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Towards an Agenda for Action for the Human Rights of Women in Papua New Guinea

Human Rights in Village Courts: the Challenges and Opportunities of working with Village Courts.

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I begin by stating, “Violence and Discrimination against women is rife and continuous in PNG in various forms and is happening everywhere. Apart from other hardships faced by women in informal businesses sector, the sex industry has bloomed with the demand for sex with the minors increasing. In the last two weeks I made friends with two taxi drivers and they tell me little girls as young as 12 – 14 yrs old are selling sex, being used by their family members and others”. The practice of polygamy continues to be excused as being “customary” in the face of an HIV/AIDS epidemic in the country, and yet polygamy practices we are now seeing have no relationship to customary practices at all.



Sorcery beliefs and witch-hunts resulting in a community verdict against an individual, are also rife in PNG, particularly in the Highlands. This has spread to other places in PNG. At this gathering I wish to share a personal encounter I had in the last two weeks. My very dear friend, someone very close to me, who was a social activist, a very young person, was accused of practicing sorcery. I was told when I went looking for her two weeks ago that “she was not seen in the village”. She had apparently gone for a dance somewhere and had not returned. I subsequently heard stories, and now I am told, that she went into a house where women were being tortured for practicing sorcery. She tried to save the women, and she herself was killed – shot with a gun. Whatever the stories might be, I know she has gone for good and I will never see her physical body again. Everyday I cry because my gut feeling is that she was killed. What am I doing about it as a human rights activist? I might also be suspected of practicing sorcery. No one is safe in the Highlands. If one person dies of an illness, or a car accident, or any kind of accidental death, it inevitably gets related to some sorcery practice. For every one death, one or more other people must die along with the one who had just deceased. 95 % of the time, it is women who get accused, tortured, and killed. It is a community verdict against an individual, and

in most cases, the family and relatives have to give their consent or approval for such torturing and murder to happen.

This particular friend of mine sat in Village Courts in her community and provided advice on women and children's rights. In October 2004 she took a citizen action taking a man to court for sexually abusing a small girl of about 9-11 yrs in Goroka town. This incident happened straight after a study was undertaken by UNICEF on commercial sexual exploitation of children. The culprit was sent to prison to serve time.

My friend Anna had a strong physical build and she had always used that to protect defenseless women who were being beaten by their husbands, or co-wives fighting in public places. She was a human rights defender.

Her other story concerned a tribal fight situation in Eastern Highlands Province. Three young girls, from 7 – 11 years old were abducted and all three of them were raped. She went with a team of community leaders to negotiate the release of the three girls. When she saw the rape victims she broke down and cried saying to the chiefs, "Why are we here to negotiate peace when innocent lives were used to broker this peace?" She then went straight to the Police and sought their assistance to do something about the matter. She kept going back to the village in the company of the Police and ensured that the three girls were returned to their family. She was told on many occasions, "It is not your business. This is a family matter. You are minding other people's business". She responded to this in ways and a manner that really shut these people up.

She was one hell of a woman, my friend and twin sister Anna Benny. She is an example of other social actors who are working virtually alone and un-supported. In many instances they work against victims' own families and a community which supports violence for so called "justice related verdicts". It is fitting that we remember her and others like her who have no reason to suffer or die except that

they are women and because of their sex they get excluded and discriminated against. Let us salute her and other courageous women for their work and their sufferings in acknowledgement for their contribution to the fight for social justice.

Let me now give a brief run down on Human Rights Program in Village Courts, supported by UNICEF / Law & Justice Sector Program / GoPNG through the Department of Justice and Attorney General.



Sarah Garap at Human Rights rally in Highlands

My paper is entitled, “Challenges and Opportunities for working with Village Courts.” The story above is a real casescenario of normal village life where community leaders and people deal with their own problems in ways that are traditional and are accepted by the community at large. The Village Courts is the nearest and closest government presence in rural PNG communities. It could be used well if proper support was given by the Government and people living in these communities.

What are the Challenges and Opportunities of working with Village Courts?

1. Taking human rights issues to the village level for community based governance attention is both unique and unprecedented in rural development work. Preventing crime, promoting the safety and security of women and children and reducing crime levels through locally devised and managed prevention strategies are some of the sector activities engaged in by the National Law and Justice Sector Program.
2. Village Courts are the closest government presence to rural people, accepted and highly used by people in rural communities. It is the biggest machinery of government services in terms of staff numbers and numbers of courts established in the country. For example village courts officials are double the number of police personnel, or any other government institution in the country. But Village Courts are the least important to the government in terms of recognition and support for its existence and functions. For Village Courts to function more effectively they must be supported by the government, community leaders, and the public at large.

Village Courts magistrates and community leaders need to be trained and empowered to manage peace and security issues within their own communities.

My task as Human Rights Program Designer in Village Courts was to assist in the development of Human Rights Program with a focus on using a Rights Based Approach” while meeting international obligations PNG has under the CEDAW (Convention on the Discrimination against Women) and CRC (Convention on the Rights of the Child).

An Operational plan and training program was developed reflecting gender sensitivity, HIV/AIDS, and the promotion of human rights.

The focus areas Village Courts Secretariat started giving attention to were:

Objective One: Capacity-Building

Build capacity of village courts officers, officials and partners to strengthen human rights-based approach in Village Court’s dealings with women and children.

Outputs

- 1.1 *A draft human rights training module was produced. Further work needed to be done to incorporate human rights and HIV/AIDS training into the Village Courts Training manual.*
- 1.2 *Human Rights training for officers, officials and other resource persons.*

In recognizing the value base that supports both customary and formal systems of justice in PNG communities, there are implications for the protection of human rights. A major focus for this initiative will be to build capacity of village courts officials to identify issues relating to women and children's rights, and try to facilitate the development of models for conflict resolution that manage the dilemma between collective and individual rights.

We have carried out a number of awareness / training programs on human rights in NCD, Simbu, WHP, EHP, and a Training of Trainers on Human in Madang.

- 1.3 *Support CBO's to develop a performance monitoring role of Village Courts.*

The Village Courts Secretariat will develop a tool in partnership with Civil Society-Based stakeholders so that these partners can submit reports to the secretariat based on their perceptions of the operations of village courts with regard to the rights of women and children in their respective provinces/districts. These reports will be independent.

Objective Two: Awareness

To facilitate provision of information and awareness on human and legal rights of women and children.

Outputs:

- 2.1 *Clear human rights component in publications distributed in Village Courts areas.*

The operational plan includes mechanisms to create awareness about core issues surrounding human rights for women and children.

Some of these issues include; HIV/AIDS prevention, care and support for people living with HIV/AIDS; supporting communities to discuss and develop activities to protect vulnerable children, such as children orphaned by HIV/AIDS, children with a disability, children in blended families, adopted children and children without adequate family supervision and support; assisting communities to identify the benefits of girl's education and keeping girls at school, rather than the current practice of withdrawing girls from school in difficult times. promoting the

'Home Fit For Children', which is an integrated early childhood development framework, designed in PNG by the Government and UNICEF.

Governance education is also very important. Institutions of local self-governance (ward councils, village courts, local level government, and provincial government) are the building block of good governance. Part of the awareness program will be to encourage a perception that women's involvement in such governance structures is vital.

2.2 Human rights and Village Courts radio awareness programme.

The radio programme will mirror the human rights messages being delivered to communities through other awareness raising means.

Utilizing radio as well as print media, an element of 'role modeling' will be included to highlight best practices of policies within agencies, and rural communities. These messages of success are shared with both the formal and informal sectors.

The intention of this awareness objective is to help women and children be more aware of their human and legal rights (land rights, property rights, human rights), and encourage women to be more active in decision making processes.

Objective three: Policy Review

Policy review to ensure an appropriate legal response to the rights of women and children.

Outputs:

3.1 Recruit for better gender balance within Village Courts structure.

Women and children have specific justice related needs that require specific measures. The current justice system is highly male dominated in every respect, and is largely insensitive to the needs of women and children. According to Christine Bradley¹ the National Law & Justice Policy's Toward Restorative Justice does have an inbuilt tendency to re-enforce existing power balances. Therefore law and justice must make the empowerment of women a high priority even if it challenges male attitudes. Otherwise the contradiction in the PNG constitution that – all of our people are to have equal rights and opportunities on the one hand, and on the other hand we should strive to maintain our ancient customs and traditions where men still rule and women continue to be beneficiaries rather than co-partners and change agents, is re-enforced.

To achieve this move toward finding a gender balance there is a need to promote government action by mainstreaming human rights, and gender equality, into

¹ Dr. C. Bradley, *Family and Sexual Violence in PNG: An Integrated Long-Term Strategy Report, 2001*

policies and plans. As well as, research and develop a quota system for women's participation in Village Courts, especially as magistrates.

In the National Capital District we have 22 women court officials out of 265 court officials; 1 chairwoman, 2 deputy Chair-women, a few magistrates, court clerks, and peace officers.

In Wabag Rural LLG of Enga Province 33 ward councilors appointed one woman in each of their council wards to serve in their Village Courts as magistrates. These women are serving in village courts and their decisions and input are valued. However, they are waiting to be officially appointed by the Justice Minister at the National level and gazetted in the Govt. gazette as court officials.

In Eastern highlands province there are only two women magistrates. Other provinces such as East New Britain and Bougainville Autonomous Govt. also have women village court officials. But the effort to have women as court official needs pushing.

Objective Four: Operational Support

Operational support for partners to provide support and advocacy service.

Outputs:

4.1 Links established with stakeholder organizations

This activity is seeking to forge stronger links with organizations, at community, district, provincial and national levels. Where groups, associations, and government bodies exist to provide support and advocacy for women and children, village courts officials and officers can access these resource links.

Whether it is for advice; to support an individual that is at risk; simply to introduce women to the group for assistance in collecting maintenance payments; attending court proceedings; or providing para-legal assistance, serve as possible examples.

Family Voice Goroka, HELP-Resources Wewak, Family Life teams of the Catholic diocese in the country, and others are already delivering messages of women and children's rights in their programs. Many awareness raising materials such as simple booklets/posters on child rights have been widely distributed and are still available for continual education and information dissemination. HELP Resources Inc. also produced CEDAW in simplified posters and booklets for distribution and use in trainings. These NGOs should be invited to become resource people in Village Courts training, mediation and arbitration.

ICRAF (Individual Community Rights Advocacy) can provide a list of legal rights trainers they have trained in the country and these trainers could be used as women volunteer local advocates who would provide necessary legal and moral

support to women needing assistance in village courts, police stations, and conflict mediation meetings.

Community Mobilization and self-help programs by Domil Community of Minj District, Western highlands province and Kup Women for Peace of Kerowagi District, Simbu province are other examples of community taking action to bring about rural development and peace in the absence of adequate government support and basic services.

There are also opportunities for Village Courts to work with Community Justice Centers, like in Kainantu in EHP, and Wau in Morobe province to promote CRC, CEDAW, HIV/AIDS, and CBC messages.

Likewise it will be important for Village Courts to work through the various committees established within the Department of Justice & Attorney General and the Department of Community Development and Social Services such as CEDAW Advisory Committee, Juvenile Justice Committee, Family Sexual Violence Action Committee (FSVAC), to promote a gendered human rights approach, recognizing that gender based violence and discrimination are obstacles to the equal enjoyment by all citizens of their human rights to live free from physical, sexual and psychological violence.

The Human Rights Desk within the Department of Justice & Attorney General's office is not functioning. A gender focus should be in assisting the Human Rights Desk / National Coordinator on operational activities through support for its trainings, information, advisory, and analytical activities. Someone will need to work with the National Co-coordinator in order to incorporate a 'gender and human rights approach' suited to Papua New Guinea.

Establish a functioning referral system between Village courts and other support Law and Justice Agencies such as the District Court, Police operations, Child Welfare services.

Collect relevant training materials / updated reports on HIV/AIDS, Home For Children, Juvenile Justice protocols, CEDAW, CRC, others and use these for training and information dissemination.

Involve resource people from related fields in Village Court training.

Involve PLWHAS (People living with HIV/AIDS) as advocates in community education programs.

Training of identified child protection volunteers (criteria of Volunteers' selection to be developed).

Work in partnership with other Organizations, both formal and informal to disseminate relevant information in the stated programs.

Establish referral system between Law & Justice agencies and Organizations addressing family violence problems and providing victim support services.

4.2 *Assistance for Resource Partners*

Included in this proposal is the scope to provide assistance to CBO groups, like those mentioned above, for work that is directly related to assisting will women and children strengthen their rights under village courts. Thereby assisting with capacity building outside the structure of Village Courts officials as well as inside and improving impact.

One possibility is that the Village Courts Secretariat is pursuing links with the National Aids Council. The idea being to target about 60 individuals affiliated with Provincial Aids Councils as resource persons. This equates to about three individuals per province. These resource persons will attend Village Court sittings and provide support and advocacy for women and children.

They will also assist officials in providing advice and referral to people who may need further assistance. The resource persons will also independently follow and report on cases where people have benefited from such advice and referral or otherwise.

The Village Courts Secretariat will include these resource persons in officers and officials trainings (especially relating to HIV/AIDS and human rights). The Secretariat will meet their costs for travel, allowances, printing, communication, and accommodation.

Objective Five: Monitoring and Evaluation

Attain a monitoring and evaluation system which allows accurate comment on human rights in village courts.

Outputs:

Change, with regards to human rights, women and children and village courts, must be recorded properly to be able to verify impact. Integral to this initiative is the need for an effective information system.

5.1 *NRI Base-line Survey*

The National Research Institute has already designed a baseline study for Village Courts. Once NRI are free from other commitments their intention will be to conduct this baseline survey on Village Court users.

5.2 *Maintain an accurate and efficient information system.*

While integral to the operation of Village Courts as a whole, the information system is also acknowledged here to recognize the need that reporting and data collection must be gender disaggregated to allow for insights into how women and children are accessing village courts and how village courts are treating them. Officials and officers reporting, and scoping studies should reflect the need for this kind of data.

Summary / Conclusions

Within this Human Rights Based Approach to Program Planning including the rights of women and children to access justice, the issue of 'gender inclusiveness' is part and parcel of human rights per se. However, there is need to be careful that the use of words *human rights* and *human rights abuse* do not 'water-down' attempts to raise the status of women and children through strategic gender planning approaches commonly known as GAD (Gender and Development) approach.

When one talks about gender sensitization one is usually promoting some kind of behavioral change which would contribute to greater equality between men and women, ultimately the quality of family life and society at large. Gender has to do with the basic values and organization of society and therefore any attempts to change involve value judgment about what is desirable or undesirable which is a process of change that must come from within the society. The role of outside organizations can only be to facilitate this change, promote more progressive indigenous organizations and encourage an enabling environment. Therefore any gender and development program, or human rights program, developed for Papua New Guinea needs to take all these principles into consideration.

Community/kinship rights over individual rights: In order to establish a legitimate rule of law any system of justice must resonate the values of the community it serves. The traditional PNG kinship system of dispute resolution is based on collective rights, making it difficult to reconcile with the individual's rights based on contemporary western systems. This rights-based conflict impacts upon the legitimacy of the formal justice system in PNG and poses a threat to the rule of law. This context presents a significant challenge for the protection of human rights. Traditional responses to crime often include a breach of human rights and in PNG it is necessary to identify and target responses to the value base that supports those values.

The Way Forward for Human Rights Program in Village Courts

The 2006 Draft Annual Program Plan for the National Law and Justice Sector Program has effectively taken human rights program in Village Courts out in terms of budgetary allocation as well as re-directing its emphasis / focus areas.

Village Courts funding as a separate Activity has been withdrawn and now comes under Restorative Justice Initiatives focusing attention on Community Justice Centers, land courts, and normal village courts operations.

Other Activities in the LJSP such as Community Based Corrections and Community Justice Liaising Unit have their own Activity budgets. Compared to Village Courts, these two Units are not as big a machinery as the Village Courts Services in the country.

Where is the practicality involved in the theme *Toward Restorative Justice which is the window for the Law and Justice Sector Program?*

The shifting of focus areas in Village Courts Services does not support PNG Govt. and AusAID development priority which includes Promoting Good Governance, and mainstreaming Gender issues / HIV/AIDS.

Unless other donors come to the rescue of the human rights activity and support program for Village Courts, all the efforts put into addressing a critical law and justice need area has been cut off through the lack of proper and adequate support from the Law and Justice Sector Program.

For human rights in Village (Community) Courts, the buck stops here for the government. For community actors, NGOs, Churches, and Community Based Organizations such as the Domil Community in Western Highlands province, and the Kup Women for Peace of Simbu province, they continue to work without government support to maintain peace and sustainable development in their communities.

Donors such as AusAID spend a lot of time and money 'fixing' broken systems. Fixing systems is not easy. Emphasis should be placed in going back to the community and reconstructing community life where people live, using the resources and skills that are available.

Human Rights Program in Village Courts strongly emphasized Partnership for Change. This does not look possible now with the lack of support and adequate funding for 2006 and beyond by the National Law and Justice Sector Program.

How do we deal with the strife and hopelessness shown by rural people to address such situations as sorcery related deaths I have spoken of earlier? How do we deal with polygamy related family violence, poverty related issues such as sex with minors, and mass murders related to sorcery beliefs in this age and time in PNG?

This conference needs to take this issue forward to relevant authorities such as the Law and Justice Sector Program, UNICEF, and others.