

# **Sorcery: An Important Law and Order Policy Concern for Papua New Guinea**

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## Background of the study

- This paper focusses on sorcery as an important law and order policy concern in Papua New Guinea (PNG).
- The presentation is based on a conceptual research analysis that the author carried out while working with the National Research Institute from 2002 and 2007 on sorcery and election related issues, intermittently, document analysis and the recurrent observations sorcery accusations related violence (SARV)..
- Seeks to examine the uneasy relationships exist between the perpetrators (sorcerors) and (victims) abusers on the types of regulated policies and laws that are implemented.
- It will do this by advocating for the establishment of a relevant legal policy framework that will create an independent judiciary justice system appropriate for PNG; that is, have similar existing justice structures to that of PNG Land Court System on Sorcery accusation related violence (SARV) cases in PNG.

## Aims of the Study

- There are three aims are to provide:
- an overview of sorcery or witchcraft and what is it?
- a critical analysis of current justice system effectiveness in addressing the sorcery, and concurrently, unpack many of the policy initiatives contained within it.
- discuss the proposed policy framework relevant for PNG in drawing on the lessons and coming up with a balanced, independent and effective judicial system that can be able to address the SARV cases in an appropriate and coordinated judiciary system in PNG.

## Sorcery is widespread in PNG

- There is no doubt that the practice and belief of sorcery is widespread and entrenched into unique and noble PNG culture with sacred traditions that are observed in multiple variations of ethnic groupings of 830 different languages (Gibbs 2009; Oxfam 2010).
- The courts also have recognised this widespread belief and practice in sorcery.
- This is evidently expressed by the late Chief Justice, Sir Buri Kidu through Auka (1981:242) that:
- *... there is no doubt that in this country the belief in sorcery is widespread and nobody really has to prove to the court that it exists. Belief in sorcery exists amongst some of the most backward of our people in the mountains of every province and also in the urban areas, including Port Moresby. Very well-educated people believe that sorcery exists and that there is power in people who practice evil sorcery to cause the death of other persons.*
- Acts of sorcery (1971), inter alia, have been governed by separate legislation, but other laws in this country are also observed to maintain fairness and peace in societies, communities and the country as a whole.
- This clearly demonstrated that any new policy of which new laws or provisions are derive from, must not, in one way another, discriminate, but maintain fairness and peace within the both parties.

# Sorcery – what is it?

- The sorcery or witchcraft can be identified as the ability of a person to cause harm (evil) or luck (good) through different principalities of black magic.
- It is the use of black magic which has been placed with various beliefs and practices — i.e. considered separately from religion (Christianity), science, culture and legal positions and interpretations (Forsyth et al 2019).
- It is used synonymously with witchcraft, *witchcraft*, *magic*, *enchantment*, *'puripuri'*, *'muramuradikana'*, *'vada'*, *'meamea'*, *posen*, *'sanguma'* or *'malira'* — i.e. exist in the supernatural of human behaviour (CRLC1977 and Auka et als 1981)
- The Sorcery Act (1971) clearly mentions that some of these types of sorcery are very bad because they kill or harm people, and are forbidden under the Law, but nonetheless, some are good and innocent sorcery.
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- The exemplification of good and bad forces in sorcery or witchcraft clearly displays theory the dualism in the black magic or supernatural powers.
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- The execution of the present law against sorcery is operationally applied by the Local, District and National Courts and is found mainly in the *Sorcery Act* (ibid).
- This law further recognizes sorcery and defined it in the Act (Section 1), but the offence is operationally very difficult to prove in any court of law.
- This constitutes a legal and scientific dilemma of which cannot be addressed culturally or religiously (ibid), because sorcery is something associated with the supernatural, and the belief that it is real and it exists.

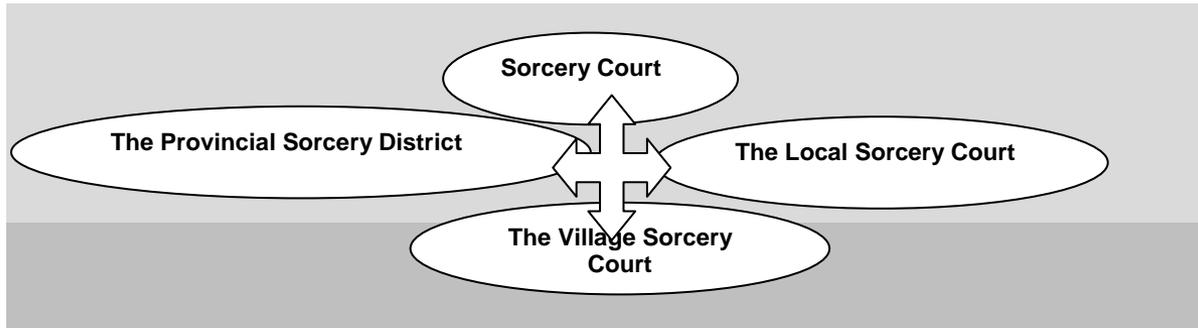
# The Criminal Code Act

- The Criminal Code Act is the legislation that prescribes the most serious criminal offences like SDRV cases in PNG.
- PNG amongst other Melanesian countries has stronger connectivity with their respective culture and traditions — but the prosecutors and courts have recognised the belief in sorcery and have agreed to it being a mitigating factor in sentencing.
- The judiciary processes and legal procedures of the Sorcery Act (1971) in compliance with the PNG's Sorcery National Action Plan and new provision of Criminal Code Act 1974, Chapter 252 (S.299A) of the Criminal Code Act provision is, however established within the same judiciary justice system which is operational level — impossible and unmanageable with different worldviews of sorcery with regard to the respective scientific, Christian, culture and legal positions on policy issues surrounding SARV ).
- This prompted this paper to come with a hybrid of both justice systems that will process some elements of sorcery court system — i.e. some kind of similarities for PNG Sorcery Court to re-diversified and get people to reflect on the ways in which we can navigate between these worldviews and assist in separating anxieties about sorcery from the policy issues surrounding SARV.

# Proposed sorcery court system

- The proposed independent specialized jurisdiction of the above is of three levels similar to that of land court system in PNG. At the village level is the village sorcery court; community level is the local sorcery court; provincial level is the provincial district sorcery court. Pending on the nature of cases on SDRV, each chairman of the Village Court, Magistrate, Magistrate, and Senior Magistrate will take ownership and responsibility in appointing a jury of people within the respective jurisdiction to mitigate sorcery related cases at the respective levels, Herein is the proposed structure of the sorcery dispute settlement Act.

## Conceptual policy framework for Sorcery Court System



Source: [magisterialservices.gov.pg](http://magisterialservices.gov.pg). Adopted from the PNG Land Court

## **(a) Sorcery Juries**

- Must be appointed by the Senior District Magistrate of the proposed Provincial Sorcery Dispute Committee for a period of 3 years.
- The primary function of Sorcery Mediators is to assist in the attainment of peace and harmony in the Sorcery Mediation Division or Divisions for which s/he is appointed by mediating and endeavouring to obtain the just and amicable settlement of, disputes.
- A Sorcery Mediator shall, where s/he considers it appropriate to do so seek the assistance of any customary dispute-settlement authority that, in his opinion, has customary jurisdiction in relation to the dispute.

## (b) Sorcery Court

- The **Sorcery Court** is part of the proposed sorcery land dispute settlement system that will be created by the *Sorcery Disputes Settlement Act*.
- The proposed intend of this Act is to provide just, efficient and effective machinery for the settlement of disputes in relation to interest in the sorcery cases..

### **Provincial District Sorcery Disputes Juries.**

- Each province will propose to have a Provincial Sorcery Disputes Jury. The Chairman of this jury is the Senior Provincial Magistrate.
- Members of the jury include the selected representatives from the church, medical, legal, community of which the accused sorcer/sorcers comes from, medical personality, provincial police command, Provincial Village Court Secretariat and Provincial Administration.
- The proposed **Powers and functions of the Juries** are to declare Sorcery Mediation Areas and Sorcery Mediation Divisions – i.e. appointed by Sorcery Mediators and approved by the appointment of Local Sorcery Magistrates.. The proposed jury shall also comply with any directions by the Minister responsible.

# Conclusion

- Sorcery is a belief and practice and has been an important law and order policy concern in PNG.
- The sorcery-related abuses which have been on the rise with multiple law and order legal policy challenges, including the torturing and killing around the country.
- Many people who are accused and abused by sorcery-related cases are also suspected of practising sorcery, in one way or another.
- Moreover, they are constantly being protected as perpetrators according to the Common Laws of the Formal Justice System of PNG.
- These have resulted in abuses of human rights concerns of which are echoed by many organisations, including the United Nations, NGOs, as well as, Government of PNG.
- Surprisingly, the Formal Justice System does not effectively and efficiently address the challenges surrounding the victims in compliance with the underlining Laws in reference to the Fifth Principle and Directive of the National Constitution of PNG.
- This presentation provoke to examine the uneasy relationships exist between the **perpetrators (sorcerors) and (victims) abusers on the types of regulated policies and laws that are implemented.**

## **An ideal policy framework: way forward for PNG**

- Advocating for the proposed establishment of a relevant legal policy framework that will create an independent judiciary justice system appropriate for PNG; that is, have similar existing justice structures to that of PNG Land Judiciary System that will, in turn, manage and control sorcerers (perpetrators) and abusers (victims) fairly within a PNG-made judiciary justice system.

