



State and society and the law in Papua New Guinea's future

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Historians do not normally create models. But this is a model of a generalised Papua New Guinea village. It is called North village. There has been some violence in the area and in one incident a man from North was ambushed by a group of North enemies, the Bukki, and killed. Recently, a white pastor brokered a reconciliation meeting in the village. It seemed to go well with Aga, the headman of the leading clan of North, receiving 2000 kina in cash and some traditional wealth, and Aga and the Bukki embracing. But Natis, the dead man's aunt, was certainly not satisfied. She said that Aga had known that the dead man was going to walk the track on which he was killed. Aga had contacted the Bukki, and that was why they were waiting for their victim. What had happened in the reconciliation meeting was that the murderers had paid Aga, the man who had planned the murder. The killers had paid and embraced their accomplice.

When asked about these charges Aga seemed genuinely surprised. Everyone, he said, knew that the dead man was going to walk that track. He did it often. He had been warned that it was dangerous, but he had gone to a well-known sorcerer and paid

heavily for protective magic. He had believed that he was safe. Aga did not doubt that the sorcerer had the power to protect his clients, but of course there were other people who would pay the sorcerer to provide defective magic, and there were other sorcerers who could be persuaded to destroy the power of the protective magic. Aga was uncertain what had happened. As for the compensation, well, he had accepted it on behalf of the village. He would disperse some to the dead man's immediate family, although he ought not to do so. The dead man was a member of the second and minor clan group in the village and over eighteen transactions the second clan was severely indebted to him. Aga carefully listed all eighteen—mortuary feasts, marriage settlements, major communal works—and he carefully accounted for all the goods that had passed between the two clans. So, yes, he would give them some of the settlement, but that was no favour to them—it would simply increase their indebtedness and their resentment. Aga also thought that the second clan might have a case for compensation against the sorcerer that they had paid. But you could only get compensation from a sorcerer if you were



confident that you had stronger powers on your side and he doubted that the second clan had the resources to secure that power.

After a few days some people in the village began making other suggestions about what might have happened. Lusso was from the same clan as Aga. He was younger, strongly built, and ambitious. He aspired to leadership. A couple of the schemes he had pursued had failed, and while Aga was successful and wealthy Lusso was no threat to Aga's position of dominance. But clearly, should Aga falter then Lusso would gain. Perhaps, people thought, Lusso had spread the story that Aga had betrayed the dead man. Perhaps Lusso had arranged the death and implicated Aga.

And always in North village there was an underlying tension. North looked as though it had been on its hilltop site for many years, but in fact old people sometimes called it North Number Five. Within the last 150 years it had shifted five times—deaths from sickness, fighting with the Bukki, and splits in major clans had all caused shifts. The final shift to the hilltop had been a result of war—the North had killed, driven off, or absorbed the former owners, the Tabin. The few descendants of the Tabin who had survived and stayed at North formed a small sub-clan. If the Tabin intervened in major disputes between the dominant two clans they were reminded that they were the descendants of the defeated and that they were fortunate to be allowed to stay in North. But everyone knew that the Tabin were more than refugees—they were the original owners. In the old days when the *kia*p and his police came to North, and even now when outsiders were in North, people watched the Tabin. There was always the chance that they would make their claim to being the true owners of the land and that some official would record their claim in a book, and there it would remain. And of course the Tabin were more likely to look for an alliance with outsiders. No one had evidence that any of

the Tabin had done a deal with the Bukki and arranged the murder, but all members of the dominant North clans had wondered if the Tabin were involved, and all were watching for the slightest sign that the Bukki were going to repay the Tabin for help rendered.

So in a village of about 160 people a man had been killed, and everyone knew who had killed him. It therefore seemed a simple matter to hold a reconciliation ceremony between the bereaved villagers and the killers. But it was far from simple, because the death made people ask who had the motives to arrange the death, and that question went back to the basic divisions within the village, to contests over village leadership, and into village history. The reconciliation ceremony did not touch those divisions and the forces that they generated. Perhaps it was just as well because if it did then the existing system within the village—the system that provided for order and decision making—would have been destroyed and some new system would have had to be devised.

There are other fundamental factors that influence behaviour in North. The village is fifteen kilometres from a road that links the area to the provincial capital. It is a poor road, but most of the time it is open to light trucks and four-wheel drive vehicles. When the road was pushed through forty years ago some people from North and other villages shifted to new sites on the road. That migration to the road has continued. Clearly people have shifted to the road to gain access to the cash economy and other services, and some—having taken the first step—move on to the provincial capital and other places. But people living on the road still think of themselves as belonging to North. They contribute to exchanges, in fact supply most of the cash, and they believe that they retain land rights in North. But the degree of commitment of the emigrants to North runs the full range. Some people left North forty years ago, and have never been back and



stopped making any contributions to North ceremonies at least twenty years ago. They have married people from other provinces, and their children and grandchildren do not speak North *tok ples*. They could only reassert their rights in North if they have forceful personalities and make generous payments to compensate for the many obligations that they had failed to meet. But even so, they could not claim land without someone else losing. Other people, especially those who did not go beyond the road village, and have frequently made the tough walk back to North, have retained almost the same rights as those who live in North.

The people who live in North village itself have almost no connection with government. There is a school building, but there is nothing in it, not even the bush timber desks that were once set into the dirt floor. The church had run the school but it was never clear if the school had been accepted into the unified national system, and when the mission teacher was not paid he left. Occasionally a mission teacher has reopened the school, but questions about the teacher's competence, pay and school supplies recur, and he moves away. There is an aid post, but there are no medicines or supplies in it. Crimes and disputes are settled—or left unsettled—in the village. If people of North want any government services, they walk to the road and then travel to where those services are available. It is possible to think of the people of North as not being in the state, but being able to enter it when they want to or have to.

They have a similar relationship with the cash economy, except that the North emigrants send money back to the village. In fact, the people of North have been increasing and expanding the number of ceremonial exchanges precisely so that they can call more often on ex-North residents to send money home.

The North have one asset that they can sell for cash and that is timber. Aga is tempted

to do so, but he knows that if he tries some of the North emigrants would immediately claim ownership of large tracts of land, and as they are richer in cash and know more about the world of timber leases, they might dominate the sale. Also, the Tabin might have the chance to point out that they are the original owners. And while the North have been accustomed to negotiating the right to use land and to benefit from the crops on it, they have never sold land. North custom says nothing about selling land. Knowledge about inheriting and transferring rights to use land or to gather products in a forest, and communal consciousness of where North lands end, cannot be readily transformed into rules governing the right to sell. In the absence of lore and precedent, a land sale is likely to be determined by those with the greatest power, the strongest voices and the best access to government officers and timber companies. No one in North or beyond is confident they could control a sale.

When anyone or thing from outside enters North—a government or church agent, even an idea—it is evaluated in terms of what affect it will have on village clan strengths, on leadership and on the accumulated balances of past fights, alliances and exchanges. It is not the intrinsic value of the AusAID project (or anything else) that matters but who will win and who will lose in the village. As in the reconciliation ceremony each side may bring startlingly different perceptions, and there will be no one-village perception. What is equally apparent is that there is little connection between the village and the state, either in services or institutions. Faced with a major decision, such as selling a timber lease, village leadership, village government and village customary law, are extremely important but of little help. But this is not to say that North is cut off from the outside world. There are probably more ex-residents of North and their descendants, than there are residents of North. The traffic in goods



and people between present and past residents is considerable. And if some critical incident brings everyone home, the ex-North may well overwhelm the North.

Having looked at government, law and people at the level of the individual, family and village unit, I now want to consider some issues from the other end of the spectrum. I want to say something about the broad set of assumptions within which national policies are formed and national institutions operate. This value-system is always dynamic, is always justified by what are said to be quantifiable arguments, but rests essentially on the irrational.

When the Australians granted self-government to Papua New Guinea in 1973 Australia had an aggressively centralising, expanding government. The total Australian taxation income, which had been A\$9.7 billion in 1972, was A\$17.6 in 1975 and A\$29 in 1979. The Australian Government was increasing its influence relative to the states in health, urban affairs, local government and Aboriginal affairs. The Australian government was taking greater responsibility for the welfare of its citizens, engaging in major development projects, and directing economic growth into particular places and industries. But at the end of 1975 the Whitlam Labor government was dismissed and then defeated at elections. Malcolm Fraser, leader of the Liberal Party, became prime minister, and promised an end to profligate government. It does not matter a great deal that he did not do this—what matters is that the expectations about the role of government were changing. Already Ronald Reagan, the Governor of California, was cutting taxes and reading speeches expounding the virtues of smaller government, and in Britain in 1975 Margaret Thatcher became leader of the Conservative Party. In 1976 Milton Friedman was awarded the Nobel Prize for economics for his writings on ‘monetary history and theory’. Thatcher was prime minister by 1979, and Reagan president by

1981. In public finance, monetarism was dominant and deficits and inflation, it was said, were the enemies to be fought by the custodians of economic policy: government intervention in the market place distorted disciplines best imposed by the market itself; government money crowded out private finance; welfare policies suppressed initiative; and centralisation reduced the right of choice. Suddenly, ‘good’ governments were making themselves smaller: they were cutting taxes, reducing the number of public servants, selling assets, deregulating, ending cross-subsidies and transferring functions to the private sector. So Papua New Guineans were promised control of the government when governments were expanding revenues and functions. But once they took possession, they were told that they should reduce the numbers in the public service, cut wages, and lower the people’s expectations of what the government could do for them. Prevailing ideology had been boosting the prize when it was being offered and diminished it after it was received.

Other changes were taking place in the assumptions that help determine the ways that governments behave. In the 1960s and early 1970s the public service was staffed by people who—according to the ideal—were permanent, gave impartial advice to Ministers, and were thought to have acquired expertise in the department and had access to accumulated knowledge within the department. The senior public servants accepted an adequate but modest salary, but this was thought reasonable as they would receive a generous pension and were protected from the risks associated with working in the private sector. All those apparent verities were undermined or overturned by the 1990s. Senior public servants could now be tied to Ministers by sharing publicly declared common goals: they are not expected to provide impartial advice but to achieve agreed outcomes; they shift between the public service and the



private sector so that they have particular links with some businesses and businessmen; they are paid very large amounts of money, and the gap between the salaries of the few at the top and the many in the lower ranks of the public service has increased; they do not necessarily have broad expertise across their department and may not depend on the department to provide information because they contract to the private sector to provide advice. A permanent head (and that designation is significant) of the 1970s might have difficulty recognising a government department that spends so much of its time supervising the tenders of private sector consultants who provide advice on how to achieve government goals.

At the same time the controlling practices in the management of public companies have been transformed, and in some cases it is the changes in companies that have been driving change in government. The paid executives of the companies have greatly increased their power relative to the owners—the shareholders. The executives transfer company assets to themselves and annual salaries measured in millions have become normal.

This is not an argument for or against the selling of any particular Papua New Guinean government enterprise or about whether Papua New Guinea can effectively shield itself from global forces on executive salaries. The aim is to raise concerns about how to set and regulate appropriate behaviour of those holding offices of trust. If it is acceptable for a state public servant in Australia to be paid over A\$400,000 a year: for people to shift from private enterprise to public office and continue to draw income from private enterprise; for governments to pay individual private consultants at rates of over A\$500,000 a year; for arguments about commercial-in-confidence to be used to deny public knowledge of public money paid to public servants; for managers of public companies to be paid millions, then what is

the argument to say that Papua New Guineans should not behave in the same way and be paid the same rates?¹ Some of these rewards may be defended with arguments about performance and by international comparisons, but clearly such arguments do not justify all these payments. A system that allows extravagant rewards for a few seems inappropriate where many people have such low rewards and few services, and it makes it more difficult to define and reduce corruption.

Again, whether these changes were inevitable and whether they resulted in the greater good of peoples in nations where they were adopted most aggressively are not at issue here. But the coalition of those changes in the expectation and behaviour of governments, civil services and public companies has certainly been important in new states in the Pacific. Where government is new and weak: where the state has little reality other than through the actions of government; where the senior members of the elected government and public service and companies are vulnerable to corruption; where only the government can take services to many people living in remote areas; where individual rural producers have no strength in the market; where governments are important sources of individual wealth; where the distinctions between elected members, public servants and private entrepreneurs have not been clearly established; where accountants and auditors are few and their authority weak, then the changes in the prevailing value systems have been detrimental. These changes have been a random disaster that has fallen on latecomers to statehood — they just get it, desperately need it strengthened and its basic integrities established, and all is diminished, blurred and weakened.

The Papua New Guinea government, the state, operates between sets of values—those at the village level and those that come from outside. Both have limited the capacity of the



state to reach and bring together all its citizens. The village varies greatly from place to place, but in all its diversity and dynamism it has not been easy for Australians or Papua New Guineans to join to central government. Central government agents have been able to inspect and direct villagers, but the village has largely remained outside state systems. The sets of guidelines that at any one time determine appropriate behaviour of governments and corporations are also dynamic, and we may presume that the values that are predominant now will be radically different in thirty years time — as those of 1970 were different from those of 2000. But the current values that reduce the role of government, argue against cross-subsidies, leave much to the market and private enterprise and allow massive rewards to the few, are unlikely to carry services to distant villages.

The Papua New Guinea government is often measured against what it does for villagers, and against foreign and abstract assumptions of good government. Rarely are both applied together. But when they are, the difficulties faced by the Papua New Guinea government are magnified. At any given time at the level of central and provincial government there are numerous cases of fraud and corruption, and/or the taking of legal but inappropriate rewards: the Wewak hospital, Finance Pacific, the Papua New Guinea Banking Corporation, the Defence Force Retirement Benefits Fund, Works Department procurement procedures, public servants' superannuation funds, various savings and loans societies, use of Rural Development Funds, and pyramid investment schemes. Given the frequency, the problem is not primarily one of the law or law enforcement, for such cases are notoriously demanding of time and resources and are unlikely to lead to successful prosecutions or recovery of funds.² Efficiency and integrity in the private and public sector are dependent on office holders

abiding by a broad morality and cases of abuse being infrequent. The problem for Papua New Guinea is that codes of behaviour were not generally established before Papua New Guineans met systems that made it so much more difficult to distinguish between legal and illegal, right and wrong.

At the village level the problems are apparent when a large money payment has to be made to villagers for the loss of a village resource. If someone or some group receives the money on behalf of the village then the selection of the recipient will reflect and influence relationships in the village. But if the paying agency decides it will give every man and woman and child in the village an equal amount then how does it decide who is a member of the village? And remember that village customary law, and more obviously village power relations, are dynamic. What seems to be accepted as fair by village leaders at one time will not be seen as fair in ten or fifteen years time. Those who claim they have been treated unjustly in the village will not attack those they believe took an unfair share of the spoils, for that is to cause anger and retaliation among close neighbours—they will direct their attacks on the outside paying agent. Those hoping to work at the village level have to try and understand village customs, alliances, personal ambitions, but understanding them will be difficult, and linking them to a national system will again be difficult—and likely to leave many unsatisfied.

My *wantok* Brother Pat Howley, long experienced in reconciliation, has told me that my pastor who brokered the peace at North village was naïve. He did not understand the basic difference between reconciliation and compensation. Too often compensation intensifies the sense of winning and losing, and simply sets the ground for other and greater compensation claims. A trained Papua New Guinean mediator prepared to spend time in a village



can enable a village to set community goals so that it is not in the interests of many people in the village to see projects fail. The village, then, is not inherently divided and it is not impossible to attach the villages to the state by aims and structures held in common. That is a rare message of optimism on any subject to have come out of Chinkapook.

A consciousness of the two constraining, complex systems (one that comes from abroad and one that comes from the villages) might make us more sympathetic to those Papua New Guineans trying to make government work, and those trying to secure acceptance of appropriate state and community codes of behaviour. Their success is critical. The future of the state is dependent on finding the rules and gaining broad acceptance for efficient and fair operation of high office holders and for the delivery of services to villages. If villagers continue to be institutionally weakly connected to the state, solve most problems without reference to the state, and often leave home to obtain access to state services, then consciousness of the state and loyalty to the state will remain slight in the minds of many people.

Notes

¹ The Australian government has paid the American consultants, Shaw Pittman Potts and Trowbridge, some A\$17 million for advice on outsourcing information technology. Three individual consultants have been paid up to A\$1.7 million a year. Their pay has now been capped at A\$6,800 per day. Shaw Pittman did not tender for much of the work that it does for the government. There is no suggestion that this was illegal (*Australian*, 8 September 2000:3). In Papua New Guinea the contracts of various people involved with the Papua New Guinea Banking Corporation have been revealed. One person seems to have sold his services through his consultancy companies, so that he stood to gain K6 million for a four-year

contract (*National*, 5 August 2000). In neither the Australian nor the Papua New Guinean case was the advice required to be productive. The consultants to the Papua New Guinea Privatisation Commission also seem to have been given high reward—K2.3 million in ten months (*National*, 6 September 2000). The chairman of the Privatisation Commission, Ben Micah, replied denying that such an amount had been spent (*National*, 8 September 2000).

The chief executive of BHP, Paul Anderson, was paid A\$7.1 million in 1999–2000: A \$1.62 million in salary and A \$5.45 million in cash and share incentives (*Weekend Australian*, 9–10 September 2000:31). The joint-managing directors of One.Tel, Jodee Rich and Brad Keeling, were paid A\$7.5 million each, and this seemed unrelated to company performance (*Australian*, 13 September 2000:43).

² A police fraud squad has recently abandoned its investigation into the disappearance of K21 million from the PNG National Gaming Control Board because all evidence of what had happened to the money had effectively disappeared (*Canberra Times*, 26 August 2000).