

This *In Brief* contributes to a discussion of access to justice, and legal practices in Papua New Guinea. It continues from Melissa Demian's [In Brief 2014/24](#): Innovation in Papua New Guinea's Village Courts: Exceeding Jurisdiction or Meeting Local Needs? Legal Innovation: Part 1.

While conducting fieldwork in West New Britain Province, I have been investigating the current legal practices of the Village Courts, as well as identifying any alternative dispute forums present in the palm oil region of Biella. What is evident in my research so far, is the clear distinction that is made between different dispute forums by individuals in Biella, despite both venues sharing many commonalities of practice. Focussing on a case of adultery within a local dispute forum, this *In Brief* highlights the use of mediation outside of the courts to settle disputes, and what this alternative legal access means for the community.

A conch shell is blown, and we all go and gather under the shade of mango trees on the far side of the village. This is the weekly Village Committee meeting. Discussions in this forum attempt to secure agreements among the 12 clans that reside in Ewasse village, and allow any member of the community to raise an issue. Conversations often revolve around fundraising for the local school, or the organisation of an upcoming village event. Some disputes are also brought to the meetings, and they are resolved through rulings made by the clan leaders. These rulings can take the form of a compensation payment, or group agreement to settle a matter. This is referred to locally as the *Wanbel Kot* — a name that indicates the need for everyone to be in one mind by the end.

Today, Emma* commands the attention of those present as she talks to the committee about her husband and how he has committed adultery. Emma gives no details of the event, but everyone seems to understand what happened without any

specifics required. Both Emma's husband and the woman he had relations with immediately admit to what they did. Once this is confirmed there is no need for further questions, and the discussion from then on revolves around how to *skelim* (weigh out) the case, in order to create peace between all parties. The committee decides that Emma is owed compensation, and she is awarded 1000 kina, each accused party to pay half.

The committee does not answer to the Local Level Government, and does not file any information for the decisions that they make. However, it does appear to deal with matters locally in the same capacity that the Village Court was created to, and therefore some obvious comparisons can be drawn between the two. Emma's compensation payment is the maximum amount that can be awarded by the Village Court for adultery, and the focus on restoring peace between parties is also a familiar feature of Village Court mediations. Sometimes they even have a Village Court magistrate from town come and sit on the committee if they feel there is a case that needs special attention.

It is interesting to consider the perceived need for this mediation space, and whether there is anything, apart from locality, that makes the people of this region use it in preference to the Village Court. Matthew, one of the clan leaders, indicates that it is about privilege. He claims the committee's *Wanbel Kot* is a mediation forum that only some people may use. Investing personally in the village on a daily basis impacts the ability you have to get the village's support when you need it. People who withdraw from the community, and never attend meetings or church apart from when they need something, are excluded from using the committee: 'We tell them if they have a problem to go to Village Court. They are of no benefit to the village.' The Village Court is held half an hour away from Ewasse, and sees cases from a huge number of people. Although the processes that take place

in the committee meetings in Ewasse are, for the most part, the same as those used in the Village Court, they involve a more personal relationship with the village itself, and reflect a person's role and contributions to the community. Unlike the Village Court, the committee will most likely know the people they are hearing from, or at least have knowledge of their family. As Emma is a teacher in the village, and a very vocal member of the local pentecostal church, her case is addressed in the committee meeting without question.

The idea of being removed from a position within the community is not something I saw first hand until a few months after Emma's case, when the committee was faced with a local resident and business owner, voicing anger at having to contribute to local affairs and costs. He raged at the committee meeting about it, and accused the clan leaders of misusing community funds. Matthew told the individual that he and his family should not feel the need to contribute to the community any further, as he was no longer part of it. All conversation since has been about boycotting his business, and throwing him off the clan's land. 'Something bad will happen and then he will see. The community will just watch ... a man cannot be an island,' Matthew's wife explains to me that evening.

This concept of an individual contribution to the village is not only seen in matters regarding the committee. Matthew feels it was his selfless interest in the everyday workings of the village when he returned after a ten year absence that gave him a position of respect:

The first thing I did when I got back was resolve a conflict with the United Church. We made a feast and I apologised. First thing is to repair relationships.

He contrasts his own position in the village with that of his cousin Paul. Despite Paul having

a higher level of education and his previous position as a magistrate, this gains him nothing in the village. Since Paul was involved in a very controversial adultery case of his own he commands little influence or respect. Those individuals who are perceived as having more than others, or as not contributing to the community are talked about behind closed doors in the evenings, and although I have seen no signs of them actually being socially excluded in any way, people certainly talk as if they are: 'People will be polite to his face, but no one actually respects him.' Unlike Bialla's Village Court, in the *Wanbel Kot* one can see the individual's standing in the village being taken into account during cases. No-one wants to punish anyone involved beyond their means, but there was also no doubt in the *Wanbel Kot* that Emma deserved compensation.

By looking at Emma's case and the *Wanbel Kot* it has been my intention to highlight the existence of mediation forums outside of the recognised court system operating at the most local levels in Papua New Guinea, and to identify the role that this particular alternative dispute forum plays within the community. My research indicates that there is a division of issues, and definite perceived hierarchy when it comes to the various available forums in which they can be addressed. Those cases that are dealt with in the *Wanbel Kot* go completely undocumented. Until this significant legal platform, and others like it, are taken into account when drawing conclusions about Papua New Guinea's legal systems, an accurate assessment of access to justice in Papua New Guinea cannot be made.

Author Notes

Eve Houghton is a PhD candidate at the University of Kent, and a member of the research team for the joint project [Legal Innovation in Papua New Guinea](#).

*All informants' names have been altered.

