

PACIFIC ISLANDS STUDIES

PLAN B: PAPER

SENIS BILONG LO

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INTRODUCTION

The rapid social change taking place in Papua New Guinea has inevitably brought about a problem of social control. The most obvious sign of this is the increase in the urban and rural crime rates. What prompted me to write this paper were press releases of crime in the local and foreign news media; Post Courier, Pacific Islands Monthly and the Times of Papua New Guinea. Whenever I read about victims of crime, I constantly recall feelings of safety and peace prior to Independence. However, such feelings have been replaced by fear and caution.

The aim of this paper is primarily to look at the history of law and order in Papua New Guinea from pre-contact to Independence. This will be supported by anthropological evidence of how tribal societies governed themselves prior to the advent of contact. However, it is not feasible to study all societies due to the complexity and fragmentation involved; nonetheless, I shall attempt a few of them. Then I shall compare the state of law and order during the colonial administration of New Guinea by Germany, Britain and Australia. Finally the pattern of crime since Independence and Papua New Guinea Government's policy or action to curb the growing institution of crime will be discussed.

One of the country's objectives is development, but unfortunately running parallel with development is crime, and both are accelerating. A look at the history of Papua New Guinea will certainly show that crime is increasing. The government has sought

and implemented a number of proposals, unfortunately it has not curbed the growing rate of crime. The problems related to these crimes will also be addressed in this paper.

CUSTOMARY LAW

Confronted by its many fragmented indigenous societies in their contrasting ecological settings, its myriad languages and diverse peoples and cultures, Papua New Guinea commonly only suggests inexplicable diversity. It is important to note at the outset that it would be an impossible task to examine all societies in Papua New Guinea. Nonetheless, I shall look at those societies that consider certain actions or omissions, offences and the penalty involved if any.

By custom I mean the rules and methods of controlling behavior which apply to customary groups and referred to as customary law (Chalmers and Paliwala 1984:1). The developed concept of "law" and related notions are not easily applicable to activities in the traditional societies of Papua New Guinea. There is a virtual absence of authority, leadership and law as usually understood in the West and as they are not the basis of social control, it is important to list those actions generally considered to be wrong and then to discuss the elements that tend to prevent their occurrence and the remedies imposed when they do occur.

Wrong action is best described and presented by Lawrence in his article "The State Versus Stateless Societies In Papua and New Guinea", (1969:26), which provides two categories:-

1. **Offences against the religious code:** Various forms of sacrilege such as, for men, failure to observe initiatory taboos, disrupting performances of ritual and trespass on another's garden land, and, for women knowledge of the secrets of male initiation.

2. **Offences against human beings which may be subdivided as follows:-**

- (a) Wrongs of omission - failure to observe obligations towards affines kinsmen, exchange and trade partners, and so forth; and
- (b) Wrongs of commission - positive offences such as homicide, theft, rape, proscribed marriage and adultery.

OFFENCES AGAINST THE RELIGIOUS CODE

Because some people do not distinguish between the spheres of the natural and supernatural, it should be noted that religious sanctions are indicated by the intervention of gods and spirits of the dead in human affairs are a powerful force in social control. Generally speaking most of these offences do not lead to human retaliatory action. It is believed that ancestors, who preside over initiation, ritual and land tenure, will bring the culprit ill-luck in agriculture, fishing, or hunting, or illness, deformity and even death. There are always a number of deformed individuals in the village, who can be cited as proof of the prevailing belief, which acts as a strong deterrent against the wrong actions listed. An exception to this rule, is said that women who mistakenly witnessed male rituals or initiation were immediately put to death (Lawrence 1969:26).

An example of misfortune resulting in death is discussed by Berndt, regarding pig festivals in the Eastern Highlands. The desired conditions can be brought about only through the use of flutes, played in a special way, together with certain other ritual actions. Women play a secondary role in these

rituals. Usually they are involved in singing and dancing. They take no part in in the main rituals and ceremony. The ritual and ceremonies associated with the flutes are forbidden to be witnessed by women. So strong is male opinion against women seeing the flutes that there are few cases available for discussion of what happens when this occurs. Berndt cites the penalty in a particular case:

"In one incident, in Kogu a young woman had the misfortune to observe two men playing flutes out in the bush. They did nothing immediately but discussed the matter with her father and brother. All decided that she must die. Her father and brother caught hold of her and dragged her into the bush; protesting vehemently that she had not seen the flutes Men gathered around her and, drawing their bows, shot her dead as she sang. Her father and brother carried her back to their village, killed a pig, held a feast, and buried her. Men declare that women were very much afraid after this" (Berndt 1962:68).

Two elements are in progress here; public opinion supported by male action, if necessary, and fear. So sacred were these rituals and initiations that women and children were forbidden to observe, and if they mistakenly did, they were punished in one form or another.

OFFENCES AGAINST HUMAN BEINGS

The most obvious remedies for the prevention of wrong action, are socialization, public opinion or criticism, shame, and the most important, being the rule of reciprocity. Socialization is regarded as a self-evident principle that children must be taught correct behavior from an early age; to respect kinsmen, other peoples' property and religion. A person who consistently conforms is said to have 'good custom', and a person who does not is said to have 'bad custom', 'no custom at all', or 'the custom of a pig or a dog' (Lawrence 1969:28).

Where a person cannot be taught to conform, society - as soon as his offence is known reacts by condemning him in terms of its ideal moral code. In small communities, one can imagine how powerful this sanction is, to escape into anonymity is impossible; the offender is always confronted by people who know him personally and censor his action. It soon induces a sense of shame, which can result in either suicide or, more frequently exile.

The most important reason for following custom is that it is intertwined with the way of life of the community. People living in the same community need to support one another for there to be an orderly life (Chalmers and Paliwala 1984:7).

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. But where they are ignored by one party, the other will at once withdraw co-operation. 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 requires similar tasks performed for himself. Gifts are made, and they must be reciprocated. No service however small, is given without expectation of return (Berndt 1962:204).

SELF-HELP OR RETALIATORY ACTION

These are wrongs of commission (homicide, theft, rape, incest

and adultery) which can occur in two kinds of situations: firstly as occasionally happens, when self-regulation fails to operate properly within its officially recognized range, as between a man and his close kinsmen, affines and other associates; and secondly outside the range of self-regulation, as between a man and persons with whom he has no morally binding relationship. It is therefore necessary to discuss disputes in both these contexts.

In the absence of formal judicial machinery, a man who considers himself to have been wronged must himself take the initiative in seeking redress. In Western society, a man whose rights have been infringed takes his case to a lawyer. This is an initial action of self-help, but consequently self-help is minimized. Once it is in open court, it's conduct and settlement are determined by the state. But in tribal society the individual whose rights have been infringed must himself initiate and carry through retaliatory action with whatever support he can get from clansmen, kinsmen, affines, and other associates (Epstein 1974:26). The key theme in these societies is reciprocity or equivalence. Where a man has suffered injury at the hands of another the matter can only be settled by **peibek** (payback); he will seek vengeance, not overkill.

The forms of self-help available vary from society to society and these are :

Theft - Where children steal from a fruit tree in Goodenough, they are beaten by the parents or a sibling. Theft of food from gardens or property from houses may result in a demand for

compensation or shaming by gossip, or sorcery causing illness or even death (Young 1974:42). In Dobu even the most respectable included practice magic to steal crops from other persons' gardens in this manner. A person who is visible when committing theft from another person's garden is not despised for the act of stealing as such, but for stealing in a clumsy, inefficient, and ridiculously pride forswearing manner. Stealing from another person's garden is believed to be executed by magic alone and therefore if a person is seen stealing they are considered clumsy, inefficient and ridiculous (Fortune 1932:83).

Killing of domesticated pigs - A pig is a valuable commodity in the Highlands . It is not simply an item of food but a vital part of ritual and ceremonial life, especially necessary at mortuary feasts. The loss of a pig, may be treated almost as seriously as the death of a near relative (Berndt 1962:259). In most instances where pigs are considered as a source of wealth, a retaliatory pig-killing or an assembly and demand for compensation is sufficient redress.

Adultery- retaliatory adultery, an assembly and demand for compensation, resort to sorcery or physical violence (to kill, make ill or wound). The Tolais treated adultery with great violence as in this particular case:

"One day Waruwarum a Chief in the Duke of Yorks encountered his wife with a young man. He crept up behind them, and threw his spear, intending to kill the young man, but the weapon struck a sapling and glanced off into the bush. The lad, of course, fled for his life and got away, but Waruwarum vented his brutal rage on the unfortunate girl. He speared her, stuck her a fearful blow on the leg with his tomahawk, until he left her, as though, dead in the bush."

(Sack 1974:85).

In the Eastern Highlands both men and women seek extramarital affairs as a form of relaxation or diversion: as long as they are not discovered, they need not fear social repercussions. But if a man's wife commits adultery he may fight, demand compensation or shoot her or her lover, or both. Adultery within the village is condoned, but if outside the village, it may result in warfare - an act of retaliation (Berndt 1962:150).

Homicide: by physical means or sorcery- an assembly and demand for compensation. Hatanaka in his study of the Sina Sina writes "... killing is an insult and accordingly an act of retaliation is carried out by the clan or sub-clan against another.

Retaliation, called **peibek** (pay back), has been a very common feature in the Highlands, and the payment of compensation is the most significant for settlement" (Hatanaka 1973:62). However during tribal fighting one life is avenged for the lost life, but not over-killing. The idea of paying compensation for death or injury in Central Province was almost non-existent except in very rare circumstances. The only remedy available for death was payback. Satisfaction for death could only be achieved through the death of a member of the offending group. James Chalmers reported a chief as saying, after refusing the blood price (that is compensation), "No my friends, no; no peace until the blood of my brother shed last year at Manumanu is paid for in blood. I want no valuable property, only blood, and blood I must have. I do not want to make even on all, only the man who has the bloody hand must be killed. Take your things back I will seek for the

bloody hand, pay the debt, and then peace." (Chalmers 1954:93).

Unlike the Highlanders, compensation was regarded as petty and insufficient primarily because of the principle that life is so precious and valuable that there is no equivalent in valuables, such as shell or, later money. The sorrow in the hearts of the relatives and the life of the deceased could only be adequately compensated for by the death of a member of the offending clan or group. Injuries which did not result in death were neither compensated for nor revenged (Gabi 1973:18).

Wrongs or offences referred to under customary law differ from society to society. The examples cited are only a few.

LAW ACCORDING TO THE COLONIZERS

The first European government of New Guinea was run by a private business firm, the New Guinea Company of Berlin. The German government granted the Company a charter to administer the colony and occupy so-called "owner-less land", for the purpose of a plantation colony. However the Company encountered numerous problems from administration to unprofitability and as a result the German Imperial Government stepped in and picked up the reins to continue with business.

Employers were permitted to fine and imprison with or without chains their labourers, and, if they thought it necessary, to flog offenders. Sometimes an employer was a magistrate who acted as policeman, prosecutor, jury, and judge in actions against his own labourers. Employers who freely resorted to imprisonment, flogging or fines, or those who terminated a labourer to avoid payment, found it difficult to recruit new labourers.

The dual policy of land alienation and impressment of labour which only paid half the Papuan rate, and in trade goods if the employer desired it. The indentured labour period was for seven (7) years instead of Papua's three (3). While this policy was in progress, recruiters with brutal and dishonest practices flourished with a particular problem of maintenance of the labour supply. Hasting accounts for this problem in light of the villages concern:

"There are records of whole villages being practically denuded of the working male population which left the old, the women and the very young in a situation of

considerable hardship to carry on the every day work
work of the village" (Hastings 1969:69).

The impact borne by the females and children must have been enormous, both physically and psychologically insofar as traditional lifestyle was concerned. Families were separated for years as the men were recruited to work on plantations located hundreds of miles away from their homes. It would be unfair to overlook the hardships encountered by the recruited men who had to leave the warmth and safety of their homes for unfavourable conditions on a plantation. Living conditions were not exactly suitable for men who were accustomed to freedom of space, but instead, had to share a building or hut with twenty to thirty men, maybe more. Such close contact brought about diseases and further unpleasantness. Nonetheless, foreign interest and local interest were at work both exploiting each other, cheap labour for material wealth or gain. But when profitability became an issue, the governor imposed a head tax as a punitive weapon, in order to pay tax or accept penalty.

The German administration tended to intervene in New Guinean society only when required, and when they did, it was little as necessary. It tended to do so in retaliation for attacks and raids or lack of co-operation from indigenous communities, rather than to extend government control for it's own sake. The Germans were generally less interested and lacked the means to intervene in village life unless required. But when they punished, they did so very thoroughly and definitely through punitive expeditions, against their attackers, hanging, imprisonment,

flogging and enforced hard labour (with or without a goal sentence in addition), all of which punishments were authorized in the 1880's and 1890's (Wolfers 1975:65).

The German colonization lasted until the First World War. Luluais and tultuls were appointed from amongst the leaders of villages, though not necessarily Big men or Chief. The Luluai, unlike the village constable of Papua, did possess and exercise judicial authority. Around him grew up a type of 'unofficial' court which continued until fairly recently (Chalmers and Paliwala 1984:72).

The Military occupation of German New Guinea by the Australian Military Expedition Forces established a District Court at Rabaul with appeal to the Military Administrator. The curtailment of corporal punishment dealt with such crimes as murder, attempted murder, rape, sodomy, attempted sodomy, and defilement of girls under twelve. It is quite obvious which community was being protected by the law. District Officers were empowered to authorize floggings for cases of (attempted assault), robbery, theft, arson, gross insubordination and desertion from employment (Wolfers 1975:78). The list of offences was increasing and in 1919, adultery, housebreaking and making false statements at a District inquiry were inserted. The period of New Guinea's military administration witnessed few changes, insofar as offences was concerned. Flogging was outlawed in 1919 however, whether it was upheld or complied with is uncertain.

BRITISH NEW GUINEA (PAPUA)

British New Guinea on the other hand under the leadership of MacGregor, administered the general body of Queensland law, initially for people of all races. The Native Board Ordinance 1889 established a system of 'native administration' and the proclamation of a set of regulation 'bearing upon or affecting the good government and well-being of the natives' (Wolfers 1975:17). The regulations spelt out a code of petty offences and civil causes of action with tribunals designed to adjudicate in such matters at village level.

The Luluai's counterpart in British New Guinea was the Village Constable, but he was not the leader as the regulation creating the position was made explicit:

- i) The Administrator may appoint any good man to be a village constable,
- ii) The village constable is the servant of the Government ...
- iii) The village constable will listen to and obey the magistrate

(Wolfers 1975:20).

In 1906, British New Guinea became the legal responsibility of Australia and was re-named Papua. Australia continued to enforce MacGregor's Native Regulations. The first Lieutenant Governor, Hubert Murray who indulged in the colonial policy of 'protecting the Papuans' discredited himself by administering along list of discriminatory legislation. Griffin discusses some of these legislation:

"A Papuan who signed on as an indentured labourer had to be in the quarters assigned to him from 9 p.m. to 6 a.m.,

he could be goaled for 'neglect of duty' and he had to have permission from senior government officials before he indulged in any dancing, beating of drums or other noisy pursuits after 9 p.m. A Papuan not under a work contract was not allowed within 5 miles of Samarai or Port Moresby unless he had evidence that he could support himself while in the town area. A Papuan could not attend entertainments with Europeans and the penalty for the attempted rape of a white woman was death"

(Wolfers 1975:31).

It is obvious that these regulations were petty and pervasive for the Papuans in the cash economy. Furthermore, they reflected and reinforced the European Community's demand for privileges and protection against the Papuan whom they referred to as primitive.

Numerous foreign legislations were imposed on the people, for example infectious diseased person were not permitted to enter the town, a fine of one pound (\$2.00) or two months jail for an offender who left a canoe with water in it (which was a likely breeding ground for mosquitoes), and abortion had been outlawed.

Resident magistrates were empowered to order diseased pigs and dogs destroyed without compensation to their owners. Children who failed to attend school could be whipped or punished. Not only were these regulations foreign but they were contrary to custom, in that the owner of a garden could kill a pig or goat that trespassed upon it for a second time after it's owner had been warned, but if the gardener ate the pig then his action would amount to theft.

The Second World War, for the first time brought the administration of the two parts of the country together. Although separately administered before the war, the two court systems were very similar. Both had separate

Native Courts administering Native Regulations and both had these Native Courts run and administered, not by lawyers, but by administrative officers whose judicial function was only part of their general role as tax collector, explorer, census taker and surveyor (Paliwala 1984:72).

The introduction of Native Regulations in Papua and New Guinea (called Native Board Regulations and Native Administration Regulations respectively). These Regulations were effectively an administrative and criminal code which formed a separate system of criminal law for Papua New Guinea. The Regulations did not apply to the small expatriate community. The Regulations covered the following matters:

- escaping from custody;
- adultery;
- prostitution;
- refusing inoculation against disease;
- bribery;
- using intoxicating liquor;
- wearing clothing on the upper body;
- neglecting to carry out orders;
- failing to assist a District Officer;
- prohibitions against speaking English to Europeans;
- being in town areas after nine p.m. (9 p.m); and
- general regulations dealing with the cleanliness of villages.

In essence, the Native Regulations were a separate system of law administered in separate native courts (referred to as Courts of

Native Affairs in New Guinea and Courts of Native Matters in Papua). The general notion of the system was that the indigenous people should do as they were told.

A further illustration of the separate application of the criminal law to Papua New Guineans and to expatriates is afforded by the White Women's Protection Ordinance which made it an offence for a Papua New Guinean to rape or attempt to rape an expatriate woman.

The purpose of the Regulations was in effect two-fold, apart from manifesting interests in maintaining law and order, it had an economic dimension. On one hand the regulations focused on encouraging economic development of the country by foreign businesses and plantations. As a supply of labour was required, the Regulations provided for the offence of breaking a labour contract.

The introduced law was designed for a European culture, and certainly not for Papuan New Guineans, offences not recognized by custom were enforceable by virtue of the foreign law, and local customary law had little or no effect with the administration of the criminal law.

PAPUA NEW GUINEA: TODAY

At this stage I have attempted to look at the law from the Customary perspective, with the introduction of foreign law by the colonial administrators, nonetheless the foreign nature of the present law has been one step in unifying the fragmented societies of Papua New Guinea. As mentioned previously, custom varies from one society to another and it is impossible to enforce custom where inconsistency occurs. Provided in the Constitution and the Criminal Code of Papua New Guinea, is the recognition of custom, however it is rarely applicable, it must be recognized nation wide as vested in the Constitution, which raises a problem, and that is the variations in culture and custom which is non-representative of the whole country. Western law on the other hand transcends the barrier of different cultures and subjects every person irrespective of tribe or race to one law (the Constitution) which is the supreme law of Papua New Guinea.

Nonetheless, the supreme law also raises problems, where the offender commits a crime and is exonerated by law. In customary law the offender is punished, but if a person is discharged from lack of evidence, or incorrect procedures, she or he is aware of the protection of the law and would not hesitate to commit another crime, knowing the protection as a right under the constitution.

For the purpose of this discussion I will restrict the offences to those that are reportedly creating a problem in the

urban centres, and discuss the problems in relation to their existence. Moreover, the Papua New Guinea Government's policy and solution to curb the increasing rate of crime in the country, and this will be supported by the law and order campaign of 49 steps. Finally, the future of law and order and the trend it would adopt.

Law and order has been on the verge of collapse, and Papua New Guinea is faced with the dilemma; the desire to develop and the task of coping with the crime spin-off of that programme. The trend of action resulting in crime has altered substantially from tribal societies with the rapid development of urban centres. Running parallel with development in progress is the current law and order problem.

Offences that were non-existent in traditional societies, have developed over the past decade and are now the topic for the reporter's pen and paper. Tribal societies governed themselves by imposing sanctions for wrongs committed by offenders, they either punished by shame, exiled, or required to pay compensation to remedy the wrong. Society knew how to deal with offenders. They curbed behaviour, placed restrictions and custom helped to govern their lives. The colonial administrators on the other hand, curbed crime by administering racial legislations, restricting the movement of indigenous people to urban centres, unless contracted to work as domestic servants or labourers on plantations. By the end of the 1930's the towns were safe from crime, the foreigners from any meaningful contact with the

Papuans and the pacified areas were protected from the more 'violent' and 'uncivilized' elements of their previous way of life, as well as many of the disturbances of development (Wolfers 1975:58).

My aim is directed to the present situation and the offences that are being committed today. These vary from petty offences to serious heinous offences, which are continuously being reported in the local newspapers. Such offences are theft (of property), burglary, assault, battery, rape, break and enter, robbery, murder and white collar crimes.

Somare, in an interview with the Post Courier said, the Port Moresby of today is a terrifying place to live than the Port Moresby of the 1950's and 1960's. " Even at two o'clock in the morning you and a friend could walk along the beaches and nobody to disturb you. There were no ratbags" (Pacific Islands Monthly; Dec 1984:13). Many houses are now surrounded by barbed wire and club houses sit behind walls or barbed wire fences. These are fortresses to protect the person from criminals like rascals (a term denoting street criminals who group themselves into gangs) who use force to break and enter homes to commit crimes of theft of property, assault and rape.

Organized crime by rascals are notoriously known in urban centres like Port Moresby, Lae, Madang, Mount Hagen, Kieta and Wewak. These so called organized crimes are carried out by two or more persons. Just recently a violent pack rape on two foreign women and a nine year old child brought about a

demonstration on the law and order problem. The victims were raped repeatedly, including the nine year old girl (Pacific Islands Monthly Jan 1985:18). This is an example of a particular crime attracting publicity. The general behaviour is connected with break and enter whereby the rascals force themselves into a private home to steal material goods and if there are females present, they are raped.

White collar crimes are also receiving much attention within the government departments with relation to misappropriation and embezzling of money and also in private enterprises. Leakages of money by stealing, borrowing, money owed to creditors overseas, has left the Central Province Development Corporation at a loss of one and a half million kina (K1.5 million kina) (PNG Post Courier Feb 2 1985:26). Theft of money by employees is almost a common practice; armed robbery is also increasing; these and more are all part of Papua New Guinea today.

What are the causes - Large urban drift has prised people from the traditional, law-abiding life of the village and placed them in a city that has become notorious for crimes. Unemployment of youths, and school drop outs are some of the problems that may be the answer to the crimes that are being committed today. Today's law breakers are hunting in packs, almost always with weapons, and with a great deal more knowledge of police patterns than the last generation (Pacific Islands Monthly Jan 1985:20).

Cases of rape in most instances are not reported, because

ironically the law protects the accused and not the victim. The woman's appearance in court is not only embarrassing, but humiliating, because the law places her on the stand, points a finger at her, when it should be the accused who should be on trial and not the victim. The Constitution and the Criminal Code protect the accused, as he has the right to remain innocent until proven guilty. Article 37 of the Constitution provides -
Protection of the Law:

(1) Every person has the right to the full protection of the law and the succeeding provisions of this section are intended to ensure that that right is fully available, especially to persons in custody or charged with offences.

(4) A person charged with an offence -
(a) shall be presumed innocent until proved guilty according to law, but a law may place upon a person charged with an offence the burden of proving particular facts which are, or would with the exercise of reasonable care be, peculiarly within his knowledge; and....

(1975:24).

With such protection on the accused's side, and the ordeal of having the victim's character in issue, most rape cases go unreported. The Government in its bid to curb the growing problem, and in its determination to uphold the right of the people to live in peace under the protection of the law, has formulated a comprehensive and workable plan to improve law and order in both the short and medium terms and this is in the form of a law and order campaign of 49 steps (Times Of PNG Oct 25 1984:20).

THE FORTY-NINE STEPS

The National Executive Council approved 49 measures to upgrade law and order agencies in the country. The decisions listed below form a comprehensive and workable plan to improve law and order in both the short and medium term.

Of the 49 measures 25 were given approval

19 were directed

4 were recommended

1 was rejected

APPROVED MEASURES

1. Mandatory corporal punishment for rape and all other violent crimes approved. Subject to Constitutional restraints, flogging must be carried out in public.
2. Secondment or recruitment of United Kingdom, New Zealand and Australian police officers approved. To work at NCO level in training, middle management and specializations. Conditions to be comparable to those pertaining in their countries of origin.
3. Call out of Defence Force personnel to assist Police approved. Police to retain full command in any such situation. Defence personnel to work minimum force conditions.
4. Re-activation of Police Project 21 approved. Where necessary the Commissioner of Police may use Mobile Squad personnel for Project 21.
5. Acceleration of the Urban Police Station building programme approved.
6. Erection of boom gates on access roads into towns with a population of more than 10,000 approved. The Minister for Works and Supply and the Acting Secretary of that Department further directed to determine whether private companies could erect the gates if the Department is unable to do so.
7. An immediate review of the Vagrancy Act subject to Constitutional considerations approved. This review to consider the Act's effects on criminal behaviour.

8. Immediate recruitment of six (6) expatriate State Prosecutors to assist Police prosecutions approved.
9. Two way communication links between Police and Private security organizations approved.
10. Removal of liquor trading hour restrictions approved. (Purpose; eradication of black markets).
11. Greater Police involvement in youth activities approved. Provision of facilities for Police and Youth Clubs approved.
12. Introduction of an Urban Ward system approved. This system aimed at improving relationships within communities, prevention of crime and community involvement with the law and order policies.
13. Increased penalties for theft and illegal use of motor vehicles approved.
14. Approved increased funding for Vocational training institutions for juveniles. Aim to relieve unemployment and rehabilitate young offenders.
15. Approved Government measures to support the fight against corruption. Aim - to improve public morale and reduce the crime rate.
16. Immediate establishment of a Community Work Order system approved. Aimed at constructive use of labour and decreasing cost of maintaining prisons.
17. Approved the construction of an Island Prison for 200 detainees.
18. Approved the introduction of prison farms. Further directed the Minister for Primary Industry, the Minister for Correctional Services and Liquor Licensing to conduct a study of the advantages of these farms. Aspects to be considered include location, supervision, crops, union reaction, provincial government role, and the use of the local workforce.
19. Approved broadening of the jurisdiction of the District Court.
20. Approved extension of the Probation System. Under this programme first offenders are not imprisoned but are subject to the control of a Probation Officer.

21. Approved the introduction of Parole legislation. A parole system to be established as soon as practical.
22. Approved an increased number of Urban Village Courts to settle community disputes and reduce pressure on the formal Justice system. The government recognizes village courts as a cost-effective means of maintaining peace and good order.
23. Approved an increased number of juvenile institutions.
24. Approved a study to career structures within the Department of Correctional Institutions. Aimed at improving administration and efficiency, improving specialization and clearly defining a career path for officers.
25. Approved the establishment of an implementation task force. This force to report to the Ministerial Committee on Law and Order.

DIRECTED MEASURES

1. Directed that a study of Police Career structures be carried out. This study aimed at improving skills and expertise.
2. Directed the immediate establishment of a Criminal Intelligence Unit within the Police Department. This unit to be empowered to offer reward for information received from the public.
3. Directed that married police officers be accommodated in the general community. To facilitate this move special security measures are to be used at police housing.
4. Directed that a coordinated criminal and justice statistical data base be established immediately.
5. Directed that all employees, both private and public, must issue employees with identification cards. The format of these cards to be standardized and regulated.
6. Directed the Censorship Board to review its guidelines. Restrictions to be placed on publications promoting violence and sex. The Board is further directed to report to the Ministerial Committee on Law and Order.

7. Directed Police and Village Court officials to meet to improve co-operation between their respective organizations.
8. Directed that new urban village courts be established in areas of need. Directed that supervision and inspection of existing Urban village courts be improved.
9. Directed that the Government Settlement Police be reviewed to be implemented immediately. Further directed that the Department of Lands and Physical Planning immediately identify land in the Bomana to Laloki area which would be suitable for settlement. The National Executive Council to be advised immediately. Standard housing to be constructed on this land as soon as possible.
10. Directed the National Capital Interim Commission to encourage small scale business and agricultural ventures in the NCD. Further directed that the Department of Foreign Affairs and Trade, the Department of Labour and Employment and the Department of the Public Services Commission provide details of expatriates engaged in small scale businesses such as trade stores, service stations, tucker shops, barber shops etc.
11. Directed that information on a person's rights in the defence of property and person be collated and disseminated.
12. Directed that tax allowances and tariff reductions be considered for security items used by private firms.
13. Directed the Private and Public sector to support the use of village courts by their employees.
14. Directed Police to identify and protect public recreation areas.
15. Directed that a study of the benefits of low alcohol content beer be carried out immediately.
16. Directed that a ban be placed on the import of firearms. Police and Defence Force be the only agencies authorized to import firearms.
17. Directed that street lighting be increased in all urban centres.
18. Directed relevant Departments to immediately cost all

measures and prepare action plans for 1984. All plans to be submitted to National Executive Council for approval.

19. Directed the Department of Finance and the National Planning Office to make necessary adjustments to the 1985 budget.

RECOMMENDED MEASURES

1. Increase of Royal Papua New Guinea constabulary staff ceiling by 200 to 4,665 from January 1 1985. Annual increase of 100 men each year thereafter.
2. Mobile Squad personnel to be assigned to general duties where necessary.
3. Establishment of a Police Reserve Force. This force to operate at Police Commissioner's discretion. Personnel to be recruited from, and stationed in all parts of Papua New Guinea.
4. Endorsed stronger measures recommended by other bodies. For example death penalty and full arming of police. However directed they be reserve measures and that priority be given to immediate and short term measures.

REJECTED MEASURE

1. Rejected proposals for reduction of minimum penalties for less serious offences.

From the listing of the 49 steps, twenty-five (25) measures were approved, nineteen (19) in the form of directions, while four (4) were recommendations and only one (1) was rejected by the National Executive Council in October 1984.

ANALYSIS

An analysis of the measures and setting them into appropriate categories is one method of interpreting the steps. The categories selected are; the Police Department, Justice Department,

Correctional Services, Department of Youth and Development and Others. It is appropriate that the aforementioned departments are those that are directly involved with the law and order campaign. Moreover, the steps will be discussed within those categories in which they belong, and thus present a more meaningful interpretation of the steps.

The measures adopted by Cabinet will be discussed in the categories presented. Although the National Executive Council settled for 49 steps, some have been implemented, others awaiting implementation, while the remainder have either been shelved and forgotten or rejected due to unavailability of funds. It is imperative to mention at the outset that a detailed analysis of each step is not the purpose of this section, but rather a collection of related steps into the appropriate category will be discussed.

POLICE

It appears that the Police has the greatest number of measures in its category, so I have elected to discuss them first. Approved steps 2 and 8 are measures to provide experience for the force, in the specific fields of training, middle management and specialization. A recruitment of police officers from the United Kingdom, New Zealand and Australia is basically to serve that purpose. Furthermore a recruitment of six expatriate State Prosecutors to assist Police Prosecutions is recommended.

The question one would ask is why does the Police Department

require the services of expatriate Police Officers and Police Prosecutors; and the immediate response would be the Police is not effective in maintaining law and order, by keeping the rascals (street criminals) off the streets. There are advantages and disadvantages to the recruitment of the expatriate Police Officers and Police Prosecutors to remedy the unpleasant situation.

The merits of advantages may be weighed in favour of training police officers to familiarize their responsibilities in specific fields from administration to apprehending offenders and executing their duties in accordance with the law. By training I refer to both theoretical and practical in respective fields. Opportunities made available to police officers to study law, sociology and psychology at the University. With a theoretical background, it would assist tremendously in organizing and administering the Police Force where necessary.

The Public Prosecutors, would provide assistance in legal matters relating to court procedures when prosecuting, researching, assembling evidence and witnesses for court room appearances. With their foreign background and length of experience the Criminal Division of the Police Force would benefit greatly.

The disadvantages are the conditions attached to their services. In order to induce foreign officers to Papua New Guinea, benefits must be made in financial terms. To begin with salary offers equivalent to their foreign salaries, allowances

for the family (if married) accommodation and utilities free of charge. When one adds all the amounts together, a sizable part of the budget is afforded to a foreign employee, when there are divisions in the Police department which would benefit greatly from that money. Serious consideration must be undertaken before officials are able to commit substantial money for such purpose. Other disadvantages may stem from the differences in salary and allowances between national officers and foreign officers.

In some instances, the national employee performs the same task or exercises greater responsibility than his counterpart, but the difference in salary and allowances is disappointing and unfavourable to the Papua New Guinean. It is all very well to recruit more expatriate police officers and prosecutors, but will the structure induce them to stay. Many in the past have left, frustrated before their contract expires (Times Of PNG; Oct 25 1984:32).

What the police needs is professional training within the country and abroad to improve and cater to Papua New Guinea's long term needs in the years to come, otherwise the country will continue to depend on expatriate officers infinitely. Chief Justice Buri Kidu, stated that the police needed more training in the area of investigation and prosecution. He went on to say "up until now, they have not been properly trained, especially in the area of investigation. If they can get a confession they get it, but if the confession is rejected by the court, the case is over. We acquit simply because of inadequate investigation".

(Times of PNG; Apr 26 1986:7). Furthermore in many cases junior constables had been assigned to investigate rape and murder cases when senior officers should have been assigned the job as is the practice in most Commonwealth countries (Times of PNG; Apr 26 1986:7). Nonetheless the Chief Justice conceded that the Bomana Police College was now offering detective training and seems assured that circumstances will improve for the better.

Moreover, it would be an excessive drain on the country's limited resources. With directed measure 1, however, a study of the police career structures would point out where skills and expertise may be improved and increased, the study would perhaps reveal where vacancies could be fulfilled with the increase of one hundred (100) men each year to the Papua New Guinea Constabulary staff, as provided in recommendation 1.

Police Squad 21, that was in force several years ago to capture and bust urban gangs (rascals) with tough hard hitting tactics although approved in step 4 should be revived. Due to lack of personnel, the Mobile Squad in recommendation 2 could perhaps serve a dual role insofar as exercising the responsibilities of Squad 21 is concerned and the Mobile Squad. Patrolling the streets and residential areas at night for criminals would be a start in the long run.

In order to execute their responsibilities, the squad needs to be well facilitated with proper equipment in the form of motor vehicles, with radios, search lights, firearms and support. With limited motor vehicles on hand, the problem of

availability pops up. However, one method of tackling that obstacle, would be for the Police Department to assist the squad members pay a percentage on the purchase of personal cars which would in the long run benefit both parties.

The Honolulu Police Department allows a police officer to purchase a car with a certain percentage being paid by the department, and the officer is able to drive her or his car on duty, which is fitted with a radio, siren, and an emergency light which is able to be placed on top of the roof for the purpose of duty and removed otherwise.

If the PNG Police Department would perhaps consider the practical nature of such an action it would be an advantage in the long term, in that police officers would be able to execute their duties patrolling the residential areas, recreational areas and areas where there are no lighted streets, to control the mobility of rascals and offenders alike.

When not patrolling areas for rascals and offenders the squad may be engaged in general duties administratively, for example; in the Criminal Intelligence Unit which is empowered to offer reward for information received from the public as provided in directed measure 2. Offering reward for information received, has it's good and evil, the former expediting the police squad's time in arriving at the scene of the crime, aborting the crime before it occurs, and being able to maintain some law and order within their capacity.

The latter on the other hand, could well lead to crank calls

and misdirected calls, leading the squad on a wild goose chase, while the actual crime is in progress at a different location. Withholding information due to incriminating evidence could lead to plea bargaining, which although is not vested in the Constitution or Criminal Code of Papua New Guinea, may warrant an enactment.

Therefore approved measure 9 provides a two way communication link between the police and private security organization is an advantage to the police, in that, it saves the police patrolling those areas allocated to the private security organization. Not only does it save duplication of duties but money and labour as well. A direct link with the police, assures expedition of it's personnel when assistance is required. Expediency to the scene of the crime and apprehending offenders in their attempt requires direct communication and involvement with the community.

The Police Force, is a law enforcement agency, charged with apprehending offenders, but it is an enormous task to execute with limited men and equipment, and therefore assistance from the community would ease the burden to some extent. But to achieve a working relationship with the community, the police could begin by accommodating their married officers within the community and not confining them in a barracks away from the public, as directed in measure 3.

The people need to be made aware and reassured of the Police Force's concern and sincerity in curbing law and order, and one method of communicating that awareness is the settlement of

police employees within the community, as directed in step 3 rather than alienating land in a specific area of Bomana and Laloki designed to settle police officers in standard housing. The community's confidence in the police could be regained and maintained in this manner.

Moreover, the allocation for that project would best serve the public in crime prevention measures than housing officers in exclusive areas, which defeats the purpose of a community and police working relationship.

There are large pockets of intense hostility against the police, the hostility is based on police discourtesies, abuses of their power, violence or repugnant public behaviour which needs to be amended before the community can place some confidence in the force.

JUSTICE

Much criticism has been directed towards the judiciary for the growing problem of law and order, insofar as being "soft" or too lenient. The courts cannot function because they are sometimes bereft of basic services. So many cases are struck out of the court's lists because the accused or the witnesses are unavailable, or because the documentation is so inadequate that the judges and magistrates are embarrassed. The courts are then perhaps unfairly criticized for supposedly being "soft" or too lenient. When the case is therefore dismissed the police feel frustrated and blame the courts for being technical and not supportive against the criminals.

Sir Buri Kidu, the Chief Justice of the National Court commented that the police required more training in the field of investigation and prosecution. They have not been properly trained, especially in the area of investigation. If a confession is obtained it is done, but when the confession is rejected by the court, the case is over. Acquittals are made simply because of inadequate investigation by the police. In many instances junior officers with limited or no experience is assigned to investigate rape cases, when such serious cases should be undertaken by senior officers (Times of PNG; Apr 26 1986:7).

A study conducted under the leadership of William Clifford, a retired director of the Australian Institute of Criminology, stressed the importance of informal and community institutions in keeping the peace. The report went on to recommend that village courts be upgraded and the Police and Department of Provincial Affairs work through village courts on law and order matters. A village courts liason programme in the police force was recommended, and the police should considerably change it's approach to make the informal justice system operable (Islands Business; Nov 1984:14).

In fact step 7 directs the police and village court officials to improve co-operation between their respective organizations. The police could perhaps begin by supporting the community's traditional resources for settling disputes and handling offences, instead of undermining them, which would result in a

move towards crime prevention.

I recall quite distinctly in the 1970's and early 1980's when my father was a councillor for Ward 8, with the Madang Town Council. His responsibilities included settling disputes among the people of his ward which drew a population of 1500.

As a councillor he was responsible to mediate and settle disputes, which resembled similarities to an official court proceedings, except it was informal. The councillor acted as judge and the victim would present her or his case followed by the accused or defendent. The councillor would then deliberate over the presentations and hand down a decision.

The complaints were usually minor, for example theft of property, including food from gardens, domestic disagreements, and assault which was rarely. The penalty was either a monetary compensation, for theft or services rendered to the complainant or the community, or a replacement of the stolen property.

The hearing took place on our front lawn, with both parties represented and it was open to the public. Disputes were usually settled in this manner, but if the aggrieved party was dissatisfied with the penalty, she or he could take the matter to the police which would take longer and may not serve their purpose. Some disputes resulted in marriage by both parties. Despite the informal nature of these hearings, nonetheless the system served it's purpose, in that the community settled it's disputes to maintain law and order. The community applied traditional resources for settling disputes and handling disputes.

People living in areas where there are urban or village courts should be encouraged as approved in step 22 to take advantage of the services, and if dissatisfied, the matter may be pursued in the Local or District court. By settling a dispute or grievance within the community, it eases the burden of the district and local courts, who are then able to concentrate on more serious offences.

Imprisonment is not the key to rehabilitating a criminal, most people share the view, that when a person commits a crime, be it theft or rape the answer is behind bars in prison, serving a sentence. The report recommends that there should be more focus on community work and probation rather than prison sentences and those schemes be maintained and develop the link between offenders and the community.

Probation services up until 1984, were non-existent in Papua New Guinea, except for a volunteer services in Goroka. This seems quite extraordinary as probation is one of the cheapest, most efficient, flexible and adjustable methods to prison sentence, has been in force theoretically since 1976, but out of action. Here we have a solution to over crowding of prisons and a rehabilitation programme as well with money being saved, and yet these measures have largely been ignored by the policy makers.

It has taken report after report for the past 5-6 years to realise and determine that prison is not the answer to punishment especially for first time offenders and those who commit petty

offences in the line of theft of food from food gardens, shop lifting and mainly theft related cases. Rather than over crowd prisons the offenders of petty crimes and first time offenders be placed on probation and be subject to the Community Work Order programme approved in steps: 16, 20 and 21. The aim is basically for the constructive use of labour and decreasing the cost of maintaining prisons. Under probation, offenders mostly those who appear in court for the first time for minor offences are placed under the custody of a probation officer by the magistrate instead of being sentenced to prison.

According to a 1985 report prepared by the Probation service in Goroka, the government can save more than K10 million annually if it places it's first time minor offenders on probation instead of sending them to prison.

Leo Tochechem, the Chief Probation Officer in Goroka stated that, over half of all the detainees in prisons in Papua New Guinea are there for minor offences or for not paying fines. They serve their time then return home to the same problem that caused imprisonment initially. For these people, imprisonment is not a corrective experience (Times of PNG; Feb 1 1986:16).

Many thousands of those who breach the law each year only commit minor offences because of poverty or ignorance of the law. While the prisons are needed to lock up serious criminals they are usually full of petty offenders. The relaxation of sentences under the Minimum Penalties Act, imposed by the government in 1984 has greatly reduced the number of petty criminals in prisons, thus saving the country thousands of kina.

Under the probation service as approved in step 20 offenders, mostly those who appear in court for the first time for minor offences, are placed under the custody of a Probation Officer by the Magistrate instead of being sentenced to prison. The offender is usually placed on a good behaviour bond and is required to report to his custodian at a certain period of time as ordered by the magistrate, or engage in community work like cutting grass at public places or carrying out work (without charge) for the complainant he has committed an offence against.

A successful probation system is now operating in the Eastern Highlands, Morobe and Madang provinces, due to a few dedicated people, and here is a case of its success -

"A village leader from the Lufa area brought three young men to the Goroka District Court. When asked why he had not taken them to the Village Court, he claimed he had done this on numerous occasions, but it had done no good. On this occasion, the court found the three youths guilty of stealing and eating a pig valued at K60. The youths were placed on probation for a term of six (6) months, ordered to compensate the complainant with twenty (20) Kina each and further ordered to work for the complainant for ten days on a project of his choice. In addition to visits from the probation officer in Goroka a voluntary probation officer from Lufa was appointed to supervise the youths during the six months probationary period. The court order was well received in the village and satisfied the pig owner. Not only was he compensated for the loss of his pigs at current market prices, but his projected loss (as the pig grew bigger and increased in value was offset by the value of the work the probationers undertook for him. The probationers for their part paid the value of the pig and became public examples while working for their victim that the results of crime can be both humiliating and arduous. When the probation officer visited the village, the pig owner had the youths constructing a fence around his garden. The village people were full of interest and said that justice had been done, the youths were respectfully carrying out the court order"

(Times of PNG; Feb 1 1986:17).

Lack of funds has been a major problem since the establishment of the first Probationary Service in Goroka several years ago. However, this has not hampered the enthusiasm of dedicated volunteers, both expatriates and Papua New Guineans, to help organize the lives of less fortunate Papua New Guineans who fall out with the law.

Their efforts have led to more recognition by the authorities at national and provincial levels of the importance probation can play in the social development of PNG as it faces the pitfalls of rapid economic and technological development.

However, with a desperate need for more funds to carry out their work most of these probation officers are operating under tight budgets with money provided by overseas donors, churches and individuals.

The courts are also strong advocates of the probation system and the public is increasingly aware of it's work in the community and is beginning to show it's appreciation but official recognition has yet to be translated into budget allocations to help administer the services.

Despite the strong support from Madang and Morobe Premiers to establish a national probation service, it seems the churches are the only organizations, besides charity groups like Apex and Rotary Clubs who express real commitment morally and financially. (Times of PNG; Feb 2 1986:17).

Both probation and parole services would serve as a rehabilitation programme for first time offenders and those of a

less serious offence. Moreover, money saved by this programme could well be used in other more immediate matters; for example improving prison facilities, security and living standard. By improving such facilities, detainees would have less cause to escape, which has become a problem since 1980. Reasons for escape, range from overcrowding to physical abuse by warders (Correctional Service officers) on inmates. Overcrowding can be remedied by the probation and parole service, now in force.

The penalty of public flogging for rape and violent crimes although approved by the National Executive Council in step 1 has encountered obstacles legally and morally, by the Constitution, religious denominations and the Human Rights Organization.

Flogging a criminal in public serves one purpose; in that it inflicts physical pain and may cause embarrassment to the offender at that particular moment. But the disadvantage is basically, it fails to proceed one step further, and that is rehabilitating the criminal. A focus on community work and probation; have the offender engaged in community work, for example, sweeping the public streets, disposing of garbage, keeping the beaches and markets clean and tidy, and various public chores. That is one step towards rehabilitating the criminal.

Although flogging has gained the approval of the National Executive Council, there are constitutional obstacles to amend, for example, Parliament must first amend Section 36 of the Constitution to make flogging legal. That section provides:

S.36 - FREEDOM FROM INHUMAN TREATMENT

(1) No person shall be submitted to torture (whether physical or mental), or to treatment or punishment that is cruel or otherwise inhuman, or is inconsistent with respect for the inherent dignity of the human person.

(2) The killing of a person in circumstances in which s.35(1) (Right to life) does not, of itself contravene subsection (1), although the manner or the circumstances of the killing may contravene it.

As a constitutional amendment, a bill is required to amend section 36 which must be gazetted, and circulated to all members of Parliament for a duration of one (1) month. Subsequently it is then discussed by the Permanent Parliamentary Committee on Constitutional Laws and Acts, the bill must then be debated at length and passed by a two-thirds (2/3) majority vote in order to become law. An amendment requires a lengthy process which is both time consuming and involves finance. Indeed, there are obstacles present for those who oppose public flogging it would be to their advantage.

Criticism and opposition with regard to public flogging has also had a share of the media, Brian Brunton; a law lecturer at the University of Papua New Guinea and Papua New Guinea's representative for Amnesty International has described the Government's move as "highly dangerous." He stated that "there is no doubt about it, section 36 is very clear. It is intended to prevent torture or treatment or punishment that is cruel, degrading or otherwise inhuman or inconsistent with respect for the inherent dignity of the human person." (The Times of PNG; Oct 25 1984:3). Various religious denominations have also voiced

concern and opposition to the Government's attempt at solving the law and order problem.

The second approved measure 13 relating to penalty, although not in the form of corporal punishment, is an increase in penalty for theft and illegal use of motor vehicles. The present penalty for such crime is 2-4 years imprisonment, provided by the Criminal Code of Papua New Guinea (1975:30). An increase in penalty may be viewed as a means of discouraging potential thieves, who commit theft of motor vehicles for the purpose of transportation to the scene of the crime. Because the offenders operate in gangs (commonly referred to as rascals) motor vehicles provide transportation for these offenders.

Specific crimes of theft of property, assault, battery and rape (including pack rape) is normally carried out by young male offenders between the age group of 16-20. These youth are usually termed school drop outs who have reached grade six (6) or the first year of high school, due to poor academic performance or lack of finance to pay for school fees. This is one reason, but indeed there are more reasons to note.

CORRECTIONAL SERVICES

Although Cabinet has approved step 17 for an island prison for two hundred (200) detainees, costs involved would not permit the construction of an island prison. A study revealed that it was financially impossible to construct an island prison for 200 detainees. The measure although approved would exceed the Correctional Services Budget.

Despite the numerous 'vacant' (insofar as human residence is concerned) islands again strong opposition has emerged by those who reside in island groups. The islanders do not desire the construction of an island prison, and furthermore fear the presence of hard core criminals within their proximity. A location was selected in the Manus Province, but local opposition has defeated that proposal, and furthermore the people fear the presence of hard core criminals within their proximity. A further issue would be that relating to land, in PNG land is communally owned and there is much controversy over land and compensation for the use of the land. Time and again, land that has been set aside for development purposes has encountered substantial amounts demanded by the customary land owners for compensation, even though development serves their purpose.

The construction of an island prison would certainly isolate the hard core criminals from the minor offenders, however it seems impractical and impossible at this stage, but consideration should be afforded in the near future. Specifically for an improvement in the maximum security department to prevent the further escape of serious criminals.

The introduction of prison farms as approved in step 18 is one method of the Correctional Services being self-reliant with regard to providing it's inmates with vegetables which is both nutritious and cost effective. Not only do the inmates produce their own vegetables but surplus may be grown in order to supply markets in exchange for a price which could be used to upgrade

living facilities within the prison, and sponsor on going projects like wood work and motor mechanics.

Upgrading prison facilities was omitted from the measures presented. However, a study of career structures with the Department of Correctional Services was approved in step 24 aimed at improving administration and efficiency, improving specialization and clearly defining a career path. Improving prison facilities is very important in that it raises living standards and prevents further escape.

YOUTH AND DEVELOPMENT

Insufficient attention has been paid to the manner in which young people are being dealt with by the police, the courts and the prison and other authorities in whose custody a young person may be placed. There are certain classes of offenders whose behaviour is such or whose crime is so serious that there may be no alternative to imprisonment, however there should be alternative remedies available to meet situations where there is reasonable hope of rehabilitation.

The government in its belated recognition of youth related offences has approved the following measures in steps 23, 14, and 11. An increase in juvenile institutions which is greatly needed, funding for Vocational Training Institutes with the aim of relieving unemployment and rehabilitating young offenders, and finally a greater participation of police in youth activities.

An increase in juvenile institutions is a long awaited move by prison officers, juveniles and social workers alike. For the

past ten and most probably for the next year or two all correctional institutions in the country with the exception of Boy's Town in Wewak (East Sepik) will continue to take in juveniles. The fact remains that juveniles have and will continue to share the same quarters as hard core criminals until more juvenile institutions are made available. At the present moment all Correctional Institutions are required to maintain a "J" division strictly for juveniles, but that is not the case, rather they are placed together with adult detainees.

The Boy's Town, is a centre for juveniles who have been served court sentences. The boys aged between ten to sixteen (10-16) years, spend an average of one and a half to two (1 1/2-2) years at the Centre, which opened May 31, 1968. The Centre is owned and administered by the Sacred Heart Brothers. During the detainees term of sentence, they are taught primary and high school subjects or studies which includes trade and agriculture. Those who complete Grade 10, may apply to a college or institute for further studies.

The Superior General of the Sacred Heart Brothers', Father William Liebert, said very strong emphasis is placed on the boys' education. When their term is served, those with homes are returned, and those without are sent to the streets (Times of PNG; Jan 18 1986:5).

A second Boys' Town was established two years ago at Erap, forty-five (45) miles on the outskirts of Lae. However for the past two years the Erap Centre appeared empty and gloomy, because

the government failed to budget for it. Although the government has sole ownership, the Sacred Heart Brothers will manage the Centre, with such experience they are appropriate for the position.

A move that materialized two years later than anticipated, two institutions may not seem overwhelming, nonetheless it is a step in the direction of an increase in juvenile institutions which are greatly needed. Somehow, opposition will arise despite good intentions or objectives, on the part of the law and order committee and government. There are victims, critics and observers who would view this action as a waste of tax payers money, being spent on juveniles, who belong with the rest of the criminals, and not in separate institutions.

Much ink has been poured on paper, regarding adult detainees, with little or no attention at all being focused on juveniles and their plight. A report prepared during 1984 - 1985 and submitted by the Ombudsman Commission revealed that juveniles were detained in cells with adult detainees awaiting trial. Although there are cells designated for juveniles, where sentence of imprisonment had been imposed the juveniles were not transferred to a corrective institution for some weeks. Sexual harassment and warrants of commitment on many occasions were not acquired prior to the commitment of a juvenile, such action is illegal (Times of PNG; Jan 4 1986:18).

Stealing offences appear to constitute the most common criminal charges brought against juveniles, the nature of the

thefts range from coffee, soft drinks, foods to goods worth thousands of kina. Damage to property and being unlawfully on premises is also a common offence. Youths originally imprisoned for minor thefts were serving subsequent sentences for more serious breaking and entering charges.

Imprisonment of juvenile offenders occurred very frequently, especially when magistrates were ignorant or ignored the 1983 amendment to the Child Welfare Act 1961, allowing prescribed minimum penalties to be disregarded. Moreover many magistrates felt compelled to impose short sentences of imprisonment due to the absence of a Community Work Order or Juvenile Probation system.

Those children who were to be placed in an institution established under the Child Welfare Act often spent the entirety of their sentence in a corrective institution. The report cited cases of such treatment, for example; 9 children in the Baisu Corrective Institution in Mount Hagen were sentenced to Tongatia House in Goroka, but spent the whole year in prison. Two youths ordered to be placed in Boy's Town at Wewak were not transferred from Bihute Corrective Institution until several months late when the National Court ordered the Director of Child Welfare to act accordingly or be indicted for contempt of court (Times of PNG; Jan 4 1986:17).

Generally sentences imposed by properly constituted Children's Court were reasonable given the nature of the offences. Rural District Courts and Local Courts, which in many

instances lacked jurisdiction to preside over childrens cases often sentenced excessively. Again examples were cited; 2 fourteen year old boys who stole nine (9) potatoes were sentenced to six (6) months imprisonment for fighting, a fifteen year old (15) year old boy was imprisoned for five (5) months for failing to do community work and a twelve (12) year old imprisoned for six (6) months for being in possession of K2.50 (\$2.50) (Times of PNG; Jan 4 1986:17).

These are only a few cases cited, but there is more contained in the Ombudsman Commission's 53 page report. The report concluded that from the findings made during the investigation that there are serious deficiencies in the way in which juvenile offenders are dealt with by the police, welfare officers, the courts and corrective institutions (Times of PNG; Mar 8 1986:2). The report recommends thirteen measures which the commission hopes would alleviate the injustices being committed against juvenile offenders. The recommendations include :-

- special training for police and welfare officers on procedures and treatment of children;
- attendance of welfare officers at all Children's Court hearing;
- regular visits to prisons by welfare officers;
- regular meetings between police, welfare officers and magistrates to report and monitor treatment of juveniles;
- separation of juveniles from adult detainees, and establishment of probation and rehabilitation programmes.

In the past the main emphasis has been on the various individuals and organizations who deal with crime prevention and

detection, the administration of justice and the penal institutions, the time has come for a change of emphasis and that the needs of the young person, particularly rehabilitation and also treatment according to their age should be emphasized (Law Reform Commission 1978:5).

OTHER

Finally in this category which provides for preventive measures by various departments, five were approved and they are steps 6, 10, 12, 15, and 18. While seven were directed which are steps 6, 9, 10, 12, 15, 16 and 17. These measures range from the erection of boom gates on access roads into towns to the Censorship Board's restriction on publication promoting violence and sex.

There has been mixed reaction by the public on the Government's move to crack down on excessive pornographic and violent films, videos and printed materials. A Post Courier street interview carried out in Port Moresby, June 1986, revealed that most people blamed social problems, unemployment and family break down for crime.

Hekoi Hera a social worker with the Health Department, said social problems and films were the cause. She supported the crack down saying films about crime and Rambo-type movies influenced the young people. Advertisements in magazines containing explicit material, comics showing violence and sex and other printed material which could be considered bad should be banned. She stated that her contact with young children in

settlements informed her that their parents had told them to steal because there was no food or money in the house (PNG Post Courier; June 24 1986:2).

Pius Wingti, the Prime Minister disturbed by the increasing number of violent and sexually explicit films, videos, and magazines being shown or sold in Papua New Guinea, has had Parliament pass legislation banning the importation and production of pornographic material making it an offence. The legislation came into force on May 22, 1986 (PNG Post Courier; Jun 24 1986:2).

The removal of liquor trading hour restrictions has been approved by way of step 10 and it's objective is to eradicate black markets that operate 24 hours daily. Alcoholism is a growing problem in both urban and rural centres that is increasing rapidly with the operation of black markets. If restrictions regarding trading hours is removed then the availability of liquor may not encourage excessive purchase and thus limit the consumption of liquor.

FUTURE

Crime has doubled since the curfew was enforced mid-1985 till November of that same year, nonetheless it is still 50 per cent down on pre-state of emergency according to the Prime Minister; Pius Wingti. Prior to the state of emergency, 63 crimes a week were committed, many of which were far more serious than recent ones.

Wingti stated many of the crimes in the past three months had been minor, and some had been contributed to carelessness, he referred to those crimes as "opportunity offences." Houses had been left unlocked in many theft cases and people who had lost their cars had left the key in the ignition. He stressed the number of gang attacks had been reduced and pack rapes, although a heinous crime, were almost non-existent compared to before the emergency.

The Police Commissioner; David Tasion had expected crime to increase because police operations were scaled down and the curfew ended. An average of 30 to 35 offences would be acceptable said Wingti, provided most crimes were "comparatively minor." He did not believe crime could be reduced to below 25 offences without a curfew and tougher, emergency-like measures. During the emergency only an average 16 crimes were reported each week (PNG Post Courier; Feb 13 1985:2).

The curfew which although effective, was basically a curtailment of personal freedom of the law abiding majority to solve a problem that should never have reached the proportions

that it did. Restricting personal freedom does not necessarily solve the law and order problem, but only solves it temporarily. But what happens when the state of emergency is uplifted, the situation is back to square one, with nothing gained except for a decline in the rate of crimes committed.

The law recognizes break and enter as one of the more serious crimes, the penalty for which is imprisonment for a term not exceeding 14 years. The Organic Law on Duties and Responsibilities of Leadership governs and regulates the activities of the high office holders, such as departmental heads, members of Boards and other controlling boards of statutory authority.

Any person found guilty by virtue of this law is usually dismissed from office. Ironically, there is no penalty of imprisonment as provided for under the criminal code. Take an 'ordinary person' who is caught breaking and entering and an official who misappropriates some thousands of kina of public money. Then consider the gravity of the two offences, and their perspective penalties. Is the law just and fair?

Cases of bribery and corruption happens regularly in all Public Service departments. The Harbours Board is just one of the numerous cases. There was once the Pelair Controversy, which is heard no more. The Diaries Affair had lawfully died and was forgotten. It seems all crime of bribery and corruption will emerge and submerge.

The people shall only live to hear rumours of corruption.

The law should recognize bribery and corruption as indictable offences. Moreover, there should be provisions for such offenders to be prosecuted in a court of law. There should be no confidentiality in the proceedings and determinations of the Commissions of Inquiries. It's establishment is merely an affront to the people. There is no guarantee of it's independence and impartiality. Bribery and corruption must be deterred by all means. It is a serious epidemic affecting the nation's development.

And yet, the focus of crime is directed to the youth who are the victims of circumstance. The education system has deprived many youngsters and will continue into the future, unless something is done to remedy the growing number of school dropouts from primary and secondary schools. Much of the problem lies in the system, the limited number of schools, school fees and space availability. Disturbingly, is the news of 24,000 students who have completed Grade 6 at Community schools will not go on to high school. Their future seems very grim, and for those in urban centers, idleness leads to boredom and eventually crime.

With 62 per cent of the population under 24 (85% in the town centres) and with enormous numbers of these being half-educated, and unemployed, without any social role and thoroughly frustrated, the danger of forceful if not violent change is eminent. The rural areas may have the numbers, but it is the young and disillusioned in the towns that have more access to the corridors of power.

The numbers are growing every year, as is their education and political awareness. Communities that once co-operated with authority now find ways to pressure governments for their own advantage.

The society needs to be reviewed, as long as the rich get richer and the poor become poorer, the law and order problem will continue. Having access to education, employment and the benefits of what the country has to offer is strictly invested in the society. If access is difficult to achieve, then why bother to support a system that is not geared to assist, a likely alternative is fighting the system, and that is easily done by breaching the law.

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