?"

The Arapesh evolved a social system based on close ties with individuals. They believed this necessary for the survival of the group. They had to devise methods of dealing with disputes that would not injure those ties. Methods of social control were therefore relatively sophisticated and used as a last resort when the accumulation of social training failed to achieve a solution.

TOLAI

BACKGROUND

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. The Tolai are speakers of the Austronesian language phylum (T.S. Epstein 1969:12-13). Prior to contact the Tolai people, as a group were unnamed as such. The word 'Tolai' comes from the greeting 'To Lai' which means 'hello mate'. This greeting was commonly used between the workers from the Gazelle Peninsula in the gold fields of the New Guinea mainland in the 1930's and became the commonplace designation for the Gazelle indigenous peoples (Epstein 1969:13).

The Tolai people are thought to have originated from New Ireland. They migrated south to the Gazelle displacing the original inhabitants, the Bainings, who withdrew further up into the mountains (Parkinson 1907:55-56)³¹. Like many Melanesian societies of that time they were a warring and cannibalistic people (Brown 1910:141; Danks 1910:618; Bradley 1982:249-251; Parkinson 1907:122).

The Gazelle district was divided into subdistricts or parishes called 'gunan' which consisted of several hamlets (iklik na gunan). Matrilineal in descent, the Tolai

³¹ Parkinson was one of the first settlers into the Gazelle area arriving in the early 1880s. He established several plantations in the area and was keenly interested in documenting Tolai customs and practices.

were organized into several matrilineal clans (vunatarai) which collectively consisted of two exogamous moieties (Parkinson 1907:72).³² Marriage within a moiety was considered to be the same as incest and therefore taboo.³³ This allowed broader links to be made through marriage and permitted affable relations between two previously antagonistic settlements (Epstein, 1969:14). The normal practice was the settlement of a district by one clan and this practice still prevails today (Sack 1974:70).

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.³⁴ Thus, in family disputes, a woman could return to her clan with her children and expect their support (Parkinson 1907:67; Sack 1974:72). 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.

1. 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

³² Matrilineal descent is a system of reckoning "kin group affiliation through females exclusively" (Harris 1975:664).

³³ Ian Hogbin (in Ryan 1972:24) defines moiety as: "The division of a society into halves on the basis of descent. Every person must belong to one moiety and usually the groups are exogamous, i.e. a member of one moiety is obliged to marry a member of the other."

³⁴ Avunculocal residence is defined by Harris as the "relocation of a couple after marriage with or near the groom's mother's brother" (1975:659).

Tolai (Bradley 1982:31; Sack 1974:72-74). Political power was not achieved simply on the basis of seniority nor was it based on territory. Sack (1974:73) explains:

"there was neither an institutionalized hierarchy of leaders, nor was the kinship organization at any level formally linked to the territorial or residential organization 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."

Instead, leadership appeared to be founded on the principle of leading groups of people through their lineage rather than on controlling districts or territories.

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 1974:73). 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 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 'institutionalized' obligations toward their followers (Sack 1974:74). 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 1974:74; Parkinson

1907:63). Financial and personal backing was crucial in matters of the men's secret societies. They will be discussed in more detail later.

The Tolai had few external trade ties with other indigenous foreign groups (Sack 1974:75). Notwithstanding, 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 1969:21).

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 1974:76). 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 shell money ('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 a considerable factor in the more rapid development of the Tolai society after contact (Epstein 1969:18-20).

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 1974:76-77). Yet the difference between the two systems emanated from the fact that the social traditional activities encompassing all customs from birth until death, included the exchange of 'tambu'. Money, profit and

business were ubiquitous elements present in Tolai activities and the success of the activities were judged according to the profit acquired (Sack 1974:77; Parkinson 1907:90-91). 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 1974:77). This would enable an individual to fulfil his social responsibilities, the success of which was symbolized at death by the amount of 'tambu' left for distribution at his mortuary ceremony. Sack (1974:77) elaborates: "For this reason social rather than commercial activities provided the opportunity for making big money. It was the giver of feasts rather than the trader who could get wealthy (or bankrupt)." 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

1. General

In his book, Melanesians and Polynesians, George 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. As he put it (1910:251-52): "Public opinion, and shame which is felt when that is adverse, constitutes, I think, the rules for right conduct, and shame the punishment for any breach of the moral law." Brown also noted that the function of 'tabu' was to protect property (1910:273-75). If humans were unable to discover those individuals who had broken a 'tabu' then the "supernatural powers of magic" would ensure that the offender was punished. There were 'tabus' relating to sexual intercourse during and after secret ceremonies; shark hunting; and speaking the name of one's husband, wife or in-laws to name a few.

Similar to other Melanesian belief systems, 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 1910:176; Mouton in Deane 1933:109).

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:256).

For the Tolai, as well as for most Melanesian societies, the notion of retaliation was utilized 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. Epstein (1974:26) and Lawrence, (1970:45) as well as others, argue that Melanesian vengeance has a reciprocal and equitable quality which serves to bridle the amount or degree of vengeance to be administered in each case. Epstein (1974:26) states:

"Where a man has suffered injury at the hands of another the matter can only be settled by 'payback'; a New Guinean will seek vengeance, not overkill. When equivalence, has been achieved...right is seen to have been done."

Brown observed that the prevalent offences committed in Tolai society were the offences of homicide and adultery (1910:254). People viewed such acts as though they were wrongful acts committed against individuals and not against the state. Brown (1910:252) 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" (1910:141).

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 1910:254; Mouton in Biskup (ed) 1974:104, 107-108; Parkinson 1907:90).

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 1907:65). 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.

The Tolai social organization utilized specific forms of social control which will be discussed in the following subsections.

2. Kamara

The practice of 'kamara' could apply 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 contends (1972a: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 chief or '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 (1908:183-184). 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 1974:78-79). 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 other Melanesian societies could (Sack 1974:78). 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:250).

There were generally two ways 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 (1898:785) 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:253) noted that a man whose wife had committed adultery would ignite another's house on fire and place a clue outside so that others would realize whose wife was at fault:

"...If a wife's name is , for instance, Ia Walangur ...(Walangur is the name of a shrub) he will leave a little plant of this type. The people rush to the burning house, see the shrub and recognize the seduced woman."

These people would then attempt to collect an amount of 'tambu' from the man who had seduced the wife. If the demanded 'tambu' was not forthcoming then they would burn another house, causing a huge stir of angry emotion toward the seducer. The pressure on him was increased until the husband had been adequately compensated.

The practice of kamara was so commonplace as a form of social control that the first European settlers used it to their advantage. Brown (1908:184) used kamara to recover a stolen hatchet from the mission station and the first plantation owner, Parkinson (1907:66) used it often to procure compensation for stolen goods. Sack (1972a:250) argued that Parkinson used 'kamara' as a interim form of indirect rule prior to Colonial rule by the German government.

3. The DukDuk

The existence of the Dukduk was seen by early settlers and missionaries as the Tolai's method of law enforcement, the society having no formal courts or

political institutions (Powell 1884:61; Mouton in Biskup 1974:106-108; Brown 1910:270). 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 1974:74). 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.³⁵ 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.

One main function of the dukduk society appears to have been enforcing justice in cases where wrongdoing had taken place particularly in cases where there had been nonpayment of fines or compensation (Commonwealth of Australia, 1922-23:14). Brown (1898:780) maintained that the society was one "whose principal

³⁵ Brown (1898:780) 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."

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" (1907:571).

Brown (1910:69-70) 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. ³⁶

In serious cases, a number of 'Dukduk' would go to the offenders 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. In this situation Brown (1910:70) notes that:

"Dreadful violence and license are allowed to the Dukduk or to its representative, the Tubuan...Hence the people fear it to such an extent that they would rather suffer an unjust fine than venture to incur its' wrath."

Powell (1884:63) 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." Powell went on to say (1884:63):

³⁶ Mouton (in Biskup (ed) 1974:108) noted that the dukduk could be used as a method of collecting debts. The creditor would take some 'tambu' to the society and ask the members to collect the debt for him. He described the process, "The members of the dukduk, maybe twenty or fifty, go to the debtor's hut and stay there until they have collected the money, and while they are there they use all the belonging of the debtor such as food poultry etc, while some are waiting some of them go to the debtor's taro patch and help themselves with what they need and cook in the village, in such case the village is deserted, so the longer the debtor wait the worse he will get so as a rule a few hours settle the matter, the members bring the collected debt to the creditor..."

"(No) man is allowed to lift his hand against him, but must submit to everything the Dukduk does, if not his life is not worth a day's purchase, as the chief of the Dukduk's district will find a method of putting the offender quietly out of the way."

The Reverend Rickard (1890 quoted in Brown 1910:69), in a paper read to the Royal Society of Victoria in Australia described the activities of the Dukduk Society to be in reality, arbitrary and self-serving:

"Everything that was wrong in their eyes gave them an opportunity to extort shell-money (tambu); in this respect they were a terror to the doers of such evil as is condemned by native opinion; but 'might' with these natives is generally 'right', so that the weak, especially the women, were the victims of their lust for gain. If a woman were known to have a little hoard, it was not difficult to devise an excuse for dispossessing her of it. Thus, I knew a woman who owned a small basket of shell-money; she was accused of the serious crime of laughing at a man in the presence of others which caused him shame; he, being a member of the Dukduk, mustered a party at night to go with the Tubuan (female Dukduk) to her home, and they took the whole of her wealth."

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 Duk Duk house, where she became the property of the initiated" (1922-23:8).

Some disagreement exists in the early literature as to the exact type of punishments the Dukduk could exact upon offenders (Sack 1972b: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.

4. 'Iniat' Society

There is much less known about the more powerful 'Iniat' society. Reverend Danks (in Deane 1933:283) 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 (1974:75) 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 1907:479): "... (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 1910:72). For a price the wizard would exercise his powers on the targeted person.

One of the methods involved the wizard placing a 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 (1910:72):

"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 (1907:45). 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 (1907:489) recounted just how perilous the power of the Society could be for women in other ways than the magical dangers:

"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 European murders were planned during the secret meetings of the 'Iniat', the German Government prohibited 'Iniat' meetings which 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 1982:282). Instead of answering primarily to her husband's group as is the case with patrilineal descent, she was also 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 1982:63). In substance, he purchased her labour through the payment of bridewealth.³⁷

Women were required to adhere to avoidance and deference practices which restricted their relationships with the men who had authority over them. Sisters

³⁷ 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 1975:660).

were forbidden to touch their brothers 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 (1884:85) 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 1974:82).

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 (ed) 1974:103). 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 1907:67).

Polygyny was practised by 'lualua' and 'ngala' or by those who could afford to bear the costs of purchasing more than one wife (Brown 1910:119). 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 thus brought shame to bear on the line.³⁸ 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 due to the fact that 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 1907:198 in Sack 1974:89-90; Brown 1910:253).

A woman could cause shame to her relations if she were unchaste, if she was the victim of a rape or even if she was the subject of gossip.³⁹ J. Rooney (1886 quoted in Sack 1974:83) 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 lead 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

³⁸ Danks (in Deane, 1933:171) 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.

³⁹ Brown (1910:254) 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.

did not have to be based in fact since the real offence appeared to be that the woman was the subject of gossip at all and he felt that most often the gossip was "the work of some mischief maker" (Rooney 1886 quoted in Sack 1974:83).

Husbands were also often jealous of their wives and Brown (1908:188) 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 her 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 also 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 (1974:89) 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 the unquestioning belief in the accused person's guilt and then the retaliation taken against him or her. Mouton⁴⁰ (in Biskup 1974:104) 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 seems to derive 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 1974:90). The husband's property was regarded as having been tampered with and great shame had been caused to the woman's relatives (Brown 1910:253). 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. Parkinson (1907:66) illustrates this when recounting the following:

"Every married native, whether he has one or more wives is the absolute master of his house in the same way as the agala is head of the group. The woman is the man's property and she must work for him and should this right of ownership be infringed by a third party, the man is entitled to demand compensation which is, in nearly every case, governed by fixed rules and usages."

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

⁴⁰ Mouton was a French trader/plantation owner who lived in the Gazelle region for over 30 years before retiring to Australia.

shark would ever be caught from that canoe. As Brown (1910:241) 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."

SUMMARY

Once the Tolai displaced the Bainings into the mountains, they effectively rid themselves of any outside challengers. Although they engaged in internal warfare, their society did not emphasize survival of the group as completely as other Melanesian societies did who were forced to make survival their main focus. Since external threats had been mostly eliminated the Tolai could therefore afford to focus their attention on the internal workings of their society. As a result, they developed a highly individualistic and sophisticated social system which involved a high degree of competitiveness between those individuals.

This is best illustrated in their continual leadership challenges and in their profit motivated system of trade. Competition and profit were prominent features of their social and economic systems. Their preoccupation with property and profit was paralleled in their attitude toward dispute settlement. Profit underpinned the system of kamara which they used to redress wrongful acts, particularly those involving property loss. Additionally, their attitude toward adultery reflected their attitude toward property, since adultery was treated as though it were property theft.

The traditional position of women in Tolai society was one of extreme subordination to male control. This is evidenced throughout, by reference to descent, residence, marriage, division of labour, leadership and methods of social control.

Despite the matrilineal system of descent, control over land was exercised by the male resident (and his lineage) and residence was avunculocal so that a woman was subject to male control either as a daughter on land controlled by her father and his maternal uncles or as a wife on land controlled by her husband and his maternal

uncles. Women were subject to strict rules of avoidance and deference behaviour in relation to their maternal male relatives. They were required to work on their husbands' land once married since payment of bridewealth entitled him to the fruits of their labour. Obedience to all the males who exercised control over women was mandatory. Division of labour was such that women had no access to the very wealth that they worked to achieve. Nor did they have much access to the benefits of the wealth as their time was mostly taken up with labouring, food preparation and child-care. Women had no opportunity to attain positions of leadership since they had no avenues available to them to accumulate wealth or take part in warfare both of which provided the prestige necessary to assume a position of leadership. Thus, the traditional devaluation of women was reinforced by the social organization of Tolai society.

Women had no role in dispute settlement although they were often victimized by the techniques used. The subordinate position of women in Tolai society was also emphasised by their exclusion from and victimization by the men's secret societies; the 'Dukduk' and the 'Iniat'. The Dukduk and Iniat societies were very powerful and profitable sources of 'tambu' or wealth as well as formidable sources of prestige and leadership.

If women were to deviate even slightly from their strictly controlled position and role within society, their behaviour could be interpreted as a very severe transgression of the Tolai moral code. If this happened they faced extreme sanctions as the social control institutions worked to severely penalize those women who did transgress the moral code or those who were merely thought to have transgressed. The severe punishments inflicted upon them for even imagined deviations served to reinforce their powerless status.

OROKAIVA

BACKGROUND

1. General

The indigenous people of the Northern District were culturally homogeneous (Williams 1930:7) and spoke dialects of the Binandere language, a non-Austronesian language phylum (Ryan 1972:864). However, the people did not have a common name for themselves. On his 'inspection visit' in 1894 to the Mambare River region, Sir William MacGregor, first Lieutenant-Governor of British New Guinea, found himself greeted with the term 'Orokaiva!' meaning 'man of peace' (Williams 1930:3). Despite the fact that this term was not used by all the Northern Division tribes of the area, they subsequently became known as the 'Orokaiva.'

The 'Orokaiva' people classified themselves into three groups in accordance with the environment surrounding them. 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 in present day Papua New Guinea). 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 6 - 12 houses) were constructed on the fertile slopes of Mt. 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 (small game animals in the Mt. Lamington area these animals

were effectively wiped out after the use of guns in hunting became more prevalent in the 1950's (Baxter 1973:33).⁴¹

In the Northern District the 'Orokaiva' people were divided into seven tribes occupying seven territories (Waiko 1972a: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 1930:131). Residence was patri-virilocal (Baxter 1973:28). Clan members did not restrict residence to one village. They could reside in several villages 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 1972a:4-6).

2. Leadership

Leadership was based on seniority and influence (Schwimmer 1970:8). 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 1970:8):

⁴¹ Much of Orokaiva systems of myths and beliefs as well as many social activities within their culture focuses on the taro plant (Baxter 1973:32).

"...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 1970:8). 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 rather than an authoritative decision maker with formalized powers. Leaders strived for the ideal of balance.

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 1953:112-113)⁴². 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 1953:113). He would then emulate the threatening behaviour and laugh. These were deliberate attempts to frighten the male children in order to condition them to acquire the appropriate qualities of a warrior. Female children were frightened only incidentally as no real effort was made to condition them in the same way.

⁴² Marie Reay is an anthropologist who first studied the Orokaiva in the early 1950s until the volcanic eruption of Mt. Lamington made research in the area impossible. She later studied the Kuma group in the Western Highlands Province.

Both male and female children were initiated at puberty although the females were not required to participate in all three stages of initiation (Reay 1953:114). 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. Girls also participated in the initiation seclusion period along with the boys although they were generally housed in separate quarters. There were three stages of initiation as outlined by Williams⁴³ (1930:180-209; Reay 1953:114). They were: the 'terror', the 'seclusion', and the 'investiture' (Reay 1953:114). 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. The fact that the boys knew that the 'embahi' were not real spirits, but merely their fellow clansmen dressed up as spirits, did not stop them from feeling frightened. This ritual was designed to reinforce the respect for seniority in the youth (Reay 1953:115).

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. During this stage, they were also instructed in 'otuhu' values of the clan including, generosity, helpfulness, and diligence in hunting and gardening.⁴⁴ An 'otuhu' man was one who did not quarrel, beat his

⁴³ F.E. Williams worked as Government Anthropologist for the Papuan Administration in the 1920s and 1930s.

⁴⁴ Men also work in the gardens performing the heavier tasks such as clearing and fencing. In fact, there was a competitive component to gardening as well as other activities such as pig raising, hunting and fishing. In the courting customs, a man

wife or children, mistreat his livestock, steal or commit adultery. An 'otuhu' woman listened to her husband, avoided speaking angrily to him, practiced fidelity, accompanied him everywhere and did not steal from other women (Williams 1930:204; Reay 1953:110-11). As Reay (1953:111) puts it:

"To be otohu, 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 and he would then be required to prove his prowess as a warrior by killing a man in a raid (Waiko 1972a:20-22). The 'otuhu' was sometimes given as a homicidal insignia or emblem signifying that its wearer had successfully killed in a raid (Williams 1930:178). 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

1. General

Although the Orokaiva considered their descent system to be patrilineal there is evidence that many exceptions to patrilineal rules occurred and, it was noted by Williams (1925:407) that the: "Orokaiva organization very nearly approaches a bilateral system, though in theory it is patrilineal."⁴⁵

attempted to show his prowess and attractiveness by "cutting, chopping and collecting the sago within one day" (Waiko 1982:11).

⁴⁵ What Williams referred to as bilateral may have in fact been a system of ambilineal descent (which was a term not discovered until the 1950's) and is defined as the specification of "one or more ancestors from whom descent is traced either

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 Williams' (1930:25) 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.'⁴⁶

The Orokaiva woman had few decision-making powers within the clan. 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 1930:93). He (1930:93) 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."

2. Marriage

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

through males and/or females. The resultant grouping has a logical membership that is potentially the same regardless of which ego carries out the reckoning" (Harris 1975:337).

⁴⁶ The patrilocal residence rule means that after marriage, the married couple will reside "with or near the husband's father's domicile" (Harris 1975:664).

a) Capture - Traditionally, 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'. As stated previously, a wife acquired through the normal means from another tribe was called 'baira' meaning 'stranger'. 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 demanded that compensation be paid in some form. Or, 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.

b) Elopement - An elopement could also 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 form 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. As Williams (1930:149) found:

"The remarkable gestures of hostility against the husband's people which sometimes characterize Orokaiva marriage, i.e. the attempted dragging away of the bridegroom, the damaging of his village, and the bellicose demonstrations at the taking over of the dorobu, all properly belong to the irregular methods of capture and elopement; they are the aftermath, the retaliation."

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

c) Purchase or 'dorobu' - This was the purchase of a bride by the payment of brideprice.

d) Exchange or 'mine' - Williams concluded that '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 methods 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 legitimize the methods of capture and elopement by transforming them into 'exchange or purchase' (Williams 1930:149).

Residence after marriage was patrilocal, although Williams found again that there were many exceptions (1930:131). 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 matrilocal residence, the children were always considered to be members of the father's clan and were identified with the father's clan emblem.⁴⁷ 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

⁴⁷ Matrilocal residence is defined as: "after marriage, location of a couple in or near the wife's mother's domicile" (Harris 1975:664).

nature of the Orokaiva system (Williams 1930:94). Exogamy was also the rule yet Williams found that here too consistency was lacking.

After the couple had been married for awhile, a marriage payment, 'a-dorobu', was made and disbursed amidst the wife's clan (Williams 1930:137-38).⁴⁸ 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. As Williams (1930:138) puts it:

"...if no return payment were made, the husband would be apt to ill-treat his wife, or he would feel at least that he could ill-treat her with impunity. If, however, the *bi-dorobu* had been paid, an ill-used wife might return to her parents and the husband would have no claim. In a certain case where no *bi-dorobu* was given or expected, the father of the bridegroom said that if his son beat his wife there would be no protest from the latter's family: they would say, 'Well, we have our price for her, and her husband may do as he pleases.'"

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. Williams (1930:139) notes explains:

"...the *bi-dorobu* accompanies an exchange (*mine*) of brides between two groups. This does not mean, of course, that the exchange is simultaneous: the second marriage which is to square the first may be deferred, but the exchange is nevertheless contemplated. In such a case the returning of *bi-dorobu* for *a-dorobu* is at least a logical transaction; whereas if there were no girl in the husband's group who could eventually be given to a boy in the wife's group, then the giving of a *bi-dorobu* equivalent to the *a-dorobu* would be a poor business proposition, for the woman would go for nothing."

Polygyny, although it existed, was not widely practised. When exercised, wives were housed separately and each had their own garden plots 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. Sexual jealousy did occur however, and Williams provides several anecdotes that illuminate the emotional difficulties both women and

⁴⁸ 'A-dorobu' was the term used for brideprice (Williams 1930:138).

men faced as a result of polygyny. Williams (1930:92-3) provides the following examples:

"I know of one man who 'threw away' his first wife because she could not live in amity with his second; of a second wife who, after a quarrel with the first, poisoned herself with *derris* or 'New Guinea Dynamite'; and of a husband, formerly a Village Constable, who was so upset by the wrangling of his two wives as to go away and hang himself."

SOCIAL CONTROL AND DISPUTE SETTLEMENT

1. General

Orokaiva moral rules differed according to whether they applied to 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. As Williams (1930:312) put it:

"Towards all outsiders the correct attitude was one of suspicion if not always of hostility; a complete stranger wandering alone would be regarded both as potential enemy and good meat; and when visitors came in friendship, as at a feast, there was never any lack of warlike readiness on either side."

Intra-group morality, on the other hand, was relatively peaceful and full of accord. The Orokaiva ideal of *otuhu* (see page eighty-two) 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. It is

the context of the relationship that ascribes moral responsibility. As John Waiko (1982:2)⁴⁹ puts it:

"The Binandere see themselves as located within a family and among a small group with whom they have built strong bonds; and in turn a Binandere looks on others conscious of their kin associations and the alliances that they might have fashioned out of war and trade in the past, or from business or politics in the present. Much Binandere behavior is determined by obligations and enmities within a close network of people; they judge one another on how they fulfil their obligations to various people."

2. Payback

Like other Melanesian societies, the notion of payback was an integral part of the Orokaiva system of social control. Amongst the Orokaiva, the term for payback was 'Riowa bari'. 'Riowa 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 'riowa bari' by creating a bad harvest that would precipitate even more suffering and harm than if there had been a more direct target. 'Riowa bari' was not always immediate, but could take one or two generations to be executed. Waiko (1972a:25) asserts that:

"Killing or an invasion which was considered something to be avenged might be put off, even for one or two generations, but the offence would be remembered and the rising generations would be told as part of their duty to pay back in the future. This was part of the education in the Ario House in which the old generation inculcated the young generation with the histories of payback in preparation for the actual killing or invasion. The Riowa Bari, therefore, was an essential part of the ideology for the clan and thus the tribal warfare was built into the ideology."

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

⁴⁹ Dr. John Waiko is a member of the Binandere group within the Orokaiva culture. He studied the history of the Binandere using oral history to document the cultural practises of his people.

1982:7). 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. He also differentiates 'mine mine' from the Old Testament version of the 'eye for an eye' principle. 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 1982:7). 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.

3. Extra-group Social Control

a) Inter-Tribe Disputes

Waiko (1970:27) describes Orokaiva tribes as 'powerful' and 'warlike'. He articulates their traditional outlook as follows:

"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 1972a:22-24).

Various strategies included 'ambush killing' where many people were massacred or 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. Waiko (1972a:24) explains that "these were amongst the matters

which contributed to the causes of warfare and provided an ideology for continuous raids".

The tribal raids were known as 'isoro' and cannibalism was practiced on the victims of the raid. Williams (1930:170) 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 1930:171).

According to tradition, the slayer was not permitted to eat his victim for this would risk elephantiasis of the scrotum.⁵⁰ 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.⁵¹

Women escorted the men on the tribal raids supplying them with food and sometimes acting as weapon carriers (Williams 1930:164). 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

⁵⁰ Elephantiasis of the scrotum or 'baupeni' and swollen joints were common conditions in Orokaiva territory (Williams 1930:174).

⁵¹ There were other customs practiced after the slaying of a victim in a raid. These included purificatory rites forbidding the slayer to eat taro cooked in a cooking pot (eating only taro cooked over an open fire) or drinking clean water from a river (but drinking the water muddied by the feet of a non-slayer). The slayer would also take on the name of his victim and would subsequently become known by that name providing the victim was male. This was to avoid retaliation by the victim's spirit since it was believed that a spirit would never harm a living man who bore his name. The victim would provide the slayer with his name prior to being slain in order that the prestige and status of his clan be upheld. The slayer would also in traditional times have worn a 'homicidal insignia' as a recognition that he had killed in battle. The significance of these insignia decreased after pacification since killing was forbidden by the Administration (W. Beaver in Territory of Papua Annual Report 1918-19:96-99).

husband's deaths. Waiko (1972a:27) describes the scene the returning warriors were met with: "The emotions of the widows, the presence of the children whose fathers had been killed, and the memories of the raids that had failed embittered the fighters and provided a justification for the counter-attack." 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.

b) Inter-clan Disputes

Disputes within tribes were usually the result of a dispute between two individual clans within a village. Williams (1930:163) 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 (1972a:13-14) explains that war would often follow after a fight between two women in a village over some stolen taro 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 1972a: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 1972a: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 1972a:24).

However, fights between clans of the same tribe appeared to have some limits imposed by clan members and they were described by Williams (1930:163) 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.

4. Intra-Group Social Control

a) General

Internally within the clan, the Orokaiva were generous, cooperative, courteous and helpful toward each other. Within the group, these qualities were encouraged and admired and those who were ill-tempered and aggressive were scorned. However, outside the group, 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 (1930:323) summarizes the Orokaiva 'moral laws' as:

"...not to steal a man's vegetables, canoes, spears, &C; not to usurp his fishing rights; not to take his dog to hunt, but to drive it back if it followed the hunter of its own accord; not to commit adultery; not to beat one's wife overmuch; not to commit assault on another man."

Williams is somewhat unclear when he speaks of the issue of wife-beating. He claims that it was part of the 'otuhu' value system that a man should not beat his wife and children (Williams 1930:204). Yet later, (1930:319) he states that men:

"...may thrash a neglectful spouse in order to give her a better idea of her duties, though the corrective aspect is probably not very prominent when a man is belabouring his woman in a rage. All informants have agreed upon the justifiability of wife-beating, but they have all agreed that there are proper limits, and an habitual wife-beater has a bad name."

Later yet (1930:323), he restates the 'otuhu' value as "not to beat one's wife overmuch". One can only conclude that the 'otuhu' value reflects the case of an excessive wife-beater. The custom of 'bi-dorobu' (discussed in the marriage section) 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 1930:139).

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

b) Retaliation

Retaliation took on two forms: violence and sorcery (Williams 1930:327-29). Traditionally, responses to adultery were violent, the husband having the right to use spears and stone clubs on both the wife and her lover.⁵² A woman who questioned her husband's fidelity would publicly charge him by loudly expressing her suspicions.

⁵² 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 (Territory of Papua Annual Report 1926-27, 1934-35).

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 1953:116).

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 (1982:118-119), 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 1930:238).

Sorcery as a form of retaliation was an insidious but effective sanction against unacceptable conduct (Williams 1930:328-329). 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.⁵³ Some of the physical effects of sorcery included disablement as well as the appearance of boils on one's skin.

⁵³ In the Papua Annual Report (1923-24:46) 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."

c) Public Reprobation

The second form of sanction was one which Williams termed public reprobation (1930:329-30). 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 by placing a symbol in the village (i.e. 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.⁵⁴

d) Sympathetic Sanction

The third form of sanction was called the 'sympathetic sanction' (Williams 1930:330-33). 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

⁵⁴ 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 symbolizing 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.

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 (1953:116) 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 (1930:333) suggests that 'sisira' results from the "fear of injuring the feelings of any member of the sympathy group".⁵⁵ 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.

e) 'Naname'

Another form of intra-group social control was that of institutionalized friendship called 'naname' (Reay 1953:117). 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 defense of a 'naname' he was considered to be exemplary in practicing '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 institutionalized 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 1953:118).

⁵⁵ 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" (1930:310).

'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 a 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 (1953:117). The controls were dependent on the internalization 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. Institutionalized friendship ('naname') increased the number of individuals with whom 'otohu' values were an obligation.

SUMMARY

The pronounced lack of rigidity within the Orokaiva social system allowed women greater freedom. The mutable societal rules influenced men's attitudes toward women. Williams concluded that Orokaiva society was more bilateral than patrilineal although today he might have termed their descent system as ambilineal.

Generally, there was cooperation within the marriage unit because of the restraint practised by the husband as he attempted to adhere to the more benign 'otohu' values that emphasised qualities that contributed to harmonious relations within the group. Men and women worked together to produce a relatively more balanced relationship than some of the societies discussed in this chapter. Men shared more of the work load and women had more recourse when the marriage unit was threatened through adultery. (She could accuse him publicly and return to her own people if she was dissatisfied with his defense.)

The perceived value of women within Orokaiva society was also reflected in the system of obtaining brides. Of the four methods used to acquire marriageable women only two were considered valid: exchange and purchase. Sister exchange was the preferred method since the central and most valued principles of balance and equivalence were realized in such an exchange. The exchange method had within it a built-in system, 'bi-dorobu', which functioned to restrain the husband from ill-treating his wife. The two methods of capture and elopement were considered invalid and unsatisfactory because they omitted these principles. Lack of balance resulted in inter-group disputes. Women were also permitted to accompany and assist men in warfare.

The Orokaiva system of social control also reflected these principles of balance and equivalence. Extra-group social control mechanisms simply involved warfare. When disputes arose the wars would continue until equivalent retribution was achieved. A tentative peace could result through the payment of compensation usually in the form of exchange.

The relative tolerance within the clan also reflected the need for internal concord. This was manifested in the internal co-operation and self-restraint practised by clan members. Internal harmony was required so that kinsmen could consolidate their forces against enemy groups whenever their security was threatened or history demanded expeditions of retaliatory reprisal. Intra-group social control mechanisms involved a relatively sophisticated range of sanctions, which perhaps were developed to suit the individualistic nature of the society.

CONCLUSION

Matrilineal and patrilineal societies develop different systems of social organization through their descent systems and through their rules of residence. It has been shown that horticultural societies which are matrilineal, that is, a system of descent reckoned through females, are societies which tend to have internal political stability.⁵⁶ This is usually combined with an ecological system which is fertile and easily supports the group as well as its neighbours. This, therefore, precludes the need for economic competition between neighbouring groups over a scarce food supply (Martin et.al. 1975:227, 229). A factor influencing the position of women in matrilineal (or patrilineal) societies is residence. Matrilineal societies which use the matrilocal residence rule, (the groom moves to his bride's mother's land and therefore involves the dispersal of men), are associated with internally stable groups, who have access to an abundant food supply and whose men are required to engage in warfare with distant groups (Martin et.al. 1975:227). During the long absences of the men, the women must cooperate in order to safeguard the group's collective human and material interests (Harris 1975:344). Groups of related women are able to engage in cooperative labour activities within which there is a notable degree of non-competitiveness.

Nevertheless, women in matrilocal societies are still controlled by men. Instead of their husbands, they are controlled by their brothers (Harris 1975:344). There is an absence of polygyny in matrilocal groups since the males decline to marry several of their sisters to one man (Harris 1975:348).⁵⁷ Since polygyny often leads to

⁵⁶ Horticultural societies are those which use only hand tools in farming (M. Kay Martin & B. Voorhies 1975:213).

⁵⁷ Martin and Voorhies (1975:228) agree that the incidence of polygyny in matrilocal residence is minimal but argue that when it does occur it is sororal (the marriage of several sisters to one man). Even so, disputes among co-wives in sororal marriages tend to be less frequent (Martin et. al. 1975:244).

conflict over women, there is a parallel reduction in one of the major causes of warfare in horticulture societies.

According to Martin and Voorhies (1975:223), the present trend is a decline in the number of matrilineal societies. As an adaptive attempt to maintain their matrilineal descent system some matrilineal groups have gradually changed their rules of residence. One way to maintain matrilineality is to use the avunculocal rule of residence which "localizes males of the same matrilineage and is therefore often taken as an immediate and intercalary alternative to actual descent through males" (Martin et.al. 1975:223). This switch may eventually lead to a patrilineal system of descent.

The avunculocal rule of residence, used by the Tolai, centralizes males in a society and disperses its females. The existence of this type of residence in matrilineal societies thereby shifts the group which has access to control over the allocation of resources and wealth from women to men (wealth in horticultural societies is based on the labour of women) (Martin et. al. 1975:228).⁵⁸ Females then become dispersed and there is a parallel shift toward polygyny creating competition between females who work individual plots of land (Martin et.al. 1975:229). Martin and Voorhies argue that (1975:228):

"Any mode of postmarital residence that disperses related women jeopardizes their collective relationship to land and production. Such is the case with avunculocal residences....it almost inevitably results in the transfer of some or all production and distribution rights to males who reside together. It also eliminates the pattern of collective farming by related women and encourages, in its place, the cultivation of individual plots allocated by the husband's matrilineal kin to each incoming wife. Avunculocal societies thus share many features with patrilineal and patrilocal ones."

The shift from matrilocal to avunculocal residence occurs when the society becomes "expansive, competitive, or (shifts to a) more intensely exploitive technoeconomic

⁵⁸ Martin and Voorhies state (1975:228) that: "The localization of related individuals seems itself to be a critical factor in the assignment of food production and distribution rights to kin groups, whether patrilineal or matrilineal....It is in the latter feature-the right of women to determine how the products of their labor will be allocated to others-that their access to power lies."

system" (Martin et.al. 1975:229). The Tolai developed a sophisticated system of trade and were noted to be preoccupied with the accumulation of wealth. Women in their society were required for their labour and reproductive capabilities in order to support this passion for profit, prestige and wealth.

Notwithstanding the similarity of avunculocal residence with patrilineal and patrilocal societies, matriliney did give Tolai women some protection and security from their husbands and affines. In times of trouble a Tolai woman could return to her relatives and could count on their support and assistance. In addition, marriage was used as a mechanism to secure alliances with other groups thereby classifying the type of warfare the Tolai engaged in as 'restricted' (see Feil 1987:69).

Patrilineal descent, a system which is reckoned through males, is prevalent in areas where the accumulation of surpluses for exchange reasons is valued, and competition with neighbouring groups over limited resources is present (Harris 1975:348; Martin et.al. 1975:223). Usually the subsistence economy does not produce a surplus causing the society to be much more focused on survival as compared to matrilineal groups (Martin et.al. 1975:234). Warfare practised by such societies usually takes place close to their own villages (usually within a day's walking distance). Hence there is need to centralize groups of men so that military protection for the group is readily available. Prowess in warfare is also used to build up prestige and status in the competition for leadership (Berndt in Ryan 1972:1070). This need for the centralization of men influences the development of social institutions and traditional practises which function to support the male focus.

The Orokaiva, Bena Bena, and Arapesh cultural groups all share the patrilineal system of descent. Patriliney is associated with "portable wealth accumulation, warfare, slavery, polygyny, and increased socio-political integration" and "all relate to fundamental changes in the nature of production" (Martin et.al. 1975:231-2). In horticultural societies polygyny is used as "a mechanism for

increased productivity in the absence of the plow or of hired labor" (Martin et.al. 1975:232). Polygyny occurred in all three patrilineal groups and was associated with leadership and wealth. The incidence of polygyny was not prevalent in the Arapesh and Orokaiva since both had established systems of leadership which were much more egalitarian and which functioned as a mechanism of exchange and redistribution. There is some evidence, however, that these two societies had some matrilineal derivations. Both systems developed safeguards for the ill-treatment of women. In the Arapesh social structure the bride's mother's brother played an integral role in decision-making and relations between the maternal uncle and groom were thought to be important. Even after the payment of brideprice the individual's blood was still owned by the maternal group and upon injury required a compensatory payment to the maternal line. The Orokaiva system of '*bi-dorobu*' protected wives from possible ill-treatment by their husbands encouraging their relatives to take a continued interest in their welfare. These types of protective mechanisms appear to be similar in nature to matrilineal mechanisms which placed more value on women.

The patrilocal rule of residence, which requires the bride to move to her husband's home, has a significant impact on the relative position of women. Patrilocality means that the women are dispersed and in essence become strangers in the group to whom they must give their labour and their loyalty. As strangers they are treated with suspicion and must prove their loyalty by working hard and producing children in order to strengthen the clan (particularly male children) (Martin et.al. 1975:237-8). The patrilocal rule was exercised by all three patrilineal groups and women were generally regarded with suspicion until they produced evidence of their loyalty by conceiving a child. The Mountain Arapesh preferred to marry within their own cultural group but marriages to 'strange' women (Plains) were volatile and fraught with the danger of sorcery. The system of residence used

by the Orokaiva was also patrilocal although sometimes they used the matrilineal rule. Once Bena women married they moved to their husband's home and their maternal relatives were no longer obliged to assist them.

Women in patrilineal societies are not valued for their importance in the descent system, but are instead valued for their labour in the production of food and for the accumulation of wealth as well as for their reproductive powers. There were however, variations in the way women's reproductive abilities were evaluated. The Bena Bena gave women little credit for these abilities and viewed their contribution to the reproductive process as mere receptacles for men's semen. The Arapesh attributed an equal responsibility for the growth of children to both men and women. In the patrilineal view of women's value, females become valuable property (Martin et.al. 1975:236).

Patrilineal societies maintain an in-group/out-group view of social organization (Martin et.al. 1975:233). This is reflected in all aspects of their social activities including social control. Competition over land, wealth and resources requires the localization of competitive males in order to ensure the survival of the group. This view is evident in all four groups studied but is particularly so for the three patrilineal groups who depended on group solidarity when faced with external adversity (whether it be a threat from warfare or the more insidious threat of sorcery).

The position of women within the systems of social control of the four cultural groups is reflective of their overall position in the social organization of their societies. In both the Bena Bena and Tolai groups women had no voice in dispute settlement and were often the victims in any response to disputes that arose. Arapesh and Orokaiva women were accorded better treatment in disputes due to their relatively higher status within their societies. This was perhaps due to the

matrilineal elements within their societies and to the non-competitive nature of the internal relations in their respective groups.

Internal relations within the Tolai and Bena groups were highly individualistic and competitive and required the fruits of their women's labour in order to accumulate the desired wealth and prestige. The individualistic nature of the Bena group was different to that of the Tolai in that it took into account group solidarity for defensive purposes whereas no individual Tolai could count on the undivided loyalty of the members of his group. Yet the Tolai system developed a mechanism which worked to compensate for the lack of solidarity when individual members required group support. This was the institution of kamara which functioned to involve innocent parties in dispute settlement. The Arapesh attempted to minimize external disputes by creating a security circle through trade, genealogy and marriage. Their entire defense against outside enemies was to create trusting relationships with a network of people toward whom they had good feelings and could therefore depend on for assistance and protection.

Women were used by the Tolai, Arapesh and Orokaiva groups to create alliances with external groups. This had the effect of restricting warfare and militating volatile external relations. The exception was the Bena Bena. Extra-group relations for all four groups were ultimately settled by the payment of compensation and/or an exchange of women. The situation was only resolved when equivalence had been achieved between the groups and all deaths had been repaid in kind or in goods and valuables.

Intra-group social controls developed differently for all four groups. For the three patrilineal societies internal peaceful relations were most valued so that external threats to group security could be repelled. The groups achieved peaceful internal relations in various ways. The Bena Bena used a distributive system of morality which related morality to social obligation. Therefore, behaviour toward an outsider

had almost no restrictions while behaviour toward a fellow clan member was restrained. Within the group women were considered to have a divisive influence which threatened male solidarity and therefore the security of the group. Consequently, women who were considered to be naturally promiscuous, faced severe penalties whenever their behaviour was perceived to be other than submissive and subservient.

The Orokaiva used a system of personal injury and shame in order to invoke a feeling of pity by the offender toward the victim. This caused him to confess his wrongful act and make a conciliatory gift as compensation which was reciprocated by the victim in order to re-establish friendly and balanced relations. Similarly, the Arapesh used a system of personal injury to create feelings of shame in the offender. Their mechanisms of social control were dependent on personal relationships within the group and upon the displacement of responsibility onto outsiders for hostility and aggression. The need for peaceful internal relations underpinned the approach to offences committed within these patrilineal groups and aggressive behaviour resulting from internal group conflicts was turned on the self instead of jeopardizing group cohesion.

Internal social control for the Tolai was linked to religion. Women were excluded from any type of participation in men's secret societies and were often victimized by these groups. If no human became aware of misbehaviour on the part of any individual person the spirits would always know and would punish the offender for his misdeed.

Women were subordinate to men in all four of the groups discussed. This is illustrated by their lack of control over the fruits of their production and over its allocation. The matrilineal system that would have given Tolai women more status was offset by the avunculocal residence rule which localized related groups of men

and dispersed related women thereby placing control over the spoils of production in the hands of men.

Orokaiva and Arapesh women enjoyed a higher status although they were still dominated by men. This possibly had to do with matrilineal elements still present within their system of social organization. Bena Bena women had the least status of all and this results in part from the fact that eastern highlands cultures had not yet developed mechanisms of interaction with external groups other than unrestricted warfare.

All four groups developed systems of social control based on the social context and on the social relationship within which the dispute took place. Since these methods were so different to those used in the west one would expect that the colonizers would have scrutinized those methods and, having prohibited those considered repugnant to their notions of humanity, used or adapted those which remained as well as the traditional system of leadership. What in fact happened is discussed in the next chapter.

CHAPTER THREE

'TAIM BILONG MASTA'

INTRODUCTION

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 (Edward Wolfers 1975:16). 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 (Donald Tuzin 1976:28). Imperial Germany was reluctant to bear the cost of the colony and so endorsed the Neu Guinea Kompagnie under an Imperial Charter to provide for its administration (Wolfers 1975:62). 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 (Charles Valentine 1958:150). 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 1958:159).

Early in 1942 the Japanese invaded New Guinea and a few months later they invaded Papua. The separate civil administrations 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 (Ian Downs 1980: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:xiv). The area incorporated under Australian colonial rule included the Louisiade Archipelago, the D'Entrecasteaux and Trobriand Islands and the southeastern portion of the main island.

After World War II 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 the 16th of September, 1975 (Downs 1980:xxiv).

The purpose of this chapter is to discuss what effect the colonizing power(s) had on traditional dispute settlement and on the role of women within the four cultural groups chosen for this study. In assessing the impact, the three agents of change to be looked at will be: the colonial administrations, the justice systems, and mission influence.

AGENTS OF CHANGE

1. COLONIAL ADMINISTRATION (NEW GUINEA AND PAPUA)

The principal effect of colonial administrations felt by the people was the patrol (kiap) system and the laws which supported them in their work which were found mainly in the Native Regulations.¹ The administration used a system of District administration to rule the fragmented groups of villages, clans and tribes within the two territories.²

In order to understand the kiap system one first has to step back in history to 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.³

The first objective of the administration was to pacify the locals so that law and

1. Under British rule, the first administrator, Sir William MacGregor, passed the Native Regulation Board Ordinance of 1889 which provided for the "establishment of a system of 'native administration', and for the promulgation of a special set of regulations 'bearing upon or affecting the good government and well-being of the natives'" (Wolfers 1975:17). The Native Regulation Board Ordinance of 1889 was later used by the Australians to develop the legal system they used to rule Papua. In 1909 the Australians under the Administrator, Sir Hubert Murray, passed a new Native Regulation Ordinance (Wolfers 1975:18) but this was an expansion and continuation of the original ordinance (1975:29).

In 1923 the New Guinea administration passed the Native Administration Regulations which was based on its Papuan equivalent. Wolfers (1975:92) notes that: "(m)any of the Native Administrative Regulations were, however, directly derived from the MacGregor-Murray tradition of asserting the administration's right of unilateral intervention in the village, rather than the German tendency to concentrate its legislation upon the urban and commercial points of contact between the New Guinean and 'his' administrators."

2. Ian Downs (1980: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."

3. 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 1975:18).

order could be established. MacGregor utilized imprisonment as a method of 'educating' the 'natives' in the ways of the white man. He stated (MacGregor, 1898-99, 'British New Guinea', Proceedings of the Royal Colonial Institute xxx, p. 244, in Wolfers 1975:19): "...the constabulary and the prisons are the two best educational institutions". Hence, he appointed former prisoners to the Armed Constabulary and as village constables. This system was used as the main method of government control and administration up until the 1950's when a system of local government councils was implemented.

The appointed magistrates acted in a much broader capacity than their judicial functions would normally entail. As Wolfers (1975:19) 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 village constable served the local magistrate and was appointed by him in areas under administration control. The village constable was not appointed from the traditional system of leadership but rather, (as earlier stated), from the ranks of those previously imprisoned. A village constable was given a medal to wear around his neck, a uniform and a nominal annual stipend. He was given the power of arrest. Constables were sometimes noted to abuse their newly found position and power.⁴

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,

⁴. Wolfers (1975:20) notes that: "A special regulation had, therefore, to be promulgated (in 1895) to restrain appointed constables from ill-using their people 'and, at the same time,...(telling) the people that the Government approves of their bad behaviour which is a lie...'; and to protect the indigenous public from those who falsely claimed to have been appointed by the government."

sanitation, road-building, attendance at school, behaviour within the villages especially in relation to conduct toward Europeans etc. etc. (Wolfers 1975:31-59).

In German New Guinea the first pioneers were traders and this fact 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 1975:63).

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 1975:63). 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 labour⁵ they could provide and in protecting themselves from attack.⁶

In 1896 the Germans established an indigenous police force at the instigation of Dr. Albert Hahl, Imperial Judge from 1896 - 1899.⁷ 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' (G.W.L. Townsend 1933:425). 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'⁸ (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

⁵. The Germans passed several laws relating to their requirement for a steady supply of labour. In 1901 they outlawed the use of tambu (shell money) in trade between Europeans and indigenes thereby forcing the people to earn German coin if they wished to obtain European goods. In 1907 the Germans passed laws requiring adult males within controlled areas to pay an annual head tax of 5 marks. In default of payment these men were forced to work for two weeks on the construction and maintenance of government roads. The purpose of this law was to teach the indigenes to work and to encourage a steady labour supply. (Valentine 1958:108-109) A law requiring the payment of head tax in Papua was passed in 1918 (Wolfers 1975:67).

⁶. These attacks were often motivated by grievances due to: "loss of land, sometimes unwitting violation of native custom, and resentment directed at various forms of forced labour" (E.G. Lyng 1919:36-37, in Valentine 1958:105). The German response to attacks from indigenes included: "...punitive expeditions, hangings, imprisonment, floggings, and enforced hard labour with or without a gaol sentence in addition..." (Wolfers 1975:65).

⁷. This police force was based on MacGregor's system of the Armed Constabulary (Wolfers 1975:67).

⁸. The principal duty of the tultul was to act as interpreter for the patrol officers. Thus, the main qualification required for this position was the ability to speak the Pidgin language. Later, assistants were also appointed in the area of health. These men were called medical tultuls.

the authorities.⁹ The luluai system may have been derived from colonial policy of 'indirect rule' in Africa (Valentine 1958:118). This system was to become adopted throughout New Guinea and was continued after the Australian take-over of the New Guinea administration following World War 1.

The German Annual Report of 1901 indicates that the 'luluai' system as a form of indirect rule was not an unqualified success because (in Valentine 1958:107):

"...unlike other peoples who have lived under indirect rule, the natives of New Britain seem to have had little traditional background on which to build an institution of formal chieftainship. It was also found that especially under conditions of inadequate supervision the office of luluai often led to what were considered abuses of power."

Valentine (1958:107-108) argues that the designers of the system did not fully understand the existing framework of leadership enough 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. As Valentine (1958:108) states:

"It is significant in this connection that among the regulations which the luluai and tultul were supposed to help enforce were prohibitions against such important traditional means to high status as warfare, cannibalism, sorcery, and the activities of some men's societies. The village officials were not, however, given any magisterial powers for dealing with such important matters; they were merely expected to report violations to the European authorities."

Thus, 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. The Germans can be given credit for attempting to utilize the traditional system of leadership, however, the 'luluai' model of leadership did not exist in other New Guinea cultural groups.

⁹. The luluais were given authority to adjudicate minor disputes at the village level. They were also given the authority to fine minor offenders. Wolfers (1975:104) 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."

Nevertheless, the Germans used the luluai system in all of its' controlled areas. Most other groups had very different systems of leadership than the Tolai and therefore the use of this system was "inappropriate as a model for most New Guinean societies" (Wolfers 1975:67).

Wolfers (1975:71) summarizes the German colonial experience in New Guinea in the following: "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 utilizing the existing leadership structure to arbitrate disputes (Wolfers 1975:68). Thus, formally, the luluai's 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 1975:91). The system of luluais and tultuls continued into the 1970's to serve as the predominant meeting-point between the village and the administration.

Downs (1980: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 1975:90). More and more, the paternalistic and protectionistic policies of the Papuan Administration were imported into New Guinea.

The Native Administration Regulations of 1924 (Section 57 Subsection 1) 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". This regulation was based on Colonel John Ainsworth's "Report on Administrative Arrangements and Matters Affecting the Interests of Natives in the Territory of New Guinea" completed during the same year.¹⁰ The recommendation required that officers become familiar with native custom, document it within their areas, and attempt to learn the local languages.¹¹

¹⁰. Colonel John Ainsworth, with colonial experience in the British colony of Kenya, was commissioned by the Australian Government to prepare a report (1924, Report by Colonel John Ainsworth on Administrative Arrangements and Matters Affecting the Interests of Natives in the Territory of New Guinea, Melbourne) on the "administrative arrangements and matters affecting the interests of the natives" in New Guinea (Wolfers 1975:92).

¹¹. 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

G.W. Townsend (1968:119), who had extensive experience in the New Guinea Administration, found it curious, given the above direction to take an interest in custom in New Guinea, that there was no request for officers to investigate and record traditional methods of social control. He states (1968:119-120):

"...every village did have its way of dealing with offenders within its boundaries; but, for some reason, Australian authority never wished to know what they were, much less select from them and give them the force of the law."

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

"The attitude of the field staff over the years was always plain. Patrol Report after Patrol Report stated that the officer making the patrol had been asked to "hold court" about some tribal or village matter obviously stemming from some native custom concerning which the officer had no knowledge. What he then did was to insist that the village sit down in Council and make its own decision. When that decision was confirmed after any appeal it became the "judgement of the Court", and justice had been done."

Townsend (1968:120) also argues that the Papuan Administration under the guidance and direction of Sir Hubert Murray paid greater heed to customary matters than did the New Guinea Administration.

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 Administration Regulations, 1924, Section 57(2) state:

"Courts shall take judicial notice of all native customs and give effect to them, save in so far as they are contrary to the principles of humanity or conflict with any law or Ordinance in force in the Territory.

The Native Customs Recognition Ordinance 1963, Section 6 restates the above regulation however, in Section 7 the Ordinance stipulates that custom could only be

periods. G.W. Townsend (1968:119) 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."

taken into account in criminal cases for specified purposes.¹² Thus, custom was acknowledged but not considered where it was inconsistent with an introduced law.

The Patrol Officers dealt with the issue of marriage 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) (Native Administrative Regulations 1924 Sections 65(1) and 66).¹³ 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. Section 65(2) of 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."

12. "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).

¹³ Custom relating to divorce was only upheld if the customs used belonged to the woman's group.

Marie Reay's (in Epstein (ed) 1974:207) summary 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 as an individual transaction when dealing with both marriage and divorce in Court instead of an exchange between groups (Reay, in Epstein 1974:207). Thus, they treated the return of 'bride price' as an act severing the marriage. This did not account for 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.

Section 84(2) of 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. Section 84(3) goes on to specify that 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 particular 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 of Section 84(3) was later discovered to be discriminatory towards women (see chapter on the Post-Independence period). 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 1975:21). In 1911 the Australian Administration of Papua refined the regulation in order to make it more enforceable thus making it (Wolfers 1975:21):

"...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, Section 97, 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 (1975:160): "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."

2. 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 1975:17, 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 1980:148). 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 1980:148).

The Courts were set up on racial lines since their 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 1980:148). Downs (1980:148) notes that: "Administration and justice were entwined." He concludes that both Court systems "provided an expedient way of taking the law to the people and enforcing the authority of the Administration over a wide range of affairs" (1980:148).

Resident Magistrates in Papua and Patrol Officers in New Guinea gained judicial powers once they had taken a 'qualifying examination' after two or three years of service in the field. 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.¹⁴

¹⁴. Wolfers (1975:145) 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

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 1980:149-50). 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 (1980:149) suggests that, while the people were in transition from their pre-literate society in which payback figured so importantly it was necessary for them to have an impartial and recognized 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 (1980:149).

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 decentralized 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.

Previously, in the early 1950s D.M. Fenbury, Director of the Department of District Services and Native Affairs, recommended that a system of village courts be established to enable villagers to mediate and reconcile many of their own disputes

records being kept of the offences with which they were charged, or of the penalties which were imposed."

(Downs 1980:150). 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 (1980:150), 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 recommendation to establish a system of village courts using customary principles without introducing legalistic principles (Hasluck 1976:344).¹⁵ He would not endorse the Fenbury recommendation.

Instead, Hasluck supported the Westminster system of government and the British system of justice (1976:240). 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 (1976:175) and not enough emphasis had been placed on the protection of individual rights and on the independence of the courts from political direction (1976:178).¹⁶ Hasluck decided to follow the recommendation of the Derham Report to include indigenous people in justice. He abolished the separate court systems and implemented a local/district/supreme court system.¹⁷ The kiap courts were supplanted by the Local Courts which were set up to

15. A system of Village Courts was finally legislated for in 1973 (Wolfers 1975:137).

16. Hasluck (1976:179) 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."

17. Legislation for the new Court system was passed in 1963 but was not implemented until 1966 (Wolfers 1975:137).

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 1980:153).

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 1980:152). 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 emphasize 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 (1980:152) notes that:

"Everything was done to impress the public that the new 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 criticized 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. Downs (1980:153) argues that:

"He (Derham) proposed local courts with 'native' magistrates but he did not propose that these new courts should accept the Melanesian practice of judging crimes on the basis of personal injury and providing punishment in the form of compensation to those injured. Without some compromise with customary compensation systems, Professor Derham's local courts would fail the people they were supposed to satisfy."

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 1948:56) it nevertheless, had a significant impact on the status of women 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 1953-54:66).¹⁸ 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" (Report to the United Nations on the Administration of the Territory of New Guinea 1948:56). The Administration also passed legislation which prohibited women from becoming employed in areas considered unsuitable for

¹⁸. 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" (Commonwealth of Australia 1953-54:66).

women such as mining, seafaring or jobs which required heavy physical labour (Report to the United Nations 1948:56).¹⁹

In general, the justice system introduced under the Australian administrations was foreign and incomprehensible to the indigenous people of Papua and New Guinea where different principles of justice applied. The western system's obsession with procedure and evidence and upon individual rights made it difficult for the people to understand its applicability to the settlement of their own disputes. Downs (1980:154) 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 violent 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."

3. MISSION INFLUENCE

The focus of this chapter is, primarily, the effect of the colonial administrations on traditional systems of social control and on the position of women within those systems. Missionary impact on the people and on their traditions was substantial and is another research topic on its own. However, it is important to look at how 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

¹⁹. However, a married woman could not be recruited for labour unless she had the consent of her husband and only 'reputable' unmarried women would be considered for recruitment, with the consent of the Administrator. Working single women were permitted to marry only with the consent of the Administrator. (Native Labour Ordinance Sections 26 and 27 in Commonwealth of Australia 1926-27:23).

values. In this sense, the Church was of significant assistance to the Administration since western law is essentially based on Christian principles and values.

In Papua 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 (John Barker 1979:28). 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 1979:29):

"The reluctance of the Colonial Office to add another responsibility to the Empire, along with a general distrust in England of Australian intentions in New Guinea, worked in favour of the missionaries....The administrators of British New Guinea...forged strong cooperative links with the missionaries. Even though Papua was annexed as a crown colony in 1888, little was done to encourage white settlers during the period of British administration...."

The missionaries were willing to work with the Administration and asked that only "authorized Europeans, i.e. missionaries and government officials" be allowed contact with the indigenes (Barker 1979:29). 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 1968:144 in Barker 1979:29). Chalmers wanted the missionaries to be the only 'civilising' influence. As Barker notes (1979:30): "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 1979:30). 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 1979:30). 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 1979:31).

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 1979:31). 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 Missions attitude toward Papuans was similar to the settlers who displayed superiority and patronage (Barker 1979:32). 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 1979:32):

"An Anglican priest, for example, urged stricter punishment of Papuan offenders by the administration because, like children, they "must be taught the heinousness of offences by a punishment they will dread" (Newton 1914:22-23). Significantly, missionaries raised few objections to the increasing number of discriminatory "native regulations", enforced by the administration from 1899, which culminated in the 1920's with a series of restrictive race laws brought into play after pressure from settlers. (The most brutal and discriminatory of these was the White Women's Protection Ordinance (1926) which empowered the government to put to death any Papuan who raped - or attempted to rape - a white woman - see Inglis 1974, especially page 84)."

The missionaries worked cooperatively with the Administration to pacify and 'civilise' the Papuans (Barker 1979:32):

"According to one missionary, the government eased the way for Christianity by establishing peace and, in turn, the missions prepared the way for the new governmental order (Bromilow 1929:102). Children were taught the law of the land, and governors made frequent inspections of mission schools."

This cooperative view was also evident within the Administration (British New Guinea Report by Allee Hunt, Secretary, Department of External Affairs, The Commonwealth of Australia, 1905:10): "(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."

Sir William MacGregor acknowledged the role the missions had to play in establishing a moral order after pacification was achieved. He stated in 1891 (in Barker 1979:34): "...that order and good government could never be permanently established unless it had Christianity as its basis..." Barker (1979:34) concludes:

"For this reason he (MacGregor) pressured the missions to move quickly into the political vacuum caused by "pacification", for, in the winning of converts to Christianity, peace and obedience would be established among formerly warlike tribesmen."

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 1979:34).

Despite cooperation between the church and the Administration, the missionaries were also critical of the Administration particularly on issues of punitive expeditions, white settlement and 'native' taxation (Barker 1979:32):

"On the other hand, missionaries recognized that they went to the "heathen" as ministers of Christ and not as British subjects. Many missionaries, like Chalmers, were uneasy about the use of force by the government to "pacify" tribes....Few missionaries felt that the government deserved their unwavering support."

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 1979:37). However, the missions played an instrumental role during the Murray era by providing medical and educational services to the people. The Administration did not have the funds required to provide such services and so encouraged the missions to take on these functions. Referring to Sir Hubert Murray's administration, Barker notes (1979:36) that "(w)hen the government supported Christianity, therefore, it was not endorsing Christian dogma but the social work of the missions."

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

"As far as government officials were concerned, the missions were there to serve German as well as Christian purposes, to colonize as well as evangelize and to teach the German version of European civilization; 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."

Official attitudes were similar in scope to MacGregor's belief that the purpose of mission work in relation to colonization was to add the substance of a belief system which would compel the 'natives' to accept the new ways. For the German people, this attitude was significantly influenced by the Director of the Rhenish Mission Society, Friedrich Fabri, who wrote a pamphlet in 1879, "Does Germany Need Colonies?" Firth (1982:136) explains:

"For Fabri successful colonization depended upon missionaries. They were the ones who would influence the 'mentality, intelligence and moral and religious conceptions of uncivilized, still barbaric peoples'; they alone were capable of regenerating such peoples by educating them to work. While planters, traders and officials would undertake the external education of the colonized people, the missionaries would work internally, ensuring a ready acceptance of European values."

Nevertheless, the German territory was well inhabited by many other mission groups from various nationalities prior to German annexation.²⁰ Hence, mission teaching did not strictly adhere to the German ideal of the missionaries role (Firth 1982:137).²¹

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 1982:142-3).

The missionaries in New Guinea initially attracted converts through trade. Firth (1982:156) notes:

"The Melanesian villager valued the missionary, at least initially, not for what he preached but for what he possessed, gave away or traded. In all but name the missionary on the frontier in New Guinea was a trader and land purchaser and his goods alone gave him access to pagan village communities. Before German occupation the Methodists paid for land in New Britain in axes, tomahawks, tobacco, cotton print, beads, boxes of matches, pipes, knives and even flasks of gunpowder. Except for the gunpowder, goods of this kind became the standard currency of land transactions between villagers and all missions....Material wealth, then was the first weapon of Christ's followers in their quest for the souls of the New Guinean heathen. The successful missionary put goods before theology."

In both Papua and New Guinea the missionaries provided educational and health services to the people. Firth (1982:156) argues that in New Guinea the "mission school was an extension of the trading relationship, a form of paid

20. The Australasian Wesleyan Methodist missionary George Brown was the first European settler in the Duke of York Islands in 1875 and had started the first mission there. He later expanded to the Gazelle Peninsula. He brought with him Fijian and Samoan helpers. The work of Brown's missionaries were mainly conducted in the local Tolai Kuanua language (Rowley 1965:135). The Catholics established their missions (The Sacred Heart Mission) in the area in 1880's, however, their missions were controlled by a French bishop (Firth 1982:137).

21. Governor Hahl later unsuccessfully pressured the missions to teach in German (Firth 1982:137, 140-41; Rowley 1965:146). Firth (1982:141) notes: "For Hahl language and nationality were inseparable, and the battle against the use of English in German New Guinea was a matter of self-preservation."

employment." Promises of gifts and wages were often used to lure children into school attendance.²² Firth notes (1982:156):

"The Marists and Sacred Heart missionaries paid openly for orphans and other children who could be brought to a boarding school, away from the distractions of the village, taught the fundamentals of the Faith and formed into the nucleus of the new Christian community. After a catechumenate of two or three years pupils were paid off with tobacco and cloth and dispatched to their villages with news of the white man's wealth, literacy and beliefs."

Converts were also gained through the missionaries attempts to act as mediator between enemy groups, and sometimes they managed to bring about peace (Firth 1982:157). Missions also offered "sanctuary from enemies, and mediation in disputes with other members of the European community" (Charles Valentine 1958:130).

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 1982:157; Rick Giddings²³, personal communication October 8, 1989).

During the Hasluck era within the period of Australian administration of both Papua and New Guinea, education became a priority. His stated motive for this priority that (1976:242-4): "(t)he English language and mission teaching would lead to unity, universal communication and then to modernization", hides an added effect that, in the process of educating people using the church and the English language, Christian Australian values were being imposed. Since western legal principles are

²². 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" (Firth 1982:156).

²³ Rick Giddings was a Patrol Officer under the Australian Administration from 1956 until Independence in 1975. Since 1975 he has worked with the Lands Office and as a Senior Magistrate in both the Eastern Highlands and Simbu Provinces.

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. C.D. Rowley (1965:145) notes:

"The position of the white man at the top of the power structure reinforced the impression on village minds of the position of the white man in government and in economic affairs. And the white missionaries tended to develop (with some notable exceptions), authoritarian attitudes. Yet, because the missionary seemed to have promised something which the government had not, and because his concern was so much with the welfare of his converts, villagers tended to be more responsive to his influence. Thus missions in New Guinea often retained some of the features of those theocracies which had developed in other parts of the Pacific. The missionary stayed among his people for a long time; he was well known and his actions predictable. The government officer might be both far away and unpredictable, likely to be seen only in cases of serious disorder or crime, or to take the census and collect the tax. All aspects of life were the missionary's business; the interests of the government officer were much more narrow, at least until developmental policies involving deliberate efforts to promote social change were introduced after the second world war."

Thus, 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 (Rick Giddings October 8, 1989 personal communication). 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 people did not necessarily respond as quickly to the wishes of the missionaries (Rick Giddings October 8, 1989; personal communication).

As will be demonstrated later, 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 1979:39; Rowley 1965:150-152).²⁴ 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 the practice of such customs (Patrol Reports: Upper Asaro No. 10/1954-55; Asaro No. 9/1953-54; Bena No. 18/1952-53).²⁵

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 (personal communication, Rick Giddings October 8, 1989).²⁶ The missionaries sometimes used the villagers' fear of the administration to

²⁴. Rowley (1965:153) elaborates on the discord between administration officers and missionaries:

"The missionary, especially if he is not experienced in the exercise of responsibility, and, after years of authority, even if his is, is as likely as other men to fall victim to his own prestige. Success leads him to despotic interference, on the grounds of his own doctrine, not only in activities which are within the law, but sometimes in those which have been promoted by the Administration. This is more likely where missions control schools, health services and hospitals, provide technical training, organise co-operatives, and undertake other activities which parallel those of government departments. Sometimes, as with schooling, the mission has long been alone in the field. A new government activity may seem to undermine allegiance of villagers to mission....They (missionaries) have opposed the new local government institutions which threatened the old balance of local authority."

²⁵. Rowley (1965:152) 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."

²⁶. Government Anthropologist, F.E. 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 (1935:219-220):

"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

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, (Patrol Reports: Goroka No. 9/1953-54; Goroka (Upper Asaro) No. 10/1954-55), or if the people threatened to create trouble for the missions. The latter case was in fact true since the missionaries were protected by the same laws as everyone else in the Territory (Rick Giddings Personal Communication October 8, 1989).

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.

IMPACT OF CHANGE

Having described in general terms the effect of the three agents of change it is now proposed to specifically relate two of the three agents, the administration and the missions, to each of the four groups discussed earlier. Since the legal system applied throughout the Territory of Papua and New Guinea it will not be discussed in relation to each of the groups.

BENA BENA

a) ADMINISTRATION INFLUENCE

Until Michael Leahy and Michael 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

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 civilization, do as much to weaken the native's pride in his culture and himself as do the arrogance and contempt of some other Europeans."

were the ghosts of their ancestors returning to visit (Bob Connolly & Robin Anderson 1987:6).

In 1932, an airstrip was established in the Bena Bena area to make it the base-camp for gold exploration (Danny Leahy,²⁷ Personal Communication October 6, 1989). 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 (Danny Leahy, personal communication October 6, 1989). Also in 1932, the people of the Bena Bena were ushered into the colonial era when the Australian Administration Officer, James Taylor, established the first patrol post in the Highlands (Leahy and Crain 1937:137).

Entry into the Goroka area of the highlands was restricted "after the application of the Uncontrolled Areas Ordinance to exclude most non-government people..." (Keith McRae 1974:25). Yet Administration control was not achieved until after World War II when regular patrolling of the area began (McRae 1974:16). In the Bena Bena Census Division regular patrolling was not established until the 1950's (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 practiced by the Bena and Gahuku-Gama ceased (after a period) and the methods by which leadership was established within these warring groups was changed. D.K. Feil notes (1987:274-75):

²⁷ Danny Leahy was one of the first explorers to make contact with the Highlands peoples (including the Bena Bena) in Papua New Guinea. He accompanied his brother Michael Leahy into the Highlands in the early 1930s.

"When the colonial administration banned warfare, 'the organizational basis' of leaders was undermined, intertribal warfare came to a rapid halt, and peace has been far more lasting into the present (A.J. Strathern 1977:143-4). Concomitantly, as Westermarck shows, the internal solidarity of eastern highlands groups, so evident in the past, and oriented overwhelmingly towards warfare and defence, has been diminished by accusations of sorcery from within, linked to competition for land. In sum, intragroup divisions, a 'contraction in the boundaries of support' (Westermarck 1984:108) and the initial removal of the structure of leadership has led to a situation in which minor conflicts do not automatically 'escalate' into full-scale wars in much of the eastern highlands."

Traditional methods of achieving leadership status (involving demonstrated strength in warfare) were replaced after contact with the accumulation of wealth and exchange (Feil 1987:276). Feil (1987:276-7) notes: "When warfare was banned in the eastern highlands, this secondary path became more prominent, and economic achievement became a defining criterion of leadership more rapidly than in the past."

The Administration also established new ways of achieving economic success through their policies encouraging agricultural projects and the introduction of cash-cropping (coffee) into the Highlands. Coffee was introduced shortly after the second World War however the early annual yields were small due to a lack of technical knowledge (Patrol Report Bena No. 5/1954-55). 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 there was only sixteen percent of the Bena male population 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 reticent 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). This lack of interest in contract work outside their district was attributed to the success of coffee production in the area.

The Administration also provided opportunities for some village men (often village bigmen) to participate in the western system of social control by appointing men as luluai and tultuls. An interesting observation was made in two Bena patrol reports that the courts and kiaps were being used in a new form of inter-tribal warfare. Disputes involving other hamlets or villages were not being settled by the luluai to the satisfaction of both sides. Instead, 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. N.F. 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 have 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 civilized manner. The law has replaced the spear, and can be wielded no less skillfully 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 same attitude toward the use of the alien system of 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 amongst the Bena and Gahuku-Gama cultural groups (Langness 1974:210). Since there was no longer a need for producing 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 symbolize male

solidarity (Read 1982:73; Langness 1974:210).²⁸ Bena men began to abandon the men's house and to sleep in houses with their wives.²⁹ This, they claimed was the wish of the Administration but it was in fact suggested by Bena councillors in the system of local government (Langness 1967:175).

Most disputes were customary disputes (ie. payment or return of brideprice; adultery; land disputes; or small disputes over the return of money or property; and pigs) (Rick Giddings, Personal Communication October 6, 1989).³⁰ 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

²⁸. The last initiation took place amongst the Gahuku-Gama between 1950-52 (Read 1982:73). The Bena were more 'conservative' in making their changes but they too abandoned the 'nama cult' in the 1960's (Langness 1967:175).

²⁹. Patrol Officer N.F. Fowler (Patrol Report Bena No. 2/1953-54) noted that "the 'haus man' (men's house) is no longer a feature of this area and not one was seen during the whole course of the patrol. Men sleep in the same houses as their wives...." Langness reported in 1967 that "Men are also now building menstrual huts for their wives, something they would never have done formerly. This is a result of the fact that the new houses are constructed of hollow flattened woven cane, and women have never learned how to use this type of construction. It disturbs the men to think of the old style (round and squat) menstrual huts alongside the new rectangular higher houses (I suspect this also has a great deal to do with the fact that they think the Administration will disapprove." (1967:176).

³⁰. 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:442-43). This latter course eventually led to dissatisfaction and to further disputes (Patrol Report Bena No. 5/1954-55).

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 of Native Affairs and the method of mediation was extensively used. The final decision "informally sorted itself out as court went along" (Rick Giddings Personal Communication October 6, 1989).

Women were rarely the complainants or the defendants in disputes which arose. However, they were often the issue which caused the dispute to arise (Rick Giddings Personal Communication October 6, 1989). 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 where women were involved 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 these disputes 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 (Rick Giddings Personal Communication October 6, 1989).

The kiaps sometimes punished men when they practised custom against women. Patrol Report (Goroka to Bena Bena River No. 6/1951-52) explains:

"In the Megabu area two women were found who had been wounded with arrows following the accidental death of two children. It has been customary, in the past, for a man to show his great sorrow for a dead kinsmen by shooting a woman (sometimes a pig or dog will be considered sufficient). There had been two convictions for similar woundings at a place only a few miles from Megabu and although the wounds were very slight, indeed even the most severe are never intended to be more than flesh wounds, and the women were more or less willing, the men concerned were sent to Goroka to be dealt with."

In a second case, 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 had refused to accept the food she had brought to him at the men's house. McArthur ordered the husband to "relinquish this unnatural practise and the couple told to try again the married state."³¹

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 in the Eastern Highlands region of the eastern highlands from where more men went away to work. It was reported (Patrol Report Asaro No. 8/1952-53) that "50% of the women married to labourers away on the coast are unfaithful, and marry another man during their husband's absence." Similar findings (50%) were also recorded in the Goroka District (Patrol Report Goroka No.18/1952-53). In the Bena, some returned labourers were noted to have refused to pay brideprice (Patrol Report Bena

³¹. A third example of kiaps siding with women over men in regard to custom was observed by Kenneth Read (1965:212-246). 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 jail sentence for three months for assault.

No. 5/1954-55). This had the effect of nullifying the marriage in the eyes of the Australian Administration. This was discovered by men 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 therefore be laid (Patrol Report Western Goroka No. 3/1954-55).

Polygynous marriages were still practised 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 also 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.

Adulterous wives were previously in danger of being severely beaten with a stick by their husbands and their respondents killed, but after contact, and the influence of the Administration, 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 started 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 also 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."

Their Asaro counterparts however, were experiencing much more rapid change in this area. 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 recognized 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 area as well (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 in 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 C.N.A. (Court for Native Affairs) for a decision" (Upper Asaro No. 10/1954-55).³²

By 1969 the Bena people were experiencing further breakdown of the traditional custom in their society, especially in relation to women. M. D'Abbs (Patrol Report Bena No. 10/1968-69) noted:

"The increasing number of 'illegitimate' children is a result of 'culture' impact and the breaking down of traditional controls over the sexual relationship of the young people. Sexual freedom is still not countenanced gladly, however the younger generations do not feel bound by traditional or parental control to the same extent and promiscuity is increasing. Previously if the man involved would not make arrangements for marriage a fight would probably have ensued. These days the father may not be known with any degree of certainty. The children from these alliances are adopted without anger and are accepted."

The next year (Bena No. 14/1969-70) Mr. D'Abbs 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 (1967:176) noted that women were no longer committing suicide once their husbands died or were killed, as they had done traditionally. He (1967:176) observed that:

³². 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 e.g. 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."

"Bena men are disturbed and recognize that a woman has certain rights and freedoms now that she did not possess before (guaranteed by the Administration). They say women do not care about their husbands any more, that nowadays widows are eager to go to another man or to return home."

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).

b) MISSION INFLUENCE

Lutheran Missionaries followed the Administration into the Asaro and Gahuku-Gama areas in 1932 (Read 1952a:232; Simpson 1954:60).³³ In other parts of Papua and New Guinea the missionaries usually penetrated an area first, to be

33. The Catholics entered the Asaro District in 1935 (McRae 1974:23).

followed later by government. In the case of the Highlands region, this order had been reversed (Simpson 1954:61). The Seventh Day Adventist Church and the Lutheran's also set up Mission Stations at Bena Bena during this period (Read 1952a:232).

McRae (1974:23) 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 also provided medical attention and the effects on diseases such as framboesia was quite dramatic causing the people to give them their respect (McRae 1974:24). Yet the missionaries experienced frustration that after their first decade in the area little had been accomplished by way of Christianizing the locals (McRae 1974:24). Simpson (1954:69) 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: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:234).³⁴ Before a man could be baptized he had to be practising monogamy.

³⁴. The Seventh Day Adventists also forbade polygyny (Patrol Report Asaro No. 9/1953-54).

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 and their disapproval was evident in the Patrol Reports.

The evangelists informed the men practising polygyny and who wished to be baptized 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 practises 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: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 percent (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. Read (1952b:9) explains that they restrained themselves:

"...with difficulty...from attacking their erstwhile friends. Other adjoining groups also expressed deep concern, indeed horror, at the action, and a deputation was dispatched to the Government station to seek the support of the Administration for the punishment of the resident native evangelist, who was considered to be primarily responsible. The Administrative officer was not able to accede to this request, but he pointed out that there was no law compelling the people to accept a Mission teacher, and the episode ended with the man's expulsion by his pupils."

The people saw this action as a "threat to male superiority" (Read 1952b: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 1982:73). Even though the missionaries 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 Mt. Michael No. 1/1952-53). These public burnings were conducted in front of women and although the men objected to the secrets of the nama being revealed in this way to women they could not change the fact that it had already been done. 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). Since nama flutes were the central symbol of the men's cult and therefore of men's solidarity and authority over women, their destruction was bound to have a major impact on male-female relationships.

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). The following year 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." Attempts to discontinue classes until female attendance at school improved was one measure used to try to encourage villagers to allow their female children to receive an education (Bena No. 10/1968-69).

Near the end of the colonial period, the effectiveness of Mission influence in the Bena District was queried by one patrol officer (Bena No. 8/1972-73):

"The adherents of the various groups are, it seems, devout enough, and the effectiveness of the missionary effort, judged from a social viewpoint is commendable. However, when I see a supposedly educated Christian, when struck by illness, go to a "medicineman", and when I see rags put on the tops of houses to ward off spirits, I wonder at the twenty-five year presence of the missions. Perhaps it is best summed up by one committee man, who, when I asked him what mission was at the village, he replied, - "Lutheran, Baptist, S.D.A., something like that."

ARAPESH

a) ADMINISTRATION INFLUENCE

After 1887, when the steamer, *Samoa*, travelled up the Sepik River for 380 miles the Germans realized what would become the major economic potential of the area; labour recruitment (Tuzin 1976:28).³⁵ The extent of 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 1976:28).³⁶ 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.

After receiving the Mandate, given by the League of Nations 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

³⁵. The Sepik District was to remain a major source of labour recruitment for much of the colonial period (Commonwealth of Australia 1937:27, 1948:18; Patrol Reports: Maprik Substation No.1/1952-53; No. 8/1960-61).

³⁶. Thurnwald trekked through the Abelam peoples territory on his second journey and most likely passed by the periphery of Maprik (Tuzin 1976:29).

previously contacted only by white labour recruiters, under less than peaceful circumstances. He describes the aftermath of the recruiters' visit (1968:110-11):

"It was at Kubuhun that we first saw evidence of trouble....Their neighbours in Yibominu, whom we next visited, had with them an old man from Chamoun who had a wound on his wrist. If I read his pantomime alright, he had been fired at short range. He readily admitted having held a spear at the time, as he was attempting to prevent his nephew being forcibly seized by natives employed by the two Europeans (recruiters). Chamaun village lay down in the grassland I was told and it seemed that the only Europeans who had ever visited it had been these two recruiters....The trail of broken clay pots, smashed plants and tales of abduction led on through the villages of Lonem and Namikem and on to Kiminibus, which is as the crow flies, half a dozen miles north of Maprik."

Administration contact with the Arapesh people had been non-existent prior to this journey (Townsend 1968:111):

"But at this time there had been little or no contact between the people of this foothill country and the Administration on the coast. Not only were there no regular patrols into the area but government had not reached them second hand either, through the appointment of any of their men of influence to be luluais (chiefs) or TulTuls (assistants to chiefs). Therefore the very existence of these people was not "recognized" by Government, which suited the majority of the villagers who preferred not to "belong" to anyone but themselves."

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).³⁷ 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 (1947:268-70), in her discussion of the effect of contact with the white man, 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.

³⁷. In 1924 the Administration subdivided the Sepik District and Wewak became the headquarters of the eastern portion while Aitape remained the headquarters of the western portion (Commonwealth of Australia 1924-25:36).

Mead says that the relationship 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) was the relationship between brothers. She notes that 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"; as she puts it (1947:269):

"The question arises how much the experience with the white man and the prestige, wider knowledge, and understanding gained thereby affected the interrelationships of the various men in the community. I am inclined to think that it altered the relationships between brothers to some extent, when the younger brother had been away to work and the elder had not, and undermined somewhat the elder brother's traditional authority.

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 (administration officer's) ways. In view of his acquired 'knowledge,' he was given the *tultuls* position, a position that he was not entitled to, Mead says, as it was more important "...than his personality entitled him to hold" (1947:269). 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 (1947:269) 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."

In relation to the impact on the introduced system of social control, Mead notes that, even though there was less impact than there would have been in societies where warfare and head-hunting contributed significantly to the social system, the prohibition of warfare by the Administration had the effect of lessening men's apprehension toward participating in the abduction and elopement of women. Still, it "did not result in a serious derangement of the social order" (1947:269). As

Mead puts it (1947:269): "...it did mean, no doubt, a certain lightening of tension, brothers were a little more cavalier in conniving with their sisters' elopements and not so harsh in insisting upon their return; perhaps a pig or so a year was killed which would not have been killed before."

The introduced system of social control did, however, have 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 in order that he could use 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 were no longer there. Tension and apprehension rose as (Mead 1947:269-270):

"...the roads...(lost) their sanctions as the idea of the King's Highway developed, and (generated) a greater tyranny on the part of the sorcerers, who now walked unarmed among an unarmed people, where the power was all on their side....Now...murder would be punished by the Government."

The Mountain Arapesh system of trade was also 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.³⁸ Mead concludes (1947:270): "(t)hese two combined influences may well have resulted in accentuating the Plains drain upon the resources of the Mountains." Mead summarizes the extent to which contact with the white man had influenced the lifestyle of the Arapesh by the early 1930's (1947:270):

³⁸. In this early stage of contact, Mead also claims that the Arapesh faced few economical repercussions since the only essential introduced items were the white man's adze blades and knives. All other goods such as cloth and matches were still very much a luxury (Mead 1947:270).

"It is true that an Arapesh's trading range had increased somewhat owing to the Pax Britannica. Alitua men could now go along the Beach and into the hills of Wewak, trading for tobacco, and make better bargains than they had made before nearer home. The world was wider and its goods more numerous, but the centre of life remained the same....The removal of the threat of violence always alters the life of a people, but it would be hard to find a group to which it made less difference than to the prevailing peaceful Arapesh."

Gold was discovered near Maprik and mining commenced in 1936 (Patrol Report Maprik Census Subdivision 1953-54). This had the effect of increasing the levels of contact throughout the area surrounding Maprik and a government station was opened in 1937 (Commonwealth of Australia, 1937-38:27).³⁹

When regular patrolling began amongst the Arapesh in the 1950's 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."

³⁹. Villagers were employed by the miners to carry supplies and to assist in the gold mining operations. Women carried food and supplies up to the camps (Danny Leahy, personal communication, October 6, 1989). This provided the villagers with cash with which they purchased European goods (Commonwealth of Australia 1938-39:25).

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 favor 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.

b) MISSION INFLUENCE

The Arapesh area was mainly influenced by the Roman Catholic Mission (Divine Word Mission) and the South Seas Evangelical Mission although this influence was slow to take hold in some areas (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 un-Christian. In the Wosera District in the Sepik, a missionary had 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 practice the 'old ways' was 'evil'. This caused the abandonment of the Haus Tambaran and of traditionally built houses.⁴⁰ 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 tambaran 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 also 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 1950's when the Minister for Territories, Paul Hasluck, made this one of several priorities in the social

⁴⁰. Rowley points out that the long absences of the young men through indentured labour also contributed to the abandonment of initiation rituals (1965:149).

development of the people.⁴¹ 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."

TOLAI

a) ADMINISTRATION INFLUENCE

First European sighting of the Bismark Archipelago occurred in 1699 by the English explorer, William Dampier. However, 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, located on the north-east corner of the Province of East New Britain (Richard Salisbury 1970:25).

⁴¹. Hasluck recognized 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 1976:327-28). His policy led to minor financial contributions to women's clubs for training. In 1955, he directed (1976:328): "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 (1976:328).

The history in relation to the administration of justice under the Germans has already been discussed (see pages 152-6). Much of the interaction between the Administration and the indigenous people reflected the three objectives laid down by the German Administration. The objectives were (Valentine 1958:118):

"...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 practiced 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. Also, the methods by which land was acquired from the Tolai greatly influenced later events during the colonial period (Christine Bradley 1982:33).⁴² The use of the luluai system was "one of the principal means of bringing a village under government supervision and control" (Reed 1948:141).

Judge Hahl (later Governor Hahl) introduced the indigenous police force in 1896. He based his police system on MacGregor's Armed Constabulary in Papua. The indigenous police force was used in punitive expeditions (reprisals for attacks on traders and missionaries) and accompanied any government patrol into remote areas (Reed 1948:142).

Pacification of the Tolai, weakening the influence of the traditional leaders was achieved by the turn of the century. This was probably the most significant change to traditional life since it effectively interfered with the established method of settling inter-group disputes (Valentine 1958:142). The Administration replaced

⁴². First formed in 1969, the Tolai organization, Mataungan Association, protested against multi-racial local government councils, refused to comply with taxation laws, and disputed both government and private rights to various land holdings. They were instrumental in the push toward nationalism and toward the bid for Independence (Downs 1980:424-441).

warfare as a method of social control with European arbitration of disputes. Pacification "probably (caused) a general decline of the power of traditional leaders with the rise of appointed village officials" (Valentine 1958:142). However, Valentine also notes that there is no evidence that this weakening effect came about abruptly as a result of the imposed system of social control. The Germans outlawed the secret 'Iniat cult' of male sorcerers in response to the discovery that the secret meeting grounds had been used to plan the murders of several Europeans. This resulted in its eventual decline (Commonwealth of Australia 1922-23:20; George Brown 1910:78).

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.⁴³ 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 1948:147). After 1930 the majority of contract labourers were recruited from the Sepik (Valentine 1958:183). 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 1958:144).

⁴³. In 1888 laws were introduced into the territory to assist the Administration in their second objective to encourage 'native' participation in the cash economy. These included (Reed 1943:142): 1. 'curtailment of food and luxuries' (for up to one week although enough food had to be provided to sustain life); 2. 'overtime work' (not more than 3 hours a day for 3 days a week); 3. 'Imprisonment with or without chains' (maximum time - 3 days); and 4. 'Corporal punishment' (only to be used as a last resort). In 1901 the Administration directed that only German money could be used in trade between Europeans and 'native' people thereby attempting once again to force the Tolai into the work force (A.L. Epstein, 1969:22). The practice of flogging indentured labourers was finally made illegal under the Australian Administration in 1919 (Commonwealth of Australia 1922-23:51-60).

From 1914 until 1921 the Australian military occupied the Gazelle. During this period very little changed administratively. After the Mandate was granted by the League of Nations in 1921 up until 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 1982:34).

Having been granted a Trusteeship by the United Nations for both Papua and New Guinea the two Australian Administrations were amalgamated in 1949. The Trusteeship created external pressure on the Australian Administration to introduce economic, social and political development programs which would ultimately lead to independence.

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 organization of their local affairs (Salisbury 1970:57).⁴⁴

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

⁴⁴. These councils were overseen by Native Affairs Officer, D.M. Fenbury. Councils involved themselves in public works, market locations, water supplies, construction of medical aid posts and Council offices, educational needs as well as agricultural projects (Salisbury 1970:57).

the improvement of standards of living in the villages" (Commonwealth of Australia 1951-52:80). 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.⁴⁵ The Tolai women's association 'Nilai ra Warden' (Voice of the Women) later 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 1982:38).

Women exercised more choice in the selection of marriage partners despite their families wishes. A Patrol Officer reported one case, brought to his attention during his patrol, 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 a very short period of time (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).

⁴⁵. Bradley (1982:277) 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 the public role of women's clubs through their activities which concerned themselves mainly with domestic issues.

One can assume that 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. Many of the illegitimate children were mothered by unmarried women who had been away from home. The report notes (Patrol Report No. 6/1964-65):

"The number of illegitimate births recorded by the patrol was considerable, approximately 80 to 100. Some of the mothers were confirmed single mothers, with three or four illegitimate children by different fathers, but a large proportion were younger girls, nurses, teachers etc. who had been living away from home. This is of course a well known problem in the Territory. There is a high incidence of extra-marital pregnancies amongst native girls living away from the ever chaperoned environment of their homes."

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 percent while in 1968-69 the figure recorded for female employment was only 6 percent (Patrol Reports Rabaul No. 6/1964-65; No. 8/1968-69). Working women were mostly employed in education, health, domestic and clerical positions. The disparity between the social advancement of women and men was wide in 1964. 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 (1982:198) observed that: "Patrol Officers reports from the Rabaul District from the 1920s onwards make reference to the officers' attempts to encourage the Tolai to emphasize 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."

b) 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 1958:129). 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 adultery) secretly survived (Valentine 1958:130).⁴⁶ 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 disapproving missionaries attempted to eliminate the Dukduk Society amongst the Tolai by using their knowledge of the inner workings of the society. Reverend Danks described how he 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 1933:282):

⁴⁶. Patrol Report (Rabaul No. 3/1954-55) documented a case in which a complaint was received from a Tolai woman who accused her husband of practising sorcery on her. Her husband denied having the knowledge with which to practise sorcery. Nevertheless, the Patrol Officer fined him 3 pounds.

"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 however, more successful in its bid to wipe out the Tolai's other powerful secret society, 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 1982:260).

Valentine (1958:134) notes that the missions were used by other European interests (not so much by the Government) to help pacify the Tolai. This was in contrast to the Papuan Administration who had early recognized the 'pacification value' of mission work. Nevertheless, the effect was the same since missionaries cooperated to help the Europeans to make contact with new areas and to help pacify indigenes engaged in warfare.

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.⁴⁷ By 1955 the high incidence of divorce had eased (Patrol Report Rabaul No. 3/1955-56).⁴⁸

⁴⁷. 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

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 (Richard Parkinson 1907:66-67). 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 1982:163). The move toward endogamy was also noted by Patrol Officers and was considered to be on the increase in 1952. The young couples who chose endogamous marriages within their own moiety still faced opposition from the community especially when the relationship was considered to be too close (Patrol Report Rabaul No. 1/1952-53).

From the beginning of contact both the Catholics and the Methodists set up large numbers of schools mainly in the villages.⁴⁹ The Methodists used the Tolai language in their schools and the Catholics used the pidgin language (Valentine 1958:131). The extensive education system (as well as other factors such as early contact, and the rapid pace of political, social and economic development) eventually

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 1933:167). 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 50 fathoms (worth 10 pounds) and for Methodist women, 100 fathoms (worth 20 pounds) (Patrol Reports Rabaul No. 1/1952-53; No. 6/1964-65).

⁴⁸. 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."

⁴⁹. German Annual Reports (1910-11 in Valentine 1958:131) show that the Methodists registered over 5,000 students that year and the Catholics taught over 4,000 students in 100 schools.

led the Tolai to view themselves as the 'elite' of Papua New Guinea (Bradley 1982:38).

OROKAIVA

a) ADMINISTRATION INFLUENCE

The Northern Coast people were first contacted by Captain John Moresby in 1874 (John Waiko 1972a:53). These indigenous people believed that the white men were the ghosts of their ancestors. Since it was their belief that the dead continued to take an interest in their lives and would punish them for moral misconduct, it is hardly surprising that the sound of the boat engines and the guns caused the people to fear the great magical powers these returning ancestors appeared to be endowed with.

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 1972a:37).⁵⁰ 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 1973:33).

⁵⁰. J.D. Waiko (1972a) makes a convincing argument that the Binandere people viewed the white miners and government officers in the same way that they would view any other enemy group. Thus, an exploratory expedition into Orokaiva territory was seen as an aggressive and offensive act of war by an enemy group and was treated the same way, with a retaliatory attack. When exploratory expeditions arrived in villages the people had already fled. Unable to purchase food the government party took food from the villager's gardens. This was seen by the villagers as raiding and looting, two accepted aspects of warfare (Waiko 1972a:57).

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 1973:34). Such expeditions "resulted in pitched battles in which many clansmen were shot dead; many gardens were looted by some members of the party" (Waiko 1972a:73-74).

When Australia took over the responsibility of administering Papua, it followed a policy of 'peaceful penetration,' however, the Monckton style of maintaining law and order had already permanently shaped the opinion of the Orokaiva about their colonial invaders (Schwimmer 1973:34).⁵¹

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 1972a:101). Since it is argued that "...eating of one another's flesh, payback, raiding and looting were usual practices" in the pattern of tribal enmities 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 1972a:58, 101).

As a means of achieving prestige the Administration introduced appointments (made by the Administration) as village officials (village constables and the Armed Constabulary) and the cash economy through earning cash money as indentured labourers (Britan 1951:52).⁵² The imposed head-tax in 1918 forced many young men

⁵¹. Britan (1951:45) stated: "It seems evident that the early influx of miners into Orokaiva territory, before adequate government control had been established, led to clashes between the natives and the whites and to reprisal action by the government which have had a deleterious effect on the succeeding relationships between the natives and the government."

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

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 the void in replacement values made the Orokaiva more susceptible to 'nativistic movements' such as the Taro Cult (1951:56-58).

Despite the fact that the Administration legislated against it, sorcery did not disappear amongst the Orokaiva (F.E. 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 (1972a:101). The first of these cults the government had to suppress was the Baigona Cult described as "a natavistic movement with a strong emphasis on sorcery" (Britan 1973:43).⁵³ After the government successfully put down the Baigona Cult, a second cult appeared in 1914 called the Taro Cult. This cult revolved around the cultivation of taro (Waiko 1973:25). From oral sources, Waiko found that (1972b:425): "(i)n terms of the magico-religious beliefs Taro magic was designed to overcome destructive garden sorcery or Kae that had been made by an enemy. In this instance the enemy was thought to be the white man."

white man and some English (Britan 1951:45). Later, they 'educated' the villagers through imprisonment for petty transgressions against the numerous Native Regulations. Britan (1951:44) noted that: "By 1924 a fair percentage of the adult males had passed through the Armed Constabulary of the Territory." In the Papua Annual Report (1923-24:24) 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."

⁵³. "Baigona was a snake cult occurring near Mount Keroro (Trafalgar) in the eastern half of the district about 1911" (Papua Annual Report 1911-12:129). Waiko (1973:23) reports, "Maine, of Winafi clan was called up to the top of the mountain by a snake called Baigona. This 'killed' Maine and 'smoked' his heart, but he was allowed to recover and came down to deliver the Baigona message....In the main, the gospel was concerned with magico-medical curative techniques."

Like the Baigona Cult, some researchers view the Taro Cult as an attempt by the people to resist both the missions and the Australian Administration (Schwimmer 1973:35; Waiko 1973:32). Schwimmer (1973:35) notes: "(d)octrines of unity, cooperation and comradeship between formerly hostile tribes were central to the Taro Cult. Cult leaders disassociated themselves from the Christian missions and claimed a special bond with Jesus Christ."

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 1973:35;1982:13). The classical type of cargo cult did not develop in the Northern District until after World War II.

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). Poor communication, shortages of staff, lack of reliable outlets to markets, and a dispersed population covering 5,000 square miles were the main reasons offered in explanation for the failure of the Ioma district to produce cash crops (Patrol Report Ioma Binandere Census Division No. 2/1964-65). A mass exodus of the youth resulted from this failure to develop the area economically. Successive Patrol Officers attempted to start economic projects to try to stop this outflow of able-bodied youth. However, the attraction of the larger urban centres and the perception that education was the best way to make economic, social and political progress meant that the young people continued to leave. The various ventures included copra, coffee and cocoa (Patrol Reports: Binandere No. 1/1953-54; No. 3/1957-58; No. 2/1971-72).

The Assistant District Commissioner summed up the problems faced in the following (Patrol Report, Aiga and Binandere Census Divisions, No. 1/1969-70):

"The problems (in generating) interest in the development of the Ioma administrative area as a whole have been discussed many times - poor communications leading to the substantial exodus to an urban environment of able bodies and of educated men and women, the conservativeness of the older generation remaining in the village and their lack of desire for change."

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 Annual Report 1903-1904:38). 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 (1930:321) stated that petty thieving was a common occurrence after contact:

"It is probably true that as European influence first extends among a primitive people, the decrease in crimes of violence is more than countered by an increase in thieving and other crimes of stealth, and whatever the cause of this latter condition, it implies the decay of one primitive value (honesty). It is at any rate, the common experience of Europeans that the more sophisticated natives are more inclined to steal."

The Patrol Officers paid much attention to village cleanliness and hygiene and conducted regular village inspections (Britan 1951:44). 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 1973:35).⁵⁴

The Administration also influenced traditional marriage customs. The custom of 'bi-dorobu', involving a return payment by the wife's relatives to their in-laws, had functioned as a check on the husband's treatment of his wife (see traditional Orokaiva marriage section). However, Williams observed that this custom was beginning to be abandoned (in the late 1920's) due to acceptance of the judicial role of the kiaps. He notes (1930:138):

"In one district I was told that the custom of giving a *bi-dorobu* was dying out, for nowadays the people placed reliance on the Government and thought it less necessary to insure against ill-treatment of their kinswoman in this way, viz. by making a payment to her husband."

The traditional methods for acquiring wives were also affected by the Administration. In establishing control the Administration prohibited warfare and by so doing stopped also the traditional method of capturing wives in battle (G.R. Hogbin 1966:82). Additionally, the choice of marriage partners increased with the broadened range of movement throughout the area (and outside the Northern District). Thus, inter-tribal marriage and inter-village marriage became commonplace (Hogbin 1966:82; Patrol Report Binandere No. 2/1971-72). This was partly the result of the outward flow of young people from the district to urban areas where employment opportunities were more prevalent. However, the women often remained in the villages, while their husbands left the District to find employment. While the men were away, there was an increase in illegitimate births and thus an increase in the population. Yet the increased population was comprised mainly of

⁵⁴. Although one can be critical of these policies which appeared to function for the convenience of the Administration, one can not forget that the general health of the population was dramatically improved through the Patrol Officers' insistence on village hygiene and that people received medical attention when required (Rick Giddings, Personal Communication, October 8, 1989). (It became the responsibility of the Village Officials to ensure that the sick had their ills attended to and any breaches were punished by the Patrol Officer).

older people, women and young children (Patrol Report Binandere No. 2/1971-72). 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 Papua Annual Report (1934-35:31) 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 Papua Annual Report that marriages in Papua had become destabilized due to contact with the European cash economy which was promoted by the Administration (1926-27:122):

"...for wealth can now be earned more quickly, so that the accumulation of the marriage price, which formerly represented the work of years, is now only a matter of months. The result is that wives are married and "thrown away," or divorced, with a capricious disregard for consequences which would have been impossible in the old days, and with a frequency which is certainly detrimental to life. Many, perhaps most, of our natives are monogamous, but a growing tendency to polygamy has been noticed, and is attributed to the same cause."

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 (1930:328):

"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 correspondent 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."

b) 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 1979:66). Prior to 1922, the Anglicans failed in their efforts to convert the indigenes. Barker (1979:68-69) attributes the slowness of the Anglicans to take hold in Northern District 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 1979:69). Thus, the Anglicans extended their mission work amongst the Orokaiva people gradually and they did not participate in the Administration's punitive expeditions as the Methodist's had done in the Gazelle. Waiko (1982:249) 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 1982:249). Even after eleven years the conversion rate remained at zero (Patrol Report Giria Census June 1911 in Waiko 1982:250):

"In 1911 George Nicholls reported, David says, "he has been here 11 years and there is not yet one Christian. They take no notice...of what he tells them and they don't believe him...they think it is all gammon. All that the natives talk about in their villages is garden, pigs, fish, fight and women. It is a frequent complaint with them that they are now sitting in their villages like women; before Government came they were men. The younger generation listen to the stories of fights made by their elders and are imbued with a desire to show that they are men as well as their fathers."

The Binandere peoples' resistance to the Administration was paralleled by their resistance to the church for more than a decade. Waiko (1982:251) 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. Reverend Gill was so honoured by the Binandere people that they made him a chief (Patrol Report Binandere No. 3/1957-58). He focused on teaching manual trades such as carpentry rather than on academic skills (reading and writing) 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 1982:251).

In the 1950's 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 No1/1955-56). 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.⁵⁵ Patrol Officer, Barry Holloway, recorded in 1957 that: "(t)o ensure co-operation 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 No3/1957-58).

The missions opposed the practise 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 (1966:83): "(i)n spite of Mission opposition there are still instances of polygyny but the great majority of marriages are monogamous."

The missions also attempted to prohibit the transfer of bridewealth in marriage but were largely unsuccessful in this regard (Hogbin 1966:83). However, the introduction of the cash economy influenced the content of bride-price 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 1966:100). Patrol Officer, R.A. Hole summed up the major changes in marriage customs due to church influence (Patrol Report Aiga No1/1957-58):

"Mission influence has considerably changed marriage customs in the division. Polygamy is now rare and divorce is non-existent among confirmed church members. This limitation of divorce has no doubt, raised the status of women in the division."

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

⁵⁵. 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."

candidate selections (Patrol Report Binandere No. 1/1970-71).⁵⁶ Women's clubs were very active in the region by the 1970's although some hired male clerks to perform functions they could not yet do themselves (Patrol Report Binandere No. 2/1971-72).

CONCLUSION

With the Colonial period came introduced law and an imposed system of justice. The justice system and the laws were personified in the eyes of the indigenous people by the Resident Magistrates and Patrol Officers (kiaps) who patrolled their designated areas bringing with them the Pax Britannica and their own personalities.

Although none of the four groups discussed welcomed the colonizers without some form of resistance, all gradually came to acknowledge the colonizers' authority and their systems of social control even though they neither understood nor accepted them. They were systems that failed to incorporate the traditional Melanesian notions of dispute settlement. In the European and Melanesian systems of social control, the applicable principles of justice were different. It is worthwhile repeating Ian Down's assessment of the inconsistencies between the two systems (1980:154):

"In a society where swift and violent reprisal was respected as the best restraint on violent 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

⁵⁶. 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 (1982:388) 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."

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."

There was little or no attempt by the colonial administrations to 'officially' take the traditional system of dispute settlement seriously. The kiaps were directed by the Administration to become familiar with custom and to document it. They were not however, given direction to systematically research and record traditional methods of dispute settlement. Furthermore, particularly in New Guinea, Patrol Officers were too inexperienced and transferred too frequently to ever establish themselves long enough to become truly familiar with local custom. The Administration was interested in custom to the extent that it interfered with or inconvenienced their task of administering and maintaining law and order within the Trusteeship, and to the extent that it disrupted the advancement of economic and political objectives.

Yet, after pacification was achieved, the people did acknowledge the authority of the individual kiaps. Despite the failure of the Administrations to give the kiaps any real guidance in how they were to apply the local customs in disputes, the kiaps were largely successful in recognizing and then in utilizing custom to settle local discord. Although there were many customs that they neither understood nor acknowledged and even attempted to influence and change. (For example, the kiaps in the Gazelle attempted to influence the Tolai people to change their focus from their matrilineal descent system to the nuclear family). Much of their success resulted from their own flexibility and on the degree of their sensitivity to the traditional culture.

One suspects that acceptance of the rule of the white man occurred because the kiaps, despite the Administration, often did manage to encourage the people to settle their own disputes rather than imposing a settlement. They did this by tacitly

allowing traditional methods to continue that were not considered repugnant by the Administration or by themselves. They allowed the locals to hold court and mediate their own disputes especially if the matter was based on custom which was neither known nor understood by the Patrol Officer. This flexibility and the kiaps' informal recognition of custom (as far as it went) contributed to the people's acceptance of the imposed system and allowed the system to work as well as it did. The kiaps were a significant force in the administrative system which allowed "(a)dmistration and justice (to be) entwined" (Downs 1980:148).

The previously fragmented and isolated groups which had traditionally feared their neighbours, whom they fought as enemies (with the exception of the Arapesh although they also viewed their neighbours as enemies), were exposed not only to European culture but also to other (to them foreign) Papua and New Guinea indigenous cultures. The effect of pacification on these groups was significant especially in the case of the Orokaiva and the Bena Bena, where the preoccupation with warfare was most prevalent.

The entire focus of a traditional village man's life had been forcibly changed by pacification and there was a period of adjustment when men sat in the villages lamenting that they were forced to remain there like women when they should have been fighting like men. There was a significant effect on the relationship between men and women. Men's lives had previously been taken up with fighting, protection, and weapon making, as well as fence-building, the heavier duties of gardening and tree-felling. Pacification and the introduction of steel tools did much to remove many of the traditional roles played by men and to seriously lighten their responsibilities. The introduction of steel tools also lightened the work burden of the men immensely. At the same time there was "no corresponding diminution in women's work, which (was) mainly directed towards the most important tasks of

food production and the care of young children" (Commonwealth of Australia 1956-57:82).

With the exception of the Arapesh, each group's established methods of attaining prestige and leadership were severely undermined after pacification. The effect of pacification on the Arapesh was much less dramatic since they did not engage much in warfare traditionally. The Bena men lost the purpose and function of the men's cult and gradually gave up their initiation practices and men's cult activities. They also began to spend more time with their women and even began to abandon their traditional practice of sleeping in the men's house, and instead, resided in individual houses with their wives. The Orokaiva were a migratory people traditionally and after pacification they continued their migratory behaviour, this time into the larger urban centres leaving their villages to be populated mostly by the older people, women and children. The Tolai were also a warring people traditionally, yet they had no major enemies to threaten them and were therefore able to concentrate on developing very sophisticated institutions, politics and profitable trading relationships. After pacification they continued to benefit from the level of sophistication they had already achieved and from the new skills and tools they acquired after contact.

The various missions had little initial impact on the four groups spiritual lives prior to pacification. Their influence over the years weakened the indigenous value systems and increased women's choices, through outright prohibition of some traditional customs and sometimes, through their direct interference with those customs. The missions and the kiaps used different approaches in their attempts to change the ways of the indigenous people. The missionaries were much less flexible and more dogmatic in their approach than the kiaps. However, the aims of pacification and the imposition of European values into Melanesian culture were shared by both.

The position of women within the introduced system of social control was raised dramatically from its position during traditional times. In disputes, women were accorded an equal status with that of men in the eyes of the Australian Administration. This was a major change, especially in the Tolai and Bena Bena cultures where the rights of women had been minimal whenever disputes arose. This concern for the rights of women was seen by the men as biased, but it was nevertheless something they were forced to acknowledge. Thus, traditional punishments for such offences as adultery and failure to fulfil wifely duties had to be adjusted, or the men would be brought before the kiap's court.

In the Arapesh and Orokaiva cultures the impact of the change on the role of women was less dramatic since women already enjoyed a higher status within their cultures. Notwithstanding their more valued role, women's lives were affected when both the introduced law and the missionaries interfered in traditional practices related to marriage, brideprice and adultery. The kiaps' preferential treatment of women and their attempt to allow them free choice (especially in marriage) affected the traditional systems and the built-in mechanisms which functioned to deter the incidence of divorce. When the kiaps treated marriage as an individual transaction they neglected to acknowledge it as an exchange between groups and in the case of divorce, this created difficulties in the relationships between those groups who now faced a complex negotiation for the return of brideprice. As the Orokaiva began to abandon the custom of '*bi dorobu*' this institutionalised safe-guard against the ill-treatment of wives was lost. For the Arapesh, the cessation of warfare meant that men were less restrained when they attempted to arrange for the elopement of women.

The change in the status of women within the system of dispute settlement and the changes brought about by the missions worked together to increase the choices of women in all four groups. Not surprisingly, with these changes came the

disruption and break-down of marriage stability. Increases in the incidence of adultery, divorce and illegitimate children were recorded. Women were given access to education but were often held back by their fathers who felt that education only spoiled their daughters for future wifely duties and therefore spoiled their potential for marriage.

In the 1950's the Minister for Territories, Paul Hasluck, directed that attention should be paid to advancing the status of women, since the gap created between the men and women had widened due to their different access to Europeans and the cash economy. He directed that policies and programs be developed to bridge this gap between men and women. Yet, the implementation of these policies was effected only in traditional female spheres of influence, especially related to domestic activities. These policies encouraged change for women in education and employment but only in positions as domestic, health, education and clerical workers.

The status of women improved during the colonial period. The interaction of the law, the justice system and the missions combined to bring a fundamental and basic difference to their status. Even so, equality in the eyes of the law did not mean equality in the eyes of men. What was now required was a change in basic attitude towards women. The stage had been set for this to happen.

CHAPTER FOUR

'NAU TAIM BILONG YUMI YET'

INTRODUCTION

In this chapter, two institutions of social control established after Independence will be examined. They are the Village Court system and the Probation system. These institutions have been chosen as representative of the agents of change in the post-independence period and because they represent the customary and the introduced law in the legal system of Papua New Guinea. Whilst it would have been possible to carry out a wide ranging examination of post-independence policies affecting the status of women, it is considered that since the focus of this thesis is women within the system of social control, such an examination would have introduced extraneous material. Nevertheless, 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.¹

¹ 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

On the positive side, a campaign by the "Women and Law Committee" intended to combat domestic violence, the practice of which is regarded as acceptable by 67.5% of males in rural areas, 42.3% of males in low income urban areas and 41.2% of males in high income urban areas (Law Reform Commission - "Domestic Violence in Urban PNG" Occasional Paper No. 19, 1986:24) has produced good results in that both sexes are discussing the issue because of increased awareness. Some men at least now feel that they must express their disapproval of such violence irrespective of whether they themselves abstain from wife beating (Personal communication Deborah Clifton, Probation Service Advisor and member of the East New Britain Law and Order Committee, January 11 1990).²

The Village Court system deals with disputes by reference to custom and therefore represents an attempt by the post Independence governments to resolve a problem 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 involving the local community.

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."

² One informant stated that it was legitimate for Tolai men to beat their wives for failing to look after their children or for running around with other men. However, he now believed that men should restrain themselves from disciplining their wives for minor matters. Another man who was very involved with the campaign against domestic violence disclosed after several months of giving awareness talks to groups on the subject that he had continued to beat his own wife and had only recently stopped. After six months he had decided to try a non-violent approach to marital disputes himself and stated that although it had only been a month he found that he and his wife were talking through problems more effectively.

In relation to the status of women, it will be seen that the Village court system through the application of custom to dispute settlement, has the effect of denying improvements in status. 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 was certified by Parliament on 24 December 1973 however it did not come into operation until 5 December 1974 (PNG Justice Department Files - Village Courts Act 1973). The Village Courts Act was revised in 1989 but the basic structure remains the same as in the 1973 Act (personal communication James Baker, Deputy Secretary for Justice, PNG January 22 1990). 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 firstly the kiap system (discussed in the last chapter, see pages 217-20) and secondly by the Local/District/Supreme Court system introduced in the 1960's. 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 1970's (Peter Bayne 1985:76). 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 1980:152). By 1971 the Administration could see that there was a need for some form of dispute settlement to be legitimized in the judicial system at the village level in response to the growing concern over law and order problems in the rural areas (Bayne 1985:76). 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 1985:76).

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 (1985:77) notes that: "In practise, 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 1988:6).

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

Section 19 of 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. Their appointment was made by the Minister for Justice based on the recommendations made by the Provincial Supervising Magistrate (PSM) after he 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 matters for jurisdictional purposes. Bayne (1985:78) 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 1985:78). These matters include for example, sorcery, breach of custom, adultery, spreading false rumours, maintenance matters, disputes over bride price, 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 which come before it. It has the authority to make "imprisonment orders which can then be enforced by the 'official' magistrates" (Bayne 1985:78). 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 (s. 23). For each K10 or part thereof of any fine, damages, or compensation which is not paid, the defendant faces imprisonment for one week (s.31 Village Courts Act 1973).

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 1985:78).³ Village Courts do not have jurisdiction in matters dealing with land or the driving of motor vehicles.

³ Bayne (1985:78) further notes that "There is potential here for complex 'conflicts of law' problems, and frequent jurisdictional challenge, but the allowance for joint sittings of one or more courts can be used to resolve difficulties. In practice, there are few problems."

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 (S. 46). The Local or District Court Magistrate has the authority only to confirm or dismiss the appeal.⁴

The Village Courts system is monitored by provisions in the Village Courts Act which require the Provincial Supervising Magistrate (PSM) to inspect each village court and its records within his Province regularly and to check on its functioning. This supervisory mechanism within the Village Court system 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 (S. 69).

VILLAGE COURT AND DISPUTE SETTLEMENT

The Village Court was given the mandate under Section 17 of the Village Courts Act 1973 to first "attempt to reach a settlement by mediation before exercising its compulsive jurisdiction (civil and criminal jurisdiction) under Division 5, and 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. Highlighting the importance of the mediation role of the Village Court was an attempt to encourage rural people to make use of their customary

⁴ Bayne (1985:81) notes that: "...a magistrate can at any time review a decision. Under the Act, the process which follows is the same (review seems to allow independent action by the magistrate). On an appeal or review, the magistrate is advised by two village court magistrates on matters of custom 'and on other relevant matters within their knowledge' (s 48). Section 49 limits the scope of the appeal or review. The decision of the village court must be confirmed unless, in effect, there was some excess of jurisdiction, and then only if there has been a substantial miscarriage of justice. There can be a further review by the Provincial Supervising Magistrate (PSM)."

ways of dealing with disputes which emphasised compromise, community participation, and compensation (rather than criminal fines) (Paliwala in Weisbrot 1977:166-7).

Section 26 refers to the application of custom in Village Courts. It 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 Section 37 (22) 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 criticized 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.⁵ As David Weisbrot notes (1977:153):

⁵ 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 (Marilyn Strathern 1972a).

"The establishment of the Village Courts was an attempt by the Administration to bridge the gap between the official courts (i.e. the Local and District Courts) and the unofficial courts (i.e. traditional moots), and to give customary law (both in its procedural and substantive aspects) a greater role in the officially recognized judicial system. With its provisions for mediation of disputes (s 20) procedural and evidentiary informality (s. 1.31) appointment of magistrates well-versed in local custom and respected by the community (ss. 7-8) blurring of the civil - criminal distinction (s. 40) and the recognition of group responsibility (ss. 59-60), the Village Courts Act was a giant-step of Papua New Guinea, and away from strict reliance on the Common Law adjudicatory model of dispute settlement. In practice, however,...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 western type official courts by holding court in rooms built specifically for the purpose of holding Village Court. These court rooms are modelled after the court rooms in the Local and District Courts where the complainant and the defendant sit at different tables facing the Village Court Magistrate (Westermarck 1978:83; Paliwala 1977:167-8).

Section 28 specifies that "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."⁶

Marilyn Strathern (in Epstein 1974:270-316) refers to another feature of customary dispute settlement; that of 'talking out' the dispute. She argues (in Epstein 1974:271-2) 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."⁷

⁶ A study conducted by George Westermarck 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" (Westermarck in Toft, 1985:108).

⁷ Strathern (in Epstein 1974:272) also notes that this public airing of all the contributing factors in a dispute can cause further problems since publicising all the

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.⁸

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 1974:22):

"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."

The Village Courts Act attempts to incorporate the main features of dispute settlement into the system by emphasising the mediation role of the Village Court (S. 19) and by establishing a flexible system which uses traditional dispute settlement procedures (S. 39) (Paliwala in Weisbrot 1977:167-7).

VILLAGE COURTS AND WOMEN

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 1974:23; Strathern in Epstein 1974:272).

⁸ 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.

A woman in a dispute with another person can first attempt to use the informal remedies of mediation or moots. A study conducted by Westermark 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 (Westermark in Toft 1985:110). 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. Westermark'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 1985:112). An interesting finding of the study was that out of 94 cases of trial or reports involving both sexes, 88% were initiated by women. Marilyn Strathern (in Toft 1985:8) 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 1985:8) 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 (personal communication 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 (Richard Scaglione and Rose Whittingham, in Toft, 1985:122-3)

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 1985:129). 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 type of cases since violence is a matter considered serious enough to deal with in the more formal Village Court (in Toft 1985:127).

According to Scaglione and Whittingham's study (in Toft 1985:127:129) 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 thirty percent of cases while women in the New Guinea Islands were the sole plaintiffs in 30% of cases but joined with men as plaintiffs in a further 14% of cases. In Momase region (northern New Guinea mainland area) women acted as sole plaintiff in only 20% of cases.

TYPES OF CASES INVOLVING WOMEN

Barbara 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.

a) 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 (1985:84) 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

the low incidence of such cases, she argued that this did not mean that women were not being forced into marriages (1985:84) 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 (1985:84) 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."

b) Disputes Arising During Marriage

Disputes that come up during marriage involve polygyny, domestic violence, adultery and desertion (Mitchell 1985:85-88). Polygyny disputes take two forms. In the first, the wife or wives seek to block the husbands' attempts to take on yet another wife. The second type of dispute involves the wives themselves who 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 (1985:86) 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 (1985:87):

"...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 K300 (\$360 Canadian) and this is usually dispensed amongst the wife's relatives (Bradley and Tovey 1988:7).⁹

c) Dissolution of Customary Marriages

Divorce is considered a very serious issue in the Village Courts and magistrates often attempt to facilitate a reconciliation (Mitchell 1985:88). The return of brideprice is the most common dispute dealt with by the Village Court when there is a breakdown in marriages. The issue of 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

⁹ Matters relating to brideprice, custody of children or compensation for death are not included in the K300 compensation limit.

money to has absconded with it (personal communication Rick Giddings, Senior Magistrate, October 8, 1989).

DIFFICULTIES EXPERIENCED BY WOMEN BEFORE THE VILLAGE COURT

Women are at a disadvantage when disputes involving them are brought before the Village Court. Mitchell (1985:81) 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. She argues (1985:88) that since Village Courts apply customary law:

"...in many instances the customary family laws discriminate against women and assign them to a subordinate role in the marriage relationship, contrary to the explicit directive of the Constitution in Goal 2(12) and the guarantee of equality in s.55 of the Constitution. Women bringing disputes to village courts can expect to be unsuccessful if they try to exercise rights that are contrary to the customs of the community. Village court officials are not apparently prepared to reject customs which do not accord women full equality with men."

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 1977:169; Mitchell 1985:89). 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. Mitchell (1985:89) noted that:

"Women in North Solomons Province complain that they do not get a fair hearing in the male-dominated village courts. They often prefer to take their marital problems to the welfare office which they believe will be more sympathetic and may be able to assist them in getting relief."

Other examples can be found elsewhere. At Mendi in the Southern Highlands Province, women have been ordered to pay fines for smoking while this is not considered as an offence for men (Paliwala 1977:169). Paliwala (1977:169) 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 03 and 10 May 1989, Mr. Justice Woods heard applications under the Constitution by one woman who claimed an unlawful detention order was made by the Village Court in her case. This woman had been imprisoned for failing to obey orders for payment of compensation made by the Village Courts. 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 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 in National Court 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 argued 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.¹⁰

A third example is found in J. MacTeine and A. Paliwala's study on "Village Courts in Simbu" (1978:37-38) which provides an example of the difficulties that Simbu women face when before a Village Court. The 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

¹⁰ 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 his 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).

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. MacTeine and Paliwala argue that Simbu Village Courts are unsympathetic to women and that the above case typifies their treatment in Village Court (1978:49).

The following case described by Paliwala (1982:222) 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 (1982:222) 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 (1982:222).

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. It engaged a United Nations consultant to prepare legislation. That draft legislation became the Probation Act 1979. It took several years for the system to get off the ground. In 1982 a statement was made by the Minister for Justice announcing that

by the end of that year a Probation system would be implemented throughout the country (Clifford et.al. INA/IASER Report 1984:Volume 2:33). However, in 1984 the Probation Service consisted of the Chief Probation Officer located in Port Moresby and one Probation Officer who was situated in Lae. In 1984 the Chief Probation Officer resigned leaving only one employee in the Service who was then promoted to become the Chief Probation Officer.

By 1984 there were only three areas specified for probation service, Port Moresby, Lae and Goroka. In Goroka, Probation was being run by a volunteer organization called the Eastern Highlands Provincial Rehabilitation Committee. Based on the recommendations of the Clifford et.al. INA/IASER Report (1984) the new Chief Probation Officer was transferred from Lae to Goroka in early 1985 to begin working with the EHPRC. They were mandated to design a pilot project and to develop a model probation system to be later established throughout the country.

In 1984, the government, in response to an increasing concern about the law and order situation in Papua New Guinea passed legislation which imposed a mandatory minimum penalty of imprisonment for most criminal offences.¹¹

In 1985 two Canadian criminologists (including the present author) were recruited by CUSO (the Canadian Volunteer Organization) to work as Probation Advisors with the Justice Department and to design and implement a probation system based on a community corrections model that was relevant to the Melanesian culture.¹²

¹¹ This legislation was opposed by the Eastern Highlands Rehabilitation Committee and was later revoked in August 1985 after the introduction of a Private Member's Bill by Member of Parliament Sir Barry Holloway.

¹² There has been no academic literature written on Probation in Papua New Guinea beyond a few earlier articles written for the purpose of pressing for its implementation. Much of the information contained in this chapter on Probation is based on the personal knowledge of the author gained while employed with the PNG Probation Service as a Probation Advisor during 1985 and 1986 and on information gathered since the author returned to PNG in October 1988 up to the present.

Goroka was used as Probation Headquarters from 1985-86 during which time the system was designed and the process of implementation began. In late 1986 Headquarters was transferred to Port Moresby. Between 1986 and 1990 CUSO continued to provide the Probation Service with a total of seven Probation Advisors to assist in the implementation of the Probation system. In 1990 there are 22 offices spread across 17 provinces with 53 staff providing Probation services to the Courts.

The Probation Act 1979 authorized 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 (s.3). As stated earlier, by 1984, only three areas had been specified for the establishment of a Probation Service. In practice 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 stationary, drivers, vehicles, or secretarial staff.¹³

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

¹³ 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.

officer, Voluntary Probation Officer, was to be recruited from the community, appointed by the Chief Probation Officer or his delegate (s.6(1) & s.6(2)), and was to receive no remuneration for his/her services (s.7(2)).

Probation, as a sentence, can be given by all Courts except Village Court, if the offender consents (s.16(3)), for all offences except when 'a mandatory minimum sentence is provided for by any law', or when the offence 'relates to the death of a person' (s.13).¹⁴ 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 (s. 16(2) & s.18(5)).¹⁵ Offenders given the probation sentence in Court are required under the Probation Order (s. 16), 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 to change employment unless the Probation Officer is given reasonable notice (s.17). Section 18 allows the Court to order special conditions which would ensure the offender's 'good conduct'.

Under Section 20 of the Probation Act 1979 a person who fails to comply with the conditions of his Probation Order commits a breach of that order and after conviction, faces an extension of the Probation Order, the imposition of additional

¹⁴ The National Gazette published in February 1990 has just announced the appointment of all Probation Officers as Honorary Welfare Officers. This authorizes Probation Officers to supervise juvenile offenders under the Child Welfare Act 1976 if asked to do so by the Courts.

¹⁵ When Parliament passed the legislation imposing mandatory minimum sentences of imprisonment in 1984, removing all discretionary powers from the Courts and making a Probation sentence impossible for most offences, the Goroka Senior Magistrate and his staff found a loophole. They placed offenders on a Good Behaviour Bond (District Courts Act, s138) with the stipulation that the offender agree to be under the supervision of a Probation Officer (INA/IASER Report, Volume 2, 1984:38).

Amendments to the Probation Act 1979 are currently being prepared (personal communication James Baker, Deputy Secretary for Justice). The proposed amendments include removing the need for the offenders consent to the sentence of probation.

conditions, imposition of the original suspended period of imprisonment or any part thereof, or a prison sentence (if sentencing had been originally deferred).¹⁶

The country has been divided into four regions. Although there are cultural differences between the societies making up each of these regions, internally each region has much in common. The regions are: Papua, Highlands, Momase (northern New Guinea mainland) and Islands. Each of these regions 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 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 Probation 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

¹⁶ The proposed amendments also include a provision which would make breaching a Probation Order a criminal offence which could then be sanctioned with jail, fine, probation or any combination of the three.

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.¹⁷ Major problems experienced have been insufficient training of volunteers, the reluctance by the Courts to utilize 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 (personal communication February 20, 1990, Leo Tohichem, 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 (Chief Probation Officer, personal communication 20 February 1990) 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."

¹⁷ 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).

The balance is usually restored through some form of reciprocity between the victim's group and the offender's group. Sections 13 and 25 of the Probation Act 1973 require 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.¹⁸ 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 others activities, the probationer's conduct is easily monitored. If

¹⁸ Senior Magistrate Rick Giddings notes that (personal communication 08 October 1989): "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."

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 recognized (personal communication 20 February 1990 Leo Tohichem Chief Probation Officer).

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 provided with basic services such as electricity, water, sewage, and garbage collection (William K. A. Agyei 1980:12). 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 (personal communication February 20, 1990). He attributes his assertion 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.¹⁹ William Clifford (1976:14) 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." However, he further notes (1976:14) that:

"...the non-legal social controls do not operate to make people living in settlements eschew crime or avoid imprisonment. The informal social controls are still apparently very strong and very effective in preventing the victimisation of others living in the same settlement and although the settlements have their gangs, these gangs go elsewhere to commit their crimes; they do not prey on their own people, that is, those in the same residential area."

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 effectively supervise a probationer within their sphere of influence (settlement) is the custom of redistributing items stolen during offences. As M. K. Mackeller notes (in Biles (ed) 1976:122):

"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 utilize them.

¹⁹ William Clifford (in Biles 1976:25) 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."

The payment of compensation is an important element in traditional dispute settlement since most disputes between Papua New Guinean's can be settled by such payment. Compensation is a form of self-help or retaliatory action which mitigates the use of a more violent form of retaliation (Lawrence 1969:32-3). If compensation is not paid by the offending group, the offended group continues to bear a grudge against it. In such a situation the balance between the two groups has been upset. Once the appropriate amount of compensation has been paid this balance is regained and there are no longer any bad feelings between them since the aim of traditional dispute settlement "...is to restore social order, or to patch up relationships that have been broken or damaged" (Lawrence 1969:34).

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).²⁰ 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.²¹ If the offender or his group does not have the goods or cash with which to pay the compensation claim, the

²⁰ 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.

²¹ 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 (Probation Service Annual Report 1988:3). Together they comprise 21.3% of the cases placed under Probation supervision during the year. However, not all community work service is ordered to be performed for the victim.

community will sometimes agree to the offender performing community work for the victim instead.

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 recognized in the formal court system as a mitigating factor in sentencing. It is not a defence in law (Customs Recognition Ordinance 1963 s7). 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 recognized, 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 1980:12-13).

There has been an increase in the amount of gang activity in all the urban centres (Clifford 1976:16; Bruce 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 1976:16):

"...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 (Gerard Guthrie 1980:37-8). 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 materialize 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 organizational 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 have to do with domestic disputes. Mr. Tohichem noted that (Chief Probation Officer, personal communication 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 jail. 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 jails 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 Dianne Johnson 1979:68-71). Thus, in jail there is no support provided for the female offender or for her problems.

The Probation system allows women to be placed on 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. Community work can also present problems for women however, 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 (Deborah Clifton 22 February 1990). 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 stabilize and maintain the family relationship when it comes under pressure from either internal or external sources (personal communication 10 October, 1989 Naomi Erebebe OIC Goroka Probation Office). 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.²² Officers have spent a great proportion of their time providing counselling to female probationers (Deborah Clifton, personal communication 22 February 1990). 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.²³

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 it is 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.

²² The Service has included the 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).

²³ Deborah 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 utilize appropriate and available community resources which might assist women.

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 (personal communication 20 February 1990). Prior to the implementation of Probation Services in the country in 1985, 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 personal communication 20 February 1990; Bradley 1988:8). Probation Officers are able to speak for these women so that their legal rights and social problems are recognized. 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.²⁴

²⁴ 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; personal communication Deborah Clifton 02 March 1990).

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 (personal communication Rick Giddings Senior Magistrate 08 October 1989; Naomi Erebebe²⁵ 10 October 1989; Daniel Aina, District Court Magistrate Maprik 28 November 1989; John Kerari Probation Officer Popondetta 18 January 1990).

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 (L. Giddings & R. Giddings 1985:6). 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 (Dianne Johnson 1979:39). Currently however, more and

²⁵ Naomi Erebebe is from the Bena Bena culture and has been employed with the Probation Service as Officer-In-Charge of the Goroka Probation Office since 1986.

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 (Peter Worovi Senior Probation Officer Highlands Region²⁶ personal communication 10 October 1989). 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 1979:53-54).

Women are also involved in offences relating to money such as shoplifting or stealing and occasionally for living off the proceeds of prostitution. Although not universally true, 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 (Suzy Vuvut Probation Officer National Capital District 22 February 1990).²⁷

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 1988:6). For example women (and men) often do not understand the

²⁶ Peter Worovi has been employed with the Probation Service as Senior Probation Officer for the Highlands Region since 1985.

²⁷ 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" (Stephen Ranck and Susan Toft in Toft (ed) 1986:12). 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 1986:14) 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."

procedures involved in laying a complaint, issuing a summons or ensuring their witnesses attend Court on the correct day.

IMPACT OF AGENTS OF CHANGE

It is now proposed to consider the impact and effect of Village Courts and Probation on women from the four groups. In the case of Probation, specific cases will be described and will illustrate the ability of Probation to cater for the special needs of women. In the case of Village Courts, because of the difficulty in obtaining detailed Court records (which often are not kept) interviews, and source material will be relied upon to show that women receive less fair treatment from the Village Court system than from the remainder of the Court system.

BENA BENA

Village Court

The Village Court system was introduced in Eastern Highlands Province in January 1975. There are 88 Village Courts and 875 officials (Annual Report Village Courts Secretariat 1988). Most offences involving women are dealt with by the Village Court (Rick Giddings personal communication 10 October 1989). 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 taking their appeals against Village Court decisions to District Court. This is especially true when dealing with the issue of 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 best interests are with the mother.

Senior Probation Officer, Peter Worovi (personal communication 04 October 1989), noted that women prefer to use the imported Court system for three major reasons. Firstly, because it is faster, and women feel that they will receive fairer treatment than they would before the Village Courts. Secondly, 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. Thirdly, 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 of incarceration giving her an opportunity to secure her position with the husband more firmly 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 also 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. She also noted that 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. Turning to specific cases, two Bena examples will demonstrate the position of women before the Village Courts.

The first case was brought to a Goroka Magistrate's attention in 1985 when he 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. Her husband 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.

The second case involves a woman who 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 or \$7.32 Canadian). 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 those 70 women only one was breached for failing to follow the conditions of her Probation Order while 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 (Naomi Erebebe OIC Goroka Probation Office personal communication 10 October 1989).

Between January 1987 and October 1989, 20 Bena Bena women and 27 Bena Bena men were placed on Probation by the Goroka District Court. Of the 20 female cases 11 were charged with assault, 2 were charged with using insulting language, 1 was charged for using threatening behaviour, 1 for adultery and 5 were charged for stealing. With the exception of the 5 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 (\$1700 Canadian) from the coffee plantation office where she worked. Out of the 20 female cases only 4 were assigned to be under the supervision of a Volunteer Probation Officer. The remainder reported to the Goroka Probation Office.

Naomi Erebebe, OIC Goroka Probation Office, is from the Bena Bena culture. She noted (personal communication 10 October 1989) 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. Afterwards they were expected 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 practise are taken to Court in order to seek a compensation order.

The counselling offered to the 15 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 9 out of 15 cases, Probation files indicate that through individual and family counselling the family problems experienced by the women were resolved during the period of Probation. In 4 out of the 9 resolved cases the women involved were the girlfriends pursued by married men. These 4 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 unfortunate 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 jail 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 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 stabilize and maintain the family unit.

ARAPESH

Village Court

The Village Court system was introduced in East Sepik Province in October 1975. There are 72 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 (personal communication 28 November 1989 Robert Seglewan Villager, Ilipaim Village; Tony Hare Probation Officer Maprik).

Richard Scaglione (1979:124) 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.²⁸ Out of 65 disputes in the Abelam Village of Neligum in 1975 (prior to the introduction of Village Court), 95% of the conflict cases were informally dealt with at the village level and 5% were settled at the Local Court in Maprik. Scaglione found that in 1977, Village Court was used to settle 19 disputes and he concluded that it was "a more popular forum for conflict management than is the Local Court" (1979:124). However, Scaglione also noted that "quite a number" of disputes were not being dealt with by the Village Courts but were being dealt with by the community through traditional means such as mediation by big-men, avoidance, yam exchanges or through the informal methods of the Village Courts. Scaglione says that in 1975, 23.1% of the conflict cases involved sexual disputes and 15.4% involved petty domestic disputes giving a total of 38.5% 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.²⁹ In 1977, assault (22.1%) and sexual disputes (19.2%) accounted for a total of 41.3% of all the cases dealt with by the Bulupwine Village Court. The 1977 figures from the Bulupwine Village Court are

²⁸ Scaglione studied the Bulupwine Village Court Area which has jurisdiction over five villages, one of which is of the Arapesh culture and the other four from the Abelam culture. The Bulupwine Village Court was established in July 1976. Although his statistics refer to Abelam villagers informants from the Arapesh village of Nebenaguim confirmed that most disputes are still settled at the village level without resort to outside Courts including the Village Court.

²⁹ 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 1979:123).

similar to the 1975 informal figures for Negligum 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. If they are not following custom then 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 (personal communication 28 November 1989) 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 and did not allow the appeals.

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 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.³⁰ He noted (personal communication 30 January 1990) 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. He also noted that the families are more reticent to involve themselves in marital disputes nowadays than they were in the past. They will only interfere when the couple's problems reach the stage of divorce. Mr. Tohichem, also of the Arapesh culture confirmed this view. He 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

³⁰ Mr. Berry has been employed with the Probation Service since 1986.

wife out of his home with an axe. In this case 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 55 Probation cases supervised by the Maprik office between March 1988 and November 1989, only two were women and only one of the two 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 (personal communication 28 November 1989) 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. He also pointed out that the women in the area are unaware that they could ask for a probation disposition in Court.

TOLAI

Village Courts

The Village Court system was established in East New Britain Province in December 1976. East New Britain Province has 43 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 (shell money) 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, 57 were by females, 41 of whom were Tolai women. Subsequently, 30 cases were sent as formal appeals to the Provincial Supervising Magistrate. Seven of the 30 cases were quashed because the Magistrates found no grounds for an appeal, 10 were sent back to the Village Court for a re-hearing and 13 (43.3%) cases were upheld.

The breakdown by offence of the 30 cases appealed by Tolai women is as follows: 10 cases of assault; 10 cases of spreading false rumours and of using abusive language; 8 cases of wilful damage to property and 2 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 was 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 women who were convicted for using abusive language complained that they had been provoked and, in one instance, that the woman was only joking.

An example 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 returned 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 facts were that 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. They accused the women of stealing property in Village Court. 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 (personal communication 10 January 1990) 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 (1982:234) noted that Tolai women who appear before the Village Court are placed at a disadvantage because of the cultural necessity to practice 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 1985:39). 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 1985:41) that out of 75 marriages studied, wife-assault was involved in 65 (87%) 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 feel that Village Court Magistrates will treat their complaints unsympathetically due to their

own attitudes towards disciplining wives (1982:252). She noted the example of a Supervising Magistrate for Village Courts in East New Britain (also a Tolai), who informed her that (1982:253):

"...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."³¹

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 19 women. 2 women and 13 men were charged with breach in 1988.

Between October 1986 and January 1990, 23 Tolai women were placed on Probation by the Courts. Of the 23 cases, 12 were of assault, 2 of damaging property, 3 of using insulting language, 5 of adultery and 1 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. Out of the 23 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.

³¹ For a discussion about the changing attitudes toward domestic violence in East New Britain refer to the earlier discussion on pages 301-2.

Generally, educated women take their disputes to the District and Local Courts (personal communication Senat Pukai Probation Officer Rabaul 10 January 1990). 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 Department of East New Britain between 1985 and 1989 and is now a Probation Officer, stated that (personal communication 29 November 1989) most disputes involving Tolai women are related to money and marital responsibilities. The typical urban dispute case involves accusations made by the housewife 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 wives 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. Mr. Vilamur believed that he could be more effective in dealing with family problems as a Probation Officer than he was able to as a social worker. This he attributed to the implied threat of the Court ordered period of Probation during which time the probationer was required to refrain from further breaches of the law and was offered 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 Probation Advisor, Deborah Clifton, 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. 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 reluctance to the relative newness of the Domestic Violence Campaign 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.

OROKAIVA

Village Court

The Village Court system was proclaimed in Northern Province (Oro) in June 1976. Northern Province has 15 Village Courts and 164 Village Court Officials.

Village Courts have not yet been introduced to the Binandere language area of Ioma District. This is due to the poor communication and transportation system in the area. John Kerari, a Binandere, and a Probation Officer stated (personal communication 18 January 1990) that there is need for a Village Court system in the Ioma District since it is isolated and not connected to Popondetta by road. The economy is still undeveloped and is mostly comprised of subsistence farming. All attempts at implementing economic projects have failed due to the poor transportation problem. 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. Such young men often do not feel as though they are part of the community and consequently spend little time at the village. These men 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 (personal communication Probation Officers John Kerari; Suzy Vuvut). Village Court Magistrate, Gill Christ Kanadari noted that most women appear before Village Court for assault, spreading false rumours and threatening behaviour. He stated that 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 that women were less afraid to take their disputes to Village Court than they were 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 with women on a regular basis 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 penalizing 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 95 people placed on probation by the Courts, 9 women and 86 men. There was 1 breach charge 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 woman 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 the 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 by taking the matter to Court the wife used shaming as a means to settle the conflict. Shame was traditionally used by the Orokaiva to publicly show that someone was not using the 'otuhu' values expected of group members (Nicodemus Araho 1983:190-1). 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 jail 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.

CONCLUSION

During the period of colonial administration the kiaps carried out magisterial and administration roles for the people. When the kiap system was abandoned and replaced by the Local/District/Supreme Court system of social control a vacuum was created. Traditional systems of social control had been changed through contact with the powers of the kiaps. Self-reliance and compromise between groups was replaced with dependence on third parties (the court system) to resolve disputes.

In the Post-Independence period the Government attempted to fill this vacuum with the Village Court system which would settle disputes according to the local customs and the local dispute settlement procedures. Emphasis was placed on the informal mediation powers of Village Court Officials. It was hoped that the Magistrates would only resort to their more formal powers as a last resort. The Village Court system has not entirely followed the intentions of its original designers. It has come to rely more heavily on its formal powers and has even attempted to emulate the imported system of Local and District Courts.

The Village Court system is a bold attempt to recognize the importance of custom and therefore the need for plural systems of law. In relation to women, however, the Village Court system is male-oriented just as custom is male-oriented. Women's lives have been indisputably changed by the influences of the colonial administration and by the missions. The effect on them has been to increase their choices particularly in the areas of marriage, relationships with men and divorce. Under the kiap system women's status was raised in dispute settlement procedures to that of jural equals. This was a significant change for women in some cultural groups in particular.

In the Post-Independence era women are mostly involved in domestic disputes concerning their children, husbands or their husband's girlfriends. Generally, women appear before the Village Courts or before the Local and District Courts for charges of assault, use of insulting behaviour or language, domestic violence, desertion, stealing, or adultery. Sexual jealousy is a prevalent cause for disputes between women. Traditionally women were often expected to shame the second wife or the husbands' girlfriend in public. Under the western system this has now become the offence of assault.

The introduction of a system of social control which adjudicates disputes according to the relevant tradition has not improved women's status within the system since under custom women were assigned a subordinate role to men. The Village Courts appear to be reluctant to become involved in resolving marital disputes unless they reach the point of divorce or violence assigning such disputes to the category of "little troubles" which should be dealt with by the family members concerned.

Women are at a disadvantage when they appear before a Village Court Magistrate who is usually a male, not only because they are not allotted an equal status under customary family law but also because they are inexperienced in public speaking and find it difficult to articulate their side of the dispute in Village Court. This was shown to be true in all four groups.

The Probation system takes account of custom when making recommendations to the Court in Pre-Sentence Reports. Probation Officers seek out the opinion of the community about the appropriate sentence for the offender in an effort to ensure that the dispute will be resolved traditionally as well as by western standards. In the western system women are also afraid to voice their concerns and often do not understand the complexities of the system. Probation Officers can assist women by providing a formal means (the Pre-Sentence Report) in which their side of the problem is also given consideration. It can also help by recommending special conditions of probation which

can be tailored to satisfy the relevant traditional custom. A most important condition which is frequently added as a special condition of a Probation Order is that of compensation. Traditionally, compensation was given to the offended group in order to satisfy the demand for reciprocity between groups and to restore balance.

The Probation system attempts to involve the community in the supervision of the offender and to place the onus for the offender's behaviour onto her/his lineage. The group's traditional role of monitoring the behaviour of its members to ensure that they adhere to community values is therefore acknowledged. In the case of women in the four groups studied, Probation has not used the system of Voluntary Officers very much but has required women to report directly to the Probation Officer. Probation staff appear to be keenly interested in offering counselling to women and their families themselves.

One of the main goals of Probation is to keep women out of jail. In the Bena Bena and Tolai cultures the Probation Service appears to be achieving this goal. In the Orokaiva and Arapesh groups few women are being sent to jail by the Courts. Likewise not many women have been placed on Probation in these areas. This can partly be explained by the fact that Probation is more firmly established in the Goroka and Rabaul Probation Offices. By keeping women out of jail and in the community, Probation Officers attempt to stabilize and maintain the family unit. Counselling and supervision can be provided to assist women and their families to resolve the disputes which led them into conflict with the law. A woman's conviction in the Village Court system often results in the woman's imprisonment. This is because the Village Court often orders fines and makes compensation orders which the women are unable to pay. The result is that these women serve the default time in prison.

Even though the existence of probation as a Court disposition allows women to remain in the community with their families and with their systems of support, women continue to be sent to jail for offences which do not warrant a term of imprisonment. This is largely because of a societal attitude which punishes women for being considered

subordinate. Probation can help to alleviate the injustices which are often experienced by women because of these attitudes.

The Village Courts make little effort to assist women through counselling or mediation. Instead they often reinforce the male side of the dispute. If they do make an attempt to counsel women or to give them advice they do so in the public forum which causes shame and embarrassment to the women concerned. Probation Officers are able to provide one-to-one or family counselling to the women and their families. This personal connection with someone who is interested in their problems is important to village people who often feel ignored and neglected by the government system. Since the demise of the kiap system there has been no one to fill this role.

The Probation system is in a better position to offer assistance to women because it seeks to use the advantages of both custom and the western system and can accommodate the requirements of both. It can adjust itself to recognize social change and the new problems which are being faced by women as part of their changing role in Papua New Guinea society especially in the urban settings through their increased involvement in the cash economy, in employment, and increased education. The challenge for Probation, which attempts to base itself in the community, will be deciding how to deal with the problems of women (and men) arising from the loss of community in the growing urban environments and their accompanying changing values.

The Papua New Guinea Probation Service is still very new and the data collected for this thesis is based on what is available at this stage. The number of women placed under Probation supervision in the four groups is still very small. There is every reason to expect that, like western countries, increased emphasis will be placed in years to come in Papua New Guinea on the use of non-custodial sanctions. If so, the Court system will continue to expand the use of Probation for cases involving women. This of itself, of

course will not change deeply entrenched traditional attitudes towards women. What it may do however, is provide the women of Papua New Guinea with the opportunity to gradually begin the process of determining their own destinies and to take the initiative in acting to continue the process which began in 'taim bilong tumbuna' (traditional period), continued through colonization and the kiaps and is now very much their own responsibility.

CHAPTER FIVE

CONCLUSION

This thesis set out to demonstrate that whereas the introduced system of justice is inappropriate to the cultures of Papua New Guinea, it has nevertheless had the effect of raising the status of women within the system of social control. This conclusion was reached employing archival and interview methods in four cultural groups in Papua New Guinea.

INAPPROPRIATENESS OF THE INTRODUCED SYSTEM

Within traditional Papua New Guinea societies there were common principles of social control and dispute settlement. These common principles were concerned with the social context and the social relationships within which the wrong act occurred. The types of offences committed in traditional society could be divided into two types: offences against the religious code and offences against human beings. This thesis principally examined the type of offences committed against human beings which could further be divided into two categories: self-regulation and self-help or retaliatory action. Self-regulatory forces which prevented wrongdoing included public opinion, shame, socialization, and reciprocity. Most important of these was the rule of reciprocity which is defined by Lawrence (1969:27) as "that where mutual obligation 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 one was morally bound to was limited to the number of groups and individuals one had established mutually beneficial relationships with where material gain by both sides was easily attainable. Outside of these established relationships moral obligation was non-existent 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 a distributive system of morality as Kenneth Read called it (1955a:257). Moral obligation within the clan was dependent upon the social relationships which existed between the individuals involved. Judgement 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 through marriage was emphasised. Group survival was dependent upon the maintenance of these relationships. Internal conflict was avoided at all costs. For situations 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 two categories; those that involved external groups and those that involved 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 between disputants dictated the response to conflict. The closer the relationship, the more tolerance and restraint was exercised between the disputants. 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 Australian and German colonizers introduced western law and western systems of justice. Germany introduced the luluais and tultul system which appointed local leaders to represent the German Administration in their communities, to settle minor disputes and to 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 Regulation 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 utilized 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, they introduced the Village Courts System to attempt to fill the gap created after the abolition of the patrol system and as an attempt to integrate custom into the formalized system of social control. The Village Court system emphasized mediation and customary ways of settling disputes, such as compromise, community participation,

compensation and 'talking out the dispute'. It could also exercise judicial powers when all attempts at mediation failed.

The Government also 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.

For the purposes of this thesis an examination of the definitions of law and custom was completed, not with the intention of resolving the debate, but as the foundation for a discussion concerning the relationship between law and custom. This relationship is important when examining the impact of western formalized legal systems on custom-based societies such as Papua New Guinea.

The author believes that the law/custom debate can be explained generally by looking at it in terms of inner and outer controls for behaviour. In the context of Papua New Guinea, this holds especially true. Custom, or inner controls, is the internalized belief system based primarily upon cultural conditioning, and, for custom-based societies, may reflect the survival needs of the group in question (Pospisil 1978:63; Hart in Lloyd 1985:406; Yabsley 1984:4). Outer controls, or codified law, includes 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 1978:30). Law can also be based on

custom (internalized control systems) but this is not a mandatory condition for the particular rule to be classified as law (Hart 1961 in Lloyd 1985:406).

In the relationship between law and custom, law is most persuasive when it is based on the groups' internalized beliefs, and, in the case of custom-based societies, the customary system of social controls (Yabsley 1984:7). 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 1984:6).

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 1968:120). 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 recognize 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 (1980:152): "...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 (1970:42) 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 colonization. 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 appropriately settle disputes 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 the 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 1977:167-8). Unfortunately, this has meant that the Village Court does not really supply 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.

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.

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 et.al. 1975:227, 229). This stability was combined with fertile ecological systems which minimized 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 et.al. 1975:227). 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 et.al. 1975:227). 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 et.al. 1975:232). 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 1975:348). Group survival necessitates the centralization 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 practise 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 et.al. 1975:237-8). 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 organization 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 non-existent 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 penalize 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 its own version of introduced western law to Papua and New Guinea the Administration introduced 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 1974:207). In divorce, the return of brideprice was seen as the final act concluding the marriage. This failed to recognize the fact 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 1974:207). 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 (1980:154) 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 practise 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 studied 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 was changed after contact and this had a significant weakening 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 approach 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, 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.

The mostly male Village Court Magistrates seem reluctant to become involved in cases involving marital disputes. They treat most such cases as too minor for their Court to have anything to do with. They will become involved, however, if the cases reach the point of violence or divorce when the dispute is deemed to be serious enough.

When women appear before Village Court Magistrates they are at a disadvantage due to their inexperience in the public sphere and to the conflict involved in 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 jail 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 jail, 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 1982:222). This was in contrast to their attitudes toward most other disputes in which Magistrates appeared willing to compromise custom in favour of westernization.

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 vocalize 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 jail. 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 particular 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 main approach that Probation Officers take with cases involving domestic disputes is to attempt to counsel all the parties involved in an attempt to stabilize the family situation. This counselling is done with the individual and with the family members concerned. It is done privately so little embarrassment is experienced by those concerned.

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. 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 has changed from being 'jural minors' to that of 'jural equals' within the justice system during the colonial period. Yet, the introduction of the Village

Court system which uses custom to adjudicate cases, 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, in this case women, 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 dependents 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. This can be seen in the treatment of women in the Village Court which often insists on 'extreme traditionalism' when dealing with cases involving women. Yet they are more compromising with their use of custom in disputes which do not involve women.

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. It is suggested that the continuance of this violence is a reflection of the generally poor status that women enjoy in present Papua New Guinea society. It is considered that analysis of the use of violence both traditionally and in contemporary settings would be a subject worthy of further research, the proposition being, that a violent society not only subjugates women but also is less inclined to settle disputes peacefully using traditional or introduced methods of social control. Given the concern expressed by the community in Papua New Guinea at present as to law and order problems, a study of the use of violence would be appropriate and timely.

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.

Other research questions emanating from this thesis include: Is the imposition of law unavoidable in the situation where a colonial power has taken over the task of administering a nation or culture? Will an evaluation of the Probation Service reveal a significant difference in impact from the previous attempts by the Colonial Administration to 'advance' the citizenry? How would the results of a study of the Probation Service differ if a control group was identified for the purpose of comparing them with cultural groups already exposed to a Probation system?

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. At its state of development however, Papua New Guinea lacks trained administrators and implementors of policy. With the best will in the world the success of law and order programs will depend on action and not words. It is here that Papua New Guinea will need to develop its manpower resources.

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 countries like Papua New Guinea is to honour and "acknowledge the worthy customs and traditional wisdom of (their) people" (Preamble to the Constitution of the Independent State of Papua New Guinea) and at the same time, discard those customs and traditions which all societies abhor as being inconsistent with the inherent dignity of the human person.

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	No. 1/1955-56
Aiga	No. 1/1957-58
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