

Towards A Role For Social Science Teachers As Community Leaders In Developing The Law In Papua New Guinea

*Christopher J. Roederer & Barend Vlaardingerbroek
University of Goroka, Papua New Guinea*

Abstract

This paper presents a study that was undertaken as the first phase of an action research project associated with the introduction of a Legal Studies module in the first year of secondary Social Science teacher education at the University of Goroka. The ultimate objective of the module is to prepare teachers to take an active role in the development of the law in Papua New Guinea. The paper provides a thorough institutional and legal background to establish the potential for that role as well as to explain the unique legal and cultural context of the study. The purpose of the study is to gauge the knowledge and attitudes of teacher trainees with a view to ascertaining the relative need for the module as well as to identify potential obstacles to achieving the module's objective. Teacher trainees exhibited a generally poor level of legal knowledge that was not associated with any measured variables except age. Attitudes to the law were observed to be markedly ambivalent with regard to the 'traditional/customary vs modern' spectrum that was gauged. Attitudes to legal education were found to be associated with Christian religious denominational identity. The paper concludes with recommendations for further research.

Introduction

A judge ruled yesterday that a young Highlands woman could not be married off as part of a compensation payment.

... Miriam Willingal was demanded as part of a traditional payment including money and pigs ... [but] Judge Injia ruled that the forced marriage of Miriam, of the Tangilka tribe, to a man of the Konumbuka tribe, was a violation of the Minj woman's constitutional rights ...

Judge Injia said the tribesmen of Minj were part of modern PNG and were governed by national laws.

'If their customs and customary practices conflict with national laws, then they must give way to our national laws ... I consider that the custom under consideration is not in the public interest to recognise and allow it to continue to be enforced ...'.

Papua New Guinea Port-Courier leading story, 'Woman pay deal illegal - court', 11-2-97.

This above recent newspaper excerpt exemplifies the incongruities and tensions that arise between traditional customs and modern law in current-day Papua New Guinea (PNG), a nation with a plural legal system that recognises customary Melanesian law along with a British-derived legal tradition.

This paper presents data arising from an exploratory study of Papua New Guinea trainee secondary teachers' knowledge of, and attitudes towards, the law as the preliminary phase of an action research project with the objective of introducing a Legal Studies component into the education of Social Science teachers. The empirical study is contextualised with reference to the training of secondary teachers and the complex cultural and legal milieu that characterises PNG society.

Institutional Background

The University of Goroka (until February 1997, the Goroka Campus of the University of Papua New Guinea) is the principal site of secondary teacher education in Papua New Guinea. Social Science is one of 10 disciplines in which students can enrol. The degree programme allows students to take Social Science as a 'Minor' or a 'Major'. At the time of this study, four kinds of students were studying Social Science: direct entrants from high school; people who had entered employment or other tertiary courses after leaving high school and prior to enrolment at Goroka Campus; experienced two-year Diploma teachers who had returned to the campus to complete the two-year in-service version of the B.Ed; and three-year Diploma graduates who had been permitted to enrol for the one-year up-grade to the B.Ed. In this paper, 'B.Ed.1', 'B.Ed.2' and 'B.Ed.3' refer to cohorts made up of the first two of these categories, while 'B.Ed.4' refers to up-grading three-year Diplomates and 'B.Ed.(Ins)' refers to in-service students.

Both the Social Science 'Minor' and 'Major' require that students take a Foundations of Social Science course at Level 1 which in 1996 consisted of modules in Politics, Sociology, Economics, Geography, History, and Religion. The Foundations course is designed to prepare students for the broad range of social science courses they will take throughout their programme. Prompted by the National government's designation of 1996 as the 'Year of Law and Order', a proposal was put forward towards the end of that year within the Department of Social Science and Commerce that a Legal Studies component, in the form of a module on Law and Constitutionalism, be designed and taught by the principal author of this paper.

Rationale For The Legal Studies Course

Law and order problems in PNG are associated with diverse cultural, socioeconomic and attitudinal factors, including the real or perceived failure of the law to accommodate traditional

beliefs and customs, and the failure of the populace to understand and pay homage to the written law, both exogenous and endogenous. There is a general failure to see the law as legitimate, and a tendency to reject the written law and introduced law out of hand as foreign impositions.

Law in PNG is exceptionally complicated. The system recognises both custom and the common law, newly enacted law and some pre-independence written law. The course is designed to give students a fundamental understanding of:

- the relationships between the various sources of law, from the Constitution to customs;
- the various institutional sources of law (courts, the legislature, society);
- a number of the substantive areas of public and private law, ranging from Public International law, Constitutional law and Criminal law to Contracts and Property Law;
- the PNG court system, ranging from the Village Courts to Local, District and National Courts, and the Supreme Court.

The global behavioural objective of the course is to instil a responsible attitude based on an informed appreciation of the virtues and shortcomings of the political and legal system in which our students, and accordingly tomorrow's teachers, live. It is hoped that this will support and empower them to more fully live up to their roles as informed community leaders, particularly in rural areas. While it is not our intention to attempt to prepare teachers for an active quasi-legal role in communities, we believe that secondary teachers, as highly-educated people, could fill important gaps in local knowledge of the law, and act as role models with respect to attitudes towards the law and its continuing development in Papua New Guinea.

Law And Order, National Unity And The Centrality Of Legal Issues In Papua New Guinea Social Science

The Independent State of Papua New Guinea was founded in 1975, following a mixed German/British/Australian colonial experience of less than one hundred years. The Highlands region, comprising about one third of the population of the country, did not feature a significant colonial presence until the 1950s, while some areas were still 'restricted' until 1974.

Traditional PNG social and political organisation is based primarily on kinship. This remains true today as 84% of the country is rural and engaged in traditional subsistence activities. The country is host to about 800 cultures and languages, the latter presenting one sixth of the world's repertoire (Romaine, 1992). With the exception of some coastal and islands peoples, there was relatively minimal contact between these cultures prior to the colonial era. Accordingly, there was no overarching political or legal system, and no pre colonial concept of 'PNG'. Nationhood remains a nebulous concept for many Papua New Guineans (Wormald, 1991).

Although the Constitution sets forth the goal or ideal of the development of the law according to PNG customs and traditions, both in terms of supplanting the introduced written law

and the underlying common law, the recognition of custom as law has remained highly problematic. Normative dissonance is not confined to simple clashes between sources of law, although it may be due in part to serious conflicts in the underlying principles that animate the law.

The most stark example would be the 1989 closing of the Panguna copper mine on Bougainville which in the years from 1972 to 1989 accounted for 45% of exports and 17% of government revenues but which now is estimated to be responsible for the loss of as many as 10,000 lives, 7070 civilian injuries, and up to 50,000 people suffering from dislocation and malnutrition (Pacific News Bulletin, 1996). The crippling of the mine was coupled with an ongoing secessionist movement by the Bougainville Revolutionary Army (BRA), which was arguably initiated by the founding of the mine by Conzinc Riotinto of Australia (CRA) in 1964. According to Semos (1990), the conflict is primarily one over resource sovereignty between the local land owners, the mining company and the PNG government. Griffin (in Spriggs & Denoon, 1992) described the conflict as primarily one of geopolitical ethnonationality, *i.e.* a conflict based on the desire for political sovereignty based on the distinct location, ethnicity and culture of the Bougainville people. Some commentators have pointed to the socially disintegrating effects of large-scale resource exploitation on traditional society, in which view the conflict, with all its legal ramifications, is one between tradition and modernisation (see *e.g.* Filler, in Spriggs & Denoon, 1992). Still, others have used the paradigm of 'strong society, weak state' (see *e.g.* Standish, 1989; Jackson 1992). Whatever the sources of the conflict - resource sovereignty, political sovereignty/self-determination, traditional versus modern society, or society versus the state - the results are serious in terms of national unity, economic development and law and order.

Law and order problems, including reports of corruption, tribal warfare, highway robbery, and rape take up a significant portion of the daily newspapers. In the summary of its 1994 report on Papua New Guinea, The Australian International Assistance Bureau (AIDAB) wrote:

A serious law and order problem has been a feature of Papua New Guinea for over a decade. Public security and respect for a rule of law that protects private property and contractual arrangements are considered essential for achieving economic growth. The private sector sees the law and order problem as the government's most important policy problem.

(AIDAB, 1994, p. xiii).

Legal questions are intertwined closely with many of the issues addressed in the social sciences. Not only is the law closely intertwined with politics through the Constitution, but legal questions are intertwined with economic issues and issues of development. The area of customs and customary law gives rise to the need for students of anthropology to have some understanding of the discipline of law. The need is heightened in the context of PNG wherein customs/customary laws are embedded in and partly recognised (and by corollary, partly excluded) by the overall legal framework. Likewise, the manifold differences in the way traditional society views the family and the way the Constitution and modern family law in PNG address the family, and in

particular the rights of women, gives rise to the need for students to have a firm grasp of the intersection of sociology and law (a poignant consideration given the high rates of domestic abuse and rape in PNG) (See, e.g. Law Reform Commission, 1992).

The Constitution, Courts, And The Role Of Customary Law In The Papua New Guinea Legal Framework

The Constitution

Papua New Guinea, due in part to its late entrance into statehood, strove to create an autochthonous Constitution (Weisbrot *et.al.*, 1982, p. 5). While the founding fathers of PNG set out with relatively bold plans to form a nation based on ‘the Melanesian way’ that would be free of colonial trappings, the British/Australian-based legal framework, with its system of courts, introduced written laws, judicial precedents and the common law, was already entrenched. To this day, PNG maintains a British derived legal system.

Nonetheless, recent legal developments have seen the increasing inclusion of PNG traditional customs into the substantive law, as well as into the decisions of the courts (see *e.g.* Ottley and Zorn in James & Fraser, 1992; Aleck & Rannells, 1995). The Constitution not only allows for the development of the underlying law according to PNG ways and customs but also directs the courts, the Law Reform Commission, and ultimately Parliament to ensure that a distinctively Papua New Guinean Jurisprudence is developed (PNG Constitution s.20, 21 and Sch.2).

In addition to providing a set of non-justiciable National Goals and Directive Principles, setting forth the basic structure of government, and a detailed list of basic rights and freedoms, the Constitution clearly sets forth the legitimate sources of PNG law. Part II Division 1. s. 9 of the Constitution states:

The Laws of Papua New Guinea consist of:

- (a) *this Constitution; and*
- (b) *the Organic Laws; and*
- (c) *the Acts of Parliament; and*
- (d) *Emergency Regulations; and*
- (da) *the provincial laws; and*
- (e) *laws made under or adopted by or under this constitution or any of those laws, including subordinate legislative enactments made under this Constitution or any of those laws; and the underlying law; and*
- (f) *the underlying law,*
and none other.

Schedule 2 of the Constitution further specifies that the underlying law consists of custom, the common law and new rules when the former two are absent. Schedule 2.1 restricts the recognition of custom to situations when it is not inconsistent with sources (a) through (c) and when not repugnant to general principles of humanity. Under Schedule 2.2. the common law is also recognised as part of the underlying law if it does not conflict with (a) through (c) or if it is

not found to be inappropriate to the conditions of PNG. More importantly however, the common law *can not be recognised as part of the underlying law if it is inconsistent with custom adopted under Schedule 2.1*. Thus, custom does have a firm *de jure* place within the sources of PNG law even if *de facto* it has been relegated secondary status.

The Courts

The PNG Court system is composed of the Supreme Court, the National Court, District and Local Courts, Land Courts, Village Courts and other specialised courts.

The National Court is a court of 'unlimited jurisdiction' (Const. s. 166[1]) with original jurisdiction over all civil and criminal matters. The National court is also the first court of appeals from the Local and District Courts, as well as a number of Governmental agency tribunals, in matters within its competency and holds the power of review over exercises of judicial power within these courts (Const. s. 155(3)). Additionally, the National Court has jurisdiction over a limited range of Constitutional issues, including Constitutional Rights (Const. s. 23; see *Sate v. Peter Painke* [No. 2] PNGLR 141, 1977).

The Local and District Courts came into effect in 1966 in order to replace the old 'Courts of Native Affairs' and 'to provide the legal machinery for constructing a single integrated system of courts in Papua New Guinea' (Gordon & Meggitt, 1985, p. 79) The local courts have jurisdiction over summary criminal offences and civil matters of 200 Kina (Aus\$190) or less, as well as cases involving local government council rules. The procedures of the local court are supposed to be simplified and customary law of particular importance. Appeals from the local court go directly to the National Court but only if 'there is a substantial miscarriage of justice'. The District Court can hear cases up to 2000 Kina (Aus\$1900) at the discretion of the sitting magistrate. The procedural rules of the District Court are modelled, as are those of the National Court, on those of Queensland, Australia.

The Village Courts were envisioned as a progressive reform in the court system and were intended to make up for the shortcomings of the Local Courts. They were to be widespread and accessible in both the physical and legal senses. Village Courts serve anywhere between 2,500 and 10,000 people (about 4-10 villages). They are to use customary law and the Village Courts Act as their sole sources of law, unless they conflict with the Constitution or with 'General Principles of Humanity'. The rules of evidence are relaxed and the methods of dispute settlement are ostensibly modelled on traditional 'Melanesian ways'. Appeals from Village Courts are limited to cases in which one of five prescribed procedural errors are made and a substantial miscarriage of justice has occurred. Paradoxically, one can not appeal the decisions of the Village Court on the basis of an incorrect application of custom. These restrictions on appeal as well as their technical nature tend to ensure that the bulk of customary law does not leave the village court, much less the village context, thereby maintaining the dual legal system.

The Role of Customary Law in the PNG Legal Framework

Despite the Constitutional support for PNG customary law and the establishment of the Village Courts, customary law is often of secondary or minor legal importance. In keeping with the common law tradition, it is the responsibility of the judge or panel of judges to decide which version of the law and facts presented are correct (there is no jury system in PNG). Judges of the

Supreme and National Courts have a further duty to develop the underlying law according to PNG ways and customs - a duty which is shared with Parliament (Const. s. 20) and the Law Reform Commission (Const. s.21[2]). This duty gives the Courts a proxy mandate to actively intervene and to create or pursue legal arguments for one or the other party (Constitution, s. 20 and sch. 2.3. and 2.4).

However, this mandate must be balanced against two different considerations: one of justice, and one of efficiency. The consideration of justice is based on their role as neutral arbiters. The more serious consideration in many cases, however, is that common law courts (especially those in PNG with very limited finances) are simply not set up to investigate the law, much less the facts of a case. It is not an inquisitorial system. As Justice Miles stated in SCR No. 4 of 1980 'Petition of Somare' in Note 3 at 303:

[T]he suggested requirement that a court must positively decide that custom is inapplicable before it can proceed to consider the common law carries with it the obligation to commence the case with a comprehensive inquiry into all relevant custom ... This would place a burden upon judges and lawyers which in the light of their present training and experience would be difficult, to say the least.

Thus, the courts must rely on the adversaries (*i.e.* the litigants, usually through their legal representatives) to put forth arguments as to what the law is and how it should apply to the facts that they try to establish for the court. In order to introduce custom as governing law it must be pleaded and presented as fact. The difficulty is that the jurisdiction of any given Local, or District Court may encompass upwards of 50 different customary legal systems, or in the case of the National and Supreme court, hundreds of different systems of customary law within them. It is not possible for a judge, in most cases, to know these different systems. Thus, unless the lawyers and their clients present such facts, they often will not be pursued. A compounding factor is that indigenous lawyers are generally taught and trained with the common law as the background or underlying law. Although there are customary inclusions in their legal programme (Faculty of Law Handbook of Courses, 1996), the customary law of this country is by and large outside of the expertise of most PNG lawyers.

The Role Of Teachers As Community Leaders In Developing The Law

It is the clients, or actual litigants in many cases that hold the relevant expertise in the area of local custom, and hence customary law. What most citizens lack is the knowledge of where and how their customs may actually be transformed into recognised law. There is a strong need for Papua New Guineans to have some knowledge both of the introduced law and its relation to custom and customary law. Without this knowledge there is a reduced chance that Papua New Guineans will be able to appreciate the written law, and a further reduced chance that they will be able to have their customs recognised as law. Thus, when confronted with the national court system, many do not know or believe that their customs may in fact be, or become, a significant part of the law.

During the 1997 Goroka Campus Orientation Programme entitled 'Law and Order and Drugs' with the Goroka Police Station Commander, one student representative noted that, 'Us teachers are with the children of our country nearly every day for most of the day and then we

send them home to their parents, don't you think we would be much more effective at promoting law and order than the police?' The police representative responded by acknowledging the role of teachers in instilling values in school students and by further enlisting their help in the service of law and order.

The Empirical Study

The Research Instrument

The instrument comprised three parts: personal variables, knowledge of the Papua New Guinea legal system, and attitudes towards the law and towards legal education.

- (1) Personal variables: level of study, gender, age, home region, childhood environment, religious affiliation, and any previous study of the law or legal issues.

By 'home region' is meant Papua (southern coast), Highlands, Momase (northern coast) or the New Guinea Islands. These areas are distinct with reference to cultural complexes and colonial histories. 'Childhood environment' refers specifically to where the student was living while at primary school: urban centre, government station (semi-urban), or a traditional village. These factors, and religious affiliation, were previously used in an earlier study of Goroka students' views of traditional and modern science (Vlaardingerbroek, 1991).

- (2) Knowledge of the Papua New Guinea legal system: this section consisted of twenty multiple choice questions. These were arranged by the following themes:

Sources of law

In any introductory law course it is essential that students have a basic grasp of the various sources of legal authority, be they institutional in terms of the various branches of government or 'the people', or be they the products of these institutions, *e.g.* the Constitution, Organic laws, Acts of Parliament, decisions of administrative bodies, the decisions of the courts, or customs and tradition. In the case of the last of these, Sch. 1.2 of the Constitution states that:

... 'custom' means the customs and usages of indigenous inhabitants of the country existing in relation to the matter in question at the time when and in the place in relation to which the matter arises, regardless of whether or not the custom or usage has existed from time immemorial.

Example of Question Asked:

In order for a custom to be upheld as law by a PNG court, it must be

- (a) a custom throughout PNG traditional society.
- (b) a part of tradition that has been held by Papua New Guineans since time immemorial.
- (c) associated with traditional land.
- (d) compatible with the National Goals and Directive Principles of the Constitution.

- (e) relevant to the issue at hand and have existed when the issue arose.

Answer: option (e)

Option (b) is explicitly contrary to the above definition, and there is no requirement that customs be tied to traditional land, or that they be compatible with the non-justiciable National Goals and Directive Principles. Answer (e) is a paraphrase of the stated Constitutional position.

Categories of law

Part of understanding the overall legal terrain is knowing how the law is divided into different analytical categories. The categories are important because, although there is considerable overlap, many of the categories carry their own relatively autonomous set of principles and doctrines. Two basic categories of law which can be found throughout most modern legal systems are those of criminal and civil law. Traditional Papua New Guinea society did not have these concepts, although today the distinction is important to traditional society, if for no other reason than that the jurisdiction of the village courts is considerably limited when it comes to criminal cases. Furthermore, unlike the situation in the traditional setting, where there was no difference in terms of the rules of evidence, the introduced law and legal system brought with them important differences.

Example of Question Asked:

Which of the following distinguishes *criminal cases* from *civil cases* in PNG?

- (a) The two types of cases are heard in different courts - criminal courts and civil courts.
- (b) People can be ordered to pay money only in civil cases.
- (c) A magistrate hears civil cases, while a judge hears criminal cases.
- (d) Civil offences are brought to court by the state, while criminal cases are brought by individuals.
- (e) The rules of evidence differ between the two types of cases.

Answer: option (e).

Unlike the situation in Britain, the Papua New Guinea court system itself is not separated into criminal and civil courts: the same court can often hear both types of cases, and thus answer (a), while generally correct in the British case, is not correct in the case of Papua New Guinea. Answers (b)-(d) would be incorrect in both the British and the Papua New Guinea contexts.

Courts

As institutions within the legal framework, courts hold a central place, both because they are sources for the creation of law, but more importantly because they have the ultimate authority to interpret and determine the law when disputes arise over the law. In PNG this authority extends beyond merely determining the law in cases involving disputes before

the court. In the case of the Supreme court it has the further power to not only review the decisions of lower courts and Acts of Parliament, but also to provide advisory opinions (Const. s. 19). It is important that students understand how the court system works: what courts have the authority to hear different types of cases, and under what circumstances those cases can be appealed if an injustice has occurred.

It has been argued that the village courts represent PNG's best chance at correcting the law and order problems it faces (*e.g.* Clifford *et.al.*, 1984, Vol. II, App. A4, p.79; Gordon & Meggitt, 1985). If these courts are to be viewed as having legitimate authority, or as providing the most fair and appropriate forum for settling local disputes, then the educated population at least should understand the source of the village magistrates' authority. The appointment of the village magistrates should be relatively familiar to that segment of the population using the village courts. Social science students and teachers in particular should be aware of the process, if only as a part of understanding local politics.

Example of Question Asked:

Village magistrates are generally

- (a) appointed by the National Department of Justice with the consent of the Queen.
- (b) elected by the Provincial Parliament with the consent of the Provincial Governor.
- (c) appointed by the local village from which they come with the consent of the local government authorities of the area community in which the court sits.
- (d) elected by the local community with the consent of the supervising magistrate.
- (e) appointed by the Prime Minister with the consent of the National Parliament.

Answer: option (d).

Several of the incorrect answers above would place the source of the magistrates' appointments outside of the control of the local community and village. Answer (c) would place the power to appoint within each and every village, and would tend to encourage rivalry between the various villages within the village court - with inevitable questions arising as to loyalty/ favouritism.

- (3) Attitudes towards the law, and towards legal education:

The first of these responses were solicited through ten Likert items using five response categories (Strongly Agree, Agree, Undecided, Disagree, Strongly Disagree), each representing a continuum from traditional parochial quasi-legalism to modern 'rational' legal attitudes.

Example of Item (1):

Sorcery that does not involve the use of toxic substances or a physical assault on the intended victim should nevertheless be punishable under the criminal code in PNG courts.

(Scoring: SA - 0 to SD - 4)

In the common law countries of Great Britain, the USA and Australia, such things as sorcery, unless they are accompanied by a physical assault or the use of toxic substances, are not punishable under the law. Sorcery is not punishable even as an attempted assault because it is thought that an attempted harm through the use of sorcery is not a reasonable belief. We take this to be the modern rational legal view on the issue. This way of looking at sorcery is not shared by Papua New Guineans, including those with tertiary education (see *e.g.* Vlaardingerbroek, 1990, 1991).

Example of Item (2):

Where an agreement involving the paying of money has been made for the use of traditional land, the traditional owners should not have any further legal say in how that land is used while the agreement is in effect.

(Scoring: SA - 4 to SD - 0)

The Bougainville crisis exemplifies this issue. Land is sacred in PNG and is seen to be held in trust for future generations. In the summary of its 1994 report on Papua New Guinea, the Australian International Assistance Bureau listed access to land as one of seven factors inhibiting development, and commented specifically on insecurity over tenure and conflicts over land use (AIDAB, 1994, p.xiii). Land is primarily owned communally in PNG and cannot be sold as private property to individuals. In 1995 a bill was introduced to allow for land to be registered by traditional groups. The legislation was intended to be a compromise between traditional values and the need to be able to clearly identify land boundaries and land owners for the purposes of development. In addition to making agreements more secure, the legislation was meant to allow traditional landowner groups to mobilise their resources as collateral for business loans in order to develop their land. These good intentions notwithstanding, the bill was met with violent student protests even at the Goroka Campus. Students' fears ranged from believing that the registration would entail signing the property over to the government as collateral for the World Bank loan, to instituting private property, and thereby destroying the traditional system of communal land tenure (see Roederer, 1997). Traditional ties to land tend to override people's allegiance to formal contracts, or agreements.

Example of Item (3):

Where a customary law and a written law passed by parliament come into conflict in PNG, the written law should always be followed.

(Scoring: SA - 4 to SD - 0)

This example is closely related to the above example and its importance is illustrated by the introductory case in this article. This is most likely the central cause of conflict in

PNG today - a conflict mirrored throughout PNG society between modern and traditional views of the world, be it in science, economics, or the law.

The other five Likert items sought students' opinions on legal education. Example:

As community leaders, it is important for school teachers in PNG to be knowledgeable about the law.

The purport inherent in this item is central to the purpose of the proposed 'Law and Constitutionalism' module, the point of which is not only to fulfil a perceived need among the school teacher population but to meet the needs of the community at large.

Data Collection and Analysis

The instrument was administered to Papua New Guinean Social Science students in mid-February, 1997 (Other groups, such as ni-Vanuatu and Solomon Islanders, were excluded). Only two participants, one at B.Ed.4 and one at B.Ed.(Ins) level, had had any exposure to legal education, one in the form of a brief talk by a lawyer during a teacher field in-service, while the other, who had attended a seminary, had been taught about the national Constitution as part of a course on ethics.

Three scores were arrived at for each student: a score out of 20 for the multiple choice section testing students' knowledge of the legal system, a score out of 40 for the first ten Likert items, and a score out of 20 for the final five Likert items. These will be referred to as the 'legal knowledge' (LK), 'attitudes towards the law' (AL), and 'attitudes towards legal education' (AE) scores respectively. Gender, home region, and childhood environment variables were tested for independence using contingency tables. Where statistically significant associations arose, clusters of students on the basis of these variables were identified for subsequent analysis as discrete units. The Pearson Product-Moment method was used to compute correlation coefficients between LK, AL and AE scores for the sample as a whole, and for each score with age. The *F*-ANOVAR was used to compare distributions for LK, AL and AE scores between/amongst subsamples on the basis of level of study, gender, regional origin, childhood environment, clusters of these preceding background variables, and religious affiliation.

Results

The sample was made up of 113 completed questionnaires, being 84% of the eligible cohort (all students present participated in the study, but some questionnaires had missing data and were accordingly not used in statistical analysis). Tables 1 and 2 summarise distributional and correlational statistics for the instrument.

Table 1 Means and Standard Deviations for Sections

| <i>Section</i> | <i>Mean</i> | <i>SD</i> |
|----------------|-------------|-----------|
|----------------|-------------|-----------|

| | | |
|----|---------------|--------------|
| LK | 7.56 (37.8%) | 1.92 (9.6%) |
| AL | 21.63 (54.1%) | 4.68 (11.7%) |
| AE | 13.18 (65.9%) | 2.71 (13.6%) |

Table 2 Correlation Coefficients Between Sections and With Age

| <i>Comparison</i> | <i>r</i> | <i>Significance</i> |
|-------------------|----------|---------------------|
| LK / AL | -0.03 | n.s. |
| AL / AE | +0.39 | p<0.01 |
| LK / AE | -0.00 | n.s. |
| Age / LK | +0.23 | p<0.05 |
| Age / AL | +0.01 | n.s. |
| Age / AE | -0.04 | n.s. |

The LK section proved to be difficult for most students, exhibiting a mean (arithmetical average) of only 7.56 / 20. The AL section was the most normally distributed, with a mean of 21.63 / 40. The mean for the AE section was comparatively high at 13.18 / 20. Standard deviations ranged from 9.5% to 13.6%. There was a moderate statistical correlation ($r = 0.39$) between the AL and AE section scores. LK scores correlated statistically significantly, but not strongly, with participants' ages ($r = 0.23$, $p < 0.05$). Owing to the disparities in numbers, all non-village childhood environments were amalgamated. Three statistically significant associations between students' background variables arose. For gender vs home region ($\chi^2 = 8.35$, $p < 0.05$), a preponderance of males was observed among Highlanders. For gender vs village / non-village childhood environment ($\chi^2 = 24.99$, $p < 0.01$), a strong association between male / village childhood environment, and female / non-village childhood environment, was noted. There was a statistically significant but weak association between village / non-village childhood environment and home region ($\chi^2 = 9.52$, $p < 0.05$) principally attributable to the high concurrence of Highlanders and students of village childhood environment. Statistically viable variable clusters identified were 'male, village childhood environment' (MV) and 'female, non-village childhood environment' (FNV). The former cluster accordingly featured a bias towards Highlanders.

Table 3 summarises comparative analyses of performance on the research instrument between subsamples. For level of study, B.Ed.2 and B.Ed.3 were amalgamated as were B.Ed.4 and B.Ed.(Ins). Religious denominations were categorised as Catholic, [Mainstream] Protestant (Lutheran, United, Anglican), and Fundamentalist (principally Pentecostal clones, and Seventh Day Adventists). Note that for the inter-religious comparisons, $N = 112$ as one student classified

himself as having no religious affiliation. In spite of increasing average age, there were no statistically significant differences between subsamples on the basis of level of study. It will be observed that mean LK scores rose with level of study while AL scores decreased, but the variation within the groups was too high for this to translate into a significant F value. There were also no significant differences between the genders or students of different home region. Students with a village childhood environment scored significantly higher on the LK section than did students of non-village childhood environments ($F = 4.17, p < 0.05$). However, the average age of the former group was significantly higher (for 'village' students, mean age = 23.8 years, SD = 4.5 years; for 'non-village' students, mean age = 21.8 years, SD = 4.5 years; $F = 5.49, p < 0.05$). A regression equation relating LK scores to age was computed ($Y_p = 5.3355 + 0.09764X$) and was found to predict the mean scores for the two groups within 0.16 Standard Error of Prediction units (SE = 1.864). The apparent difference between these two groups may therefore be regarded as being almost entirely explicable with reference to their age compositions. It has long been documented that the age of school entry of many rural children extends well beyond the legal minimum (*e.g.* Sail, 1983).

There were no statistically significant differences between the MV and FNV variable clusters. For religious affiliation, Fundamentalists scored significantly lower on the AE section than did Catholics and Mainstream Protestants ($F = 3.44, p < 0.05$).

Table 3 Comparative Performances of Subsamples by Section

| <i>Subsamples (n)</i> | <i>LK</i> | | <i>AL</i> | | <i>AE</i> | |
|----------------------------|-------------|-----------|-------------|-----------|-------------|-----------|
| | <i>Mean</i> | <i>SD</i> | <i>Mean</i> | <i>SD</i> | <i>Mean</i> | <i>SD</i> |
| B.Ed.1 (54) | 7.19 | 1.91 | 22.09 | 4.75 | 13.54 | 2.72 |
| B.Ed.2 & B.Ed.3 (30) | 7.87 | 2.08 | 21.53 | 4.73 | 12.87 | 2.95 |
| B.Ed.4 & B.Ed.(Ins)(29) | 7.97 | 1.66 | 20.86 | 4.59 | 12.83 | 2.54 |
| <i>F / Significance</i> | 2.10 n.s. | | 0.66 n.s. | | 0.91 n.s. | |
| males (75) | 7.71 | 1.81 | 21.21 | 4.82 | 13.09 | 2.71 |
| females (38) | 7.29 | 2.12 | 22.45 | 4.34 | 13.34 | 2.74 |
| <i>F / Significance</i> | 1.20 n.s. | | 1.77 n.s. | | 0.78 n.s. | |
| Papuans (16) | 7.69 | 1.78 | 21.31 | 5.30 | 13.69 | 2.87 |
| Highlanders (41) | 7.46 | 2.07 | 21.20 | 4.53 | 12.95 | 2.49 |
| Momasens (34) | 7.59 | 1.94 | 21.94 | 4.94 | 12.94 | 2.89 |
| Islanders (22) | 7.64 | 1.78 | 22.18 | 4.29 | 13.59 | 2.81 |
| <i>F / Significance</i> | 0.07 n.s. | | 0.29 n.s. | | 0.53 | |
| village childhood (61) | 7.90 | 1.79 | 21.48 | 4.95 | 13.12 | 2.53 |
| non-village childhood (52) | 7.17 | 2.01 | 21.81 | 4.38 | 13.25 | 2.94 |
| <i>F / Significance</i> | 4.17 p<0.05 | | 0.14 n.s. | | 0.07 n.s. | |
| MV (53) | 7.98 | 1.79 | 20.87 | 4.77 | 12.93 | 2.58 |
| FNV (30) | 7.27 | 2.23 | 21.63 | 4.00 | 13.13 | 2.80 |
| Others (30) | 7.13 | 1.70 | 22.97 | 4.99 | 13.73 | 2.77 |
| <i>F / Significance</i> | 2.43 n.s. | | 1.96 n.s. | | 0.88 n.s. | |
| Catholics (39) | 7.62 | 1.73 | 21.64 | 4.92 | 13.51 | 2.53 |
| Protestants (43) | 7.93 | 1.71 | 21.95 | 5.06 | 13.65 | 2.79 |
| Fundamentalists (30) | 7.13 | 2.22 | 21.27 | 3.90 | 12.10 | 2.64 |
| <i>F / Significance</i> | 1.61 n.s. | | 0.19 n.s. | | 3.44 p<0.05 | |

Discussion

Trainee secondary teachers of Social Science would appear to exhibit a poor level of basic legal knowledge. It is furthermore striking that variables such as urban/rural upbringing, and years of formal study did not correlate significantly with students' level of legal knowledge, other than age, with older students performing better. The only viable explanation for this observation is that the older students are gaining this knowledge through experience, direct or indirect, with the legal system in their lives as PNG citizens.

There were similarly no significant differences in our students' general attitudes towards the law that could be explained with reference to personal variables: our students displayed a consistent ambivalence between the two extremes of our Likert spectrum of 'traditional to modern'. This observation reinforces the thesis that not only is the socioeconomic system of PNG caught in the dual worlds of the modern and traditional, but so is the legal system and the students' attitudes towards it.

The only statistically significant association found in the area of attitudes towards legal education was an inverse relationship between identifying oneself with fundamentalist Christian denominations and the 'Attitudes to Legal Education' score. The importance of Christian beliefs with regard to social issues in PNG is difficult to overestimate, and the case is no different in the realm of law and order. For instance, in his 1988 'Policy on Law and Order' the Minister of Justice, the Hon. B. Narokobi, wrote:

Order is developed and preserved by adherence to customs, moral values and the written laws. In a Christian (sic.) country like Papua New Guinea, we say that all moral laws come from God. Accordingly, when we break this law, we disobey God. (p. 1)

Under section 3.0 ('Law Awareness') the policy report continues:

While freedom of religion and rights of parents must be respected, the teaching of religious values must be an important part of the curriculum of all primary and secondary schools in both those of government and church agencies. Our schools cannot be used merely to impart academic skills, but must also be utilised to develop citizenship and good traditional values and Christian principles. (p. 7)

The report goes on to propose that the Christian Churches devise a syllabus on moral ethics for all schools, government and non-government. As the report states:

We expect this syllabus to include such matters as

- Christian morality
- History of Papua New Guinea
- The Constitution and Laws of Papua New Guinea
- Human Rights
- Social Obligations

national goals and directive principles (national ideology)
peaceful resolution of conflict
good customary values(Section 3.2, p. 8)

Except perhaps for the first item, the subject matter of this moral ethics syllabus is almost entirely within the domain of the social sciences. It strikes us as highly arguable that the churches, rather than the education sector, should be devising the syllabi for these issues, especially with reference to 'The Constitution and Laws of Papua New Guinea'. It is interesting to note that a joint 1984 Report on Law and Order by the Institute for National Affairs and the Institute for Applied Social and Economic Research rarely mentioned Church organisations, but rather focused on improving community relations with the Police and a greater role for the village courts (Clifford *et.al.*, 1984). The report also recommended that the government come up with a clear policy on law and order. According to the former Director of the Law and Order Secretariat, Father William Libert (who had a hand in forming the 1988 report) this is the most recent report issued by a Minister of Justice on Law and Order (Libert, pers.comm. with principal author, 20 February 1997). In his stated opinion, very little was done to implement the suggestions of the report, although he believes that if it had been implemented we would have considerably fewer law and order problems today. Rather, as he pointed out, the main government initiatives during 'The Year of Law and Order' were in the form of providing more police and guard dogs.

It is strongly indicated by our data that adherents of some Christian denominations, specifically those of the fundamentalist variety, have comparatively little faith in legal education as the proper medium for instilling law and order-related attitudes among the younger members of society. In this connection, the recent suggestion to strengthen 'Christian Education' as a vehicle for promoting ethical behaviour is worthy of note (Vlaardingerbroek & Najike, 1995; Onagi, 1996). We hypothesise that they see the law and order problem as an epiphenomenon of the deeper problem of a failure of people to follow the ethical teachings of Christianity as they interpret them, and a concomitant rejection of proposed secular solutions to the law and order problem.

Conclusion And Recommendations For Further Research

There is a need within local communities for more informed community leadership in the area of law if these communities are going to participate positively in legal development. We believe that law and order problems would diminish if local communities better understood the legal system and how and when their local customs might become a part of the law. We propose that secondary teachers of Social Science, as relatively highly educated people, are potentially valuable resource persons in this regard. However, our data indicate a consistent lack of legal knowledge amongst our sample subjects and suggest that university-level secondary teacher training in the social sciences has a negligible impact on that level of knowledge. The same comments apply to trainees' attitudes towards the law, and attitudes towards legal education. We have, however, identified a statistical connection between religious denominationalism and attitudes towards legal education.

Recommendations for further research arise self-evidently from our survey. Specifically, the following areas need to be addressed:

- Sources of legal knowledge: the nature of the life experiences that instil in trainee secondary Social Science teachers some knowledge of the law.
- Sources of attitudes towards the law: the empirical study at hand not having identified any of these, there is a need to probe trainees' conceptual ecologies in this regard.
- The relationship between attitudes to legal education and religious beliefs. While the discrepancy between adherents of mainstream churches and fundamentalist sects requires elaboration, this should be approached from the perspective of the global issue of the conceptual nexus between attitudes towards ethics, the law, and Christian belief as it functions in Papua New Guinea.
- The monitoring of legal knowledge and attitudes towards the law and legal education as a consequence of the introduction of the Legal Studies module at Level 1 of the Bachelor of Education programme at the University of Goroka.

Keywords

| | | |
|------------------|-------------------|--------------------------|
| Papua New Guinea | customary law | introduced [modern] law |
| legal pluralism | teacher education | development [of the law] |

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