

**A COMPARISON OF RURAL AND LEGAL RANKING OF
SERIOUSNESS OF CRIMES IN PAPUA NEW GUINEA.**

BY

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I INTRODUCTION.

The introduction of Australian administration saw the adoption of Queensland's Criminal Code in both Papua (1902) and New Guinea (1921). In 1974 the separate acts in Papua New Guinea were repealed and replaced by the Criminal Code of Papua New Guinea. As had occurred in several African countries - Tanzania, Kenya, Uganda and Niger^{4a} (Ottley, 1974, p.14) - the new Code was largely a restatement of the colonial criminal code on which it was modelled (Andrew, Chalmers, Weisbrot, 1979 p.3,). However, both law makers and law makers and practitioners in Papua New Guinea have long been concerned with the place of customary law and traditional values and beliefs in the judicial process (Narokobi, 1977). This is well illustrated by the establishment of the Law Reform Commission as a statutory body under Papua New Guinea's Constitution. However, Andrew et al., (1979) have argued that "consideration of custom has been limited to determination of the reasonableness or otherwise of an accused's retaliatory act... determination of standards of decency and propriety, ... and in determination of sentence, ... but not in determining the ultimate questions of criminal responsibility." (pp. 7-8).

In 1983 there was considerable public interest in the criminal law. In response to an apparent increase in problems of law and order, Parliament passed a series of laws amending the Criminal Code by fixing minimum sentences for persons found guilty of particular crimes of violence and crimes against property.

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A Government committee has also been established to review the Criminal Code. The Minister of Justice in discussing the committee's terms of reference has remarked upon the inappropriateness of the Criminal Code and observed that the revision will take traditional values into account. (Post Courier newspaper. July 14 1983, p.12).

It has been suggested elsewhere that a legal code is ultimately an expression of how crimes are perceived by the members of a society (Forgas, 1980; Tappan, 1970), and Strathern said of this Criminal Code that it "cannot go against public morality to the point that it becomes unacceptable to the commonsense of the people" (1975, Section 2-1). A limited body of published research is available addressing traditional attitudes towards particular actions defined as crimes within the Criminal Code (Strathern, 1975; Law Reform Commission Report No.5), and the public acceptability of standard penalties (Strathern, 1976). However, despite regular unsubstantiated assertions of an incongruity, we could find no empirical assessment of the level of correspondence between the present Criminal Code and community perceptions of the relative seriousness of particular types of human behaviour in Papua New Guinea.

Elsewhere a number of researchers have tried to measure the perceived relative seriousness of particular crimes in a search for underlying normative structures within a society. Thurstone (1927) reported a paired comparison study in which he demonstrated that the relative seriousness of a range of crimes could be scaled. Forty years later Coombs (1967) replicated Thurstone's study using the same stimuli, instructions, and an equivalent population of American college students. A high level of concurrence was observed in the relative rankings of these two samples, although several interesting differences were reported. Most notably, Coomb's population showed less homogeneity of attitude towards the seriousness of crimes than had the 1927 subjects. They were however seen to judge offences against the person as relatively more serious and sexual offences as relatively less so. It is suggested that these shifts reflect changes in social mores and life-style patterns in America over that 40 year period.

Sellin and Wolfgang (1964), Normandeau (1966), Akman, Normandeau and Turner (1967, Valez-Diaz and Megargee (1970), and Rossi, Waite, Bose, and Berk (1974), working with a variety of sub-populations in the U.S.A., Canada and Puerto Rico, have all reported considerable intra-societal consensus in the ranking of seriousness of criminal acts. Furthermore both Brown (1952') and Bacon, Child and Barry (1963) in meta-analyses of ethnographic studies of a large number of preliterate societies in which offences and severity of punishment patterns were reported, have noted a high level of agreement between cultures in the types of behaviour most severely prohibited.

The aim of this study is to provide some data on Papua New Guinean perceptions of the relative seriousness of particular types of behaviour classified as crimes, and to compare this rank ordering with that inherent in the Papua New Guinean Criminal Code. As we wished also to assess the homogeneity of Papua New Guinean attitudes to the seriousness of these crimes, data were collected from both men and women in rural areas in four regions. Finally these results were compared with a fifth sample of expatriate men and women residing in Port Moresby.

II METHOD.

Subjects

Twenty female and 20 male adults from each of 4 regions of Papua New Guinea, and 40 adult expatriates (20 male and 20 female) participated as subjects.

Materials and Procedure

Testing was conducted in villages in four different provinces, East Sepik, Morobe, North Solomons and Western Highlands, by University students from those areas.

A set of nineteen cards depicting, in "stick-figure" form, the commission of various crimes was presented to each subject. (See Table 1 for a list of the crimes used.) The experimenter explained, in local language, what was depicted on each card. The subject was then asked to select from among the 19 cards, the one which he/she felt depicted the most serious crime. When the subject had made this choice he/she was then asked to select the next most serious crime from those depicted on the eighteen cards remaining. This procedure was repeated until all nineteen crimes had been ranked. For each district the mean rank for each crime was calculated for males, for females, and for the group as a whole. For the expatriate subjects, testing was conducted around the University campus by expatriate staff using a similar procedure to that described above.

In order to compare the perceived seriousness of the crimes according to the Papua New Guinean and expatriate subjects' rankings with the seriousness ascribed to the crime by the PNG legal system, the nineteen crimes were ranked according to the average penalty administered by the law.

III RESULTS AND DISCUSSION.

Table 1 shows the nineteen crimes ranked according to the legal penalties associated with them. The data within the body of the table are mean "seriousness" ranks allocated by expatriate subjects and subjects sampled in four different regions of Papua New Guinea. Independent data were collected for males and females within each subject group but male and female data are shown separately only under the "overall PNG" column in which the mean ranks from the four regions sampled are combined. At the bottom of the table two sets of mean differences between ranks are shown. The first was calculated by determining the difference between ranks for each subject group and the law for each crime, and averaging these differences without regard for direction of difference. The second was similarly calculated between the ranks of males and females within each regional group and for Papua New Guinea overall.

The first comparison of interest was the level of agreement between the overall Papua New Guinean ranking of the seriousness of the various crimes and the ranking according to the legal penalties applicable to each crime.

TABLE 1

Crimes ranked according to associated legal penalties and perceived seriousness of these crimes. As measured by mean ranks allocated by expatriates, and Papua New Guineans from different.

CRIMES RANKED ACCORDING TO LEGAL PENALTY	EXPAT- RIATES	OVERALL PNG			EAST SEPIK	MOROBE	NORTH SOLOMONS	WESTERN H/LANDS
		M	F	M/F				
Payback killingling *	3	2	5	3.5	3	6	9	1
Murder *	1	3	3	2	5	1	4	2
Rape	2	4	2	3.5	2	2	8	6
Robbery	6	5	13	8	7	12	13	5
Break & Enter	7	8.5	14	1	13	16	17	3
Homosexuality (Male)	19	6	6	6	4	10	3	12
Car Theft	9	11	18	14	15	18	16	7
Shoplifting	10	12	12	12	6	17	12	8
Prostitution	17	7	8	7	9	8	2	17
Wife beating **	4	15	9	13	10.5	7	14	18
Assault **	5	16	15	17	14	11	18	13
Adultery	14.5	1	1	1	1	3	1	4
Carrying Offensive Weapon	11	17	19	19	12	14.5	19	19
Drunk Driving	8	18	17	18	19	14.5	15	11
Prowling	12	13	16	15	18	19	6	15.5
Drunk & Disorderly	13	14	7	9	16.5	4	10	9.5
Gambling	18	19	11	16	16.5	13	11	14
Indecent Exposure (F) ***	16	8.5	4	5	8	5	5	9.5
Indecent Exposure (M) ***	14.5	10	10	10	10.5	9	7	15.5
Mean difference between ranks and legal ranking.	3.5	3.5	5.2	4.5	3.8	5.7	7.1	3.7
Mean difference between male and female ranks	-	-	-	3.1	2.7	3.1	4.5	4.0

NOTE:

The crimes with identical asterisks carry equal penalties within the law.

An analysis of the correlation between these ranked variables (Spearman's Rho) yielded a p value of .44 ($p < .05$) indicating a significant positive correlation. A Kendall's W test revealed significant concordance between the ranks of the four Papua New Guinea sampled $W = .55$, $p < .01$). However, when Papua New Guinean male and female rankings were separately compared with legal ranks, only male responses showed a significant correlation ($p = .62$, $df = 18$, $p < .01$, for males; $p = .22$, $df = 18$, $p > .05$ for females). Thus, the the positive correlation between Papua New Guinean ranks and those of the law seems to be mostly attributable to male opinion.

It is also noteworthy that the ranks of Papua New Guinean men and Papua New Guinean women correlate with those of the legal system for crimes against persons and property ($p = .98$, $df = 9$ $p < .01$, for men, and ($p = .63$, $df = 9$, $p < .05$, for women) but do not show a significant correlation for crimes involving sex offence) ($p = .64$, $df = 5$, $p > .05$, for men, and $p = .30$, $df = 5$, $p > .05$, for women). It appears that Papua New Guinean men and women agree with the law's ranking of crimes against person and property (with men agreeing somewhat more than women) but they do not agree with the law's ranking of sex-related crimes (with women disagreeing more than men).

These results invited a more detailed examination of differences between the ranks allocated to individual crimes by males and females, differences between both sexes' ranks and those provided by legal penalties, and a consideration of the direction of disagreement so that a clearer picture might emerge about which crimes have, according to Papua New Guineans, too severe or too lenient a penalty.

Table 2 shows data for three categories of crime (crimes against persons, crimes against property, and crimes involving sexual offences). For each category, occasions on which subject's ranks indicated a higher, equal to, or lower level of seriousness than that according to law are shown in proportions.

Table 2 shows the following trends:

1. Papua New Guineans appear to regards crimes against persons and property less seriously than does the law.
2. Papua New Guineans appear to consider sexual offences as more serious than does the law.

Differences between Papua New Guinean and legal ranking of greatest magnitude are those for adultery (11 ranks) and indecent exposure of the female and male (13.5 and 8.5 ranks respectively). Both of these acts are considered much more serious by Papua New Guineans than by the law makers. Car theft, breaking and entering and assault are also crimes about which there appears to be considerable disagreement between Papua New Guineans and the law makers

(7, 6 and 6.5 ranks difference respectively). However, for these crimes the disagreement is such that the law treats them as more serious offences than do Papua New Guineans.

Overall, male and female Papua New Guineans differ by an average of 3.1 ranks in their judgement of the relative seriousness of these crimes. For the four regional groups male - female disagreement about ranks ranges from 2.1 for the East Sepik group to 4.5 for the North Solomons groups.

TABLE 2

Proportion of crimes within each category which were rated by Papua New Guineans as more serious, less serious or of the same level of seriousness as the ranking according to legal penalties.

TYPE OF CRIME	MORE SERIOUS	SAME SERIOUSNESS	LESS SERIOUS	MEAN DIFF * (No. of Ranks)
Against Person (n = 5)	0	.20	.80	-2.4
Against Property (n = 4)	0	0	1.00	-5.3
Sexual (n = 6)	.67	.17	.17	+5.8

* - indicates that the crimes within this category were on average rated less seriously by Papua New Guineans than by the law.

+ indicates that they were rated more seriously.

TABLE 3

Crime Divisions

<u>Person</u>	<u>Property</u>	<u>Sexual</u>
Payback	Robbery	Homosexuality
Murder	Break & Enter	Indecent Exp F.
Wife beating	Car theft	Indecent Exp M.
Assault	Shop lifting	Adultery
Rape		Rape
		Prostitution.

Males and females overall differ most in their estimation of the seriousness of robbery (8 ranks) and car theft (7 ranks) which women consider to be less serious, and wife beating (6 ranks) which men consider to be less serious.

The Papua New Guinean ranks overall differ by 4.5, on average from the legal ranks. The difference in ranks between each of the four regional groups and the law ranges between 3.7 for the Western Highlands and 7.1 for the North Solomons subjects. There is high agreement between the subjects from the 4 different provinces about which crimes they rank considerably more seriously than does the law. For all 4 groups indecent exposure of females is ranked as considerably more serious. It is the most disparate crime in the comparison of ranks for subjects from Morobe, North Solomons and the Western Highlands, and third most disparate for the East Sepik group - differences between these groups and the law range between 8.5 and 13 ranks. Other crimes about which there is fairly uniform and substantial disagreement between all 4 provincial groups and the law are, not suprisingly, those for which the greatest difference in ranks was observed in the comparison between the overall Papua New Guinean data and the law, mentioned earlier. These are adultery, indecent exposure of males, breaking and entering, and car theft.

This study was exploratory and has served its purpose in that it has demonstrated there are potentially important differences between legal and popular rankings of crime seriousness.

However, the present data do not provide an explanation of the observed differences nor do they provide an accurate picture of the extent of attitude discrepancy. The measurement scale was ordinal which could only serve as a relative measure. In addition, there are good grounds to doubt that all subjects interpreted "seriousness" in the same way, and sometimes the ranking task may have had little meaning. (e.g., ranking of car - theft and drunk driving in remote areas with no roads).

However, the major findings are worthy of attention and in themselves are suggestive of future research questions. In particular, one wonders why adultery was so frequently ranked among the most serious crimes but occupies a relatively low rank in the legal code. The same relationship was observed for indecent exposure and some other sex-related offences. It seems possible that some of the differences are related to the frequency and/or severity of impact of various criminal activities on the society in which they occur. In this sense, judgements of seriousness may be governed more by perceived consequences than by consideration of whether or not an act is intrinsically "wrong". Either way, the evident disparities cannot be ignored.

Expatriate rankings were found to agree more closely with those of the law than did overall PNG rankings. This may be because the Papua New Guinea Criminal Code is derived from the Queensland Code and therefore reflects Australian rather than Papua New Guinean values. But another factor involved is that the expatriate sample was urban and the Papua New Guinean sample rural. A question of some interest is whether urban PNG subjects differ from rural subjects in their attitudes towards crime.

The present research has identified differences between the responses from rural subjects. Differences between rural and urban attitudes can be no less important and may be more so from the standpoint of implications of this research for legislators and law enforcement agencies. The most pressing question that this study raises has to do with whether the law should be changed or administered in a way which more closely reflects the views of the people or should the people adjust their traditional values to more closely approximate to the law?

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