This brief summarises the main legal issues debated during the three-day conference on Sorcery and Witchcraft Related Killings: Culture, Law and Human Rights Perspectives, held at the Australian National University in June 2013. The conference was multidisciplinary, and was well represented from the legal perspective with speakers from the law reform commissions of Vanuatu, Solomon Islands and Papua New Guinea, four speakers from the Papua New Guinea office of Public Prosecutor and several legal academics. The conference discussion was extremely broad-ranging; however, from a legal policy perspective it is possible to identify four central insights.

The first is that the belief in sorcery and witchcraft is a significant cause of fear and insecurity in Melanesia, as most deaths, sickness and other misfortunes are attributed to the malevolent powers of sorcerers and witches, meaning that people are always on guard against such attacks. Such beliefs are also a trigger for many types of conflict and violence. People react to deaths and misfortune by seeking to punish, expel, cure or get revenge on those identified as being the sorcerer or witch responsible. Such conflict often occurs within communities or even families, but in some areas it is also implicated in inter-community warfare.

There is broad popular demand for governments, customary or local leaders and religious institutions to take action to alleviate these fears and insecurities, and also to deal with the consequential conflict and violence. The state response, discussed more below, is generally only galvanised when the violence becomes extreme, for example by leading to public murder. The vast majority of times, these issues are dealt with by customary institutions, village or local courts, and religious institutions such as churches. The forums and techniques that are used in managing sorcery and witchcraft-related conflict, like the nature and prevalence of the conflict and the beliefs themselves, vary enormously throughout Melanesia, and many different examples were presented at the conference. It is therefore extremely difficult, and also quite problematic, to make generalisations in this area. Although it does appear that conflict is often managed peacefully, it is also regularly dealt with in ways that violate the rights of those accused of sorcery or witchcraft, through physical violence, including killing, and by destruction of property and banishment. These responses generally pass underneath the radar of the state, donor agencies and non-government organisations until attention is called to them by extreme cases such as that which occurred in Papua New Guinea earlier this year where a young woman accused of witchcraft was publicly tortured and burnt alive. Further, the violence of these responses looks set to increase, as customary and traditional authorities struggle to keep control over their communities due to pressures wrought by rapid socioeconomic change stemming from the engagement with globalisation.

The second point to emerge from the conference is that there are two very different groups of victims in this area, but they are often not clearly distinguished, resulting in considerable potential for talking at cross-purposes. The first group of victims are those people who are believed to have been killed or made sick or otherwise negatively affected by the actions of a witch or a sorcerer. The second group of victims are those who are accused of being witches or sorcerers and are consequently attacked or expelled from their community. The existence of these two different groups of ‘victims’ raises some difficult metaphysical questions that require confronting for any type of meaningful policy development to occur. The perception of how to categorise the real harm to be targeted depends heavily upon the world view of the person being asked. The state and Western non-government organis-
tions in Melanesia prefer to focus on those who have been accused of witchcraft and sorcery, and largely ignore the other class of victims. The vast majority of the population in Papua New Guinea, Vanuatu, and Solomon Islands, however, consider the other group as being the main victims, and although there are concerns at times about the violence against accused sorcerers and witches, this is also often considered to be legitimate self-defence. Tackling these issues will therefore involve working across different world views, which is a serious challenge.

The third main insight from the conference is that the current state legal responses to the violence and conflict associated with sorcery and witchcraft-related beliefs and practices in Melanesia are ineffective. Until earlier this month when Papua New Guinea repealed the Sorcery Act 1971, all three countries had legislation that criminalised aspects of sorcery or witchcraft practices, such as holding oneself out to be a sorcerer or possessing certain implements associated with sorcery. However, these provisions were very rarely used for a variety of reasons including problems with proof, police and prosecutorial policies, and an absence of complaints lodged. The state has therefore not been used as a forum for dealing with allegations of sorcery and witchcraft. Possibly as a result, alternative forums have been used, as noted above, and at times there has also been recourse to vigilante justice. The violence that has emanated from this has also largely failed to be adequately responded to by the state, although this is a far more significant problem in Papua New Guinea than in Vanuatu and Solomon Islands where the level of violence is much less. The conference heard repeatedly that police were often complicit in violence against accused sorcerers and witches, and as a result there is a widespread belief that such conduct will be treated with impunity.

The decision by the Papua New Guinea government does, however, lead to the final point of this brief, namely the identification of a way forward. It is clear that simplistic solutions such as repealing legislation and imposing draconian sentences will not help, and may even make matters worse. What is required instead is a multi-stranded, pluralist approach that engages state, local and church responses creatively and strategically. The conference was presented with a number of such examples, such as the development of new community laws in Gor, and more examples should be collected. Local customs and beliefs cannot be simply ignored, but must be engaged with to help to ensure that they lead away from violent solutions to conflict.

Work needs to be done in identifying forums where sorcery and witchcraft allegations can be aired and mediated in peaceful ways, and solutions developed that eschew the use of violence. These forums may sit under the state or they may be non-state, or a blend of both such as the Papua New Guinea village courts. In all cases, however, it will be essential to ensure that there are mechanisms in place to ensure that women and young people can have their voice heard and respected.

Note

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