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**Courting Disputes:
The Materialisation and Flexibility of a Dispute
Forum Network in West New Britain,
Papua New Guinea**

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University of Kent

A thesis submitted for the degree of
Doctor of Philosophy

Canterbury, Kent
April 2017

For Mabel

.....
.....
.....*

Abstract

This thesis examines how relationships and ethical practices and judgements are made explicit in the dispute forums of Papua New Guinea (PNG). It also explores what the outcomes of this explication can mean for methods of local conflict resolution. My findings are based on twelve months of fieldwork conducted in the province of West New Britain, with particular focus on the region of Bialla and the dispute forums therein. There are a large number of dispute forums used in Bialla that emerge outside the purview of the state government. With such a large number of different venues in the region, it is worth asking what they are used for and how they might connect with, and work alongside, a relatively more state recognised venue – the village court. Without more extensive consideration of how these forums work in relation to one another, can current discussions surrounding the uses and outcomes of the village courts accurately reflect what these forums do?

To answer these questions my research explores the significance of actor-networks and conceptions of place in the production of authority and conflict resolution. By mobilising theories of emplacement and actor-oriented anthropology my findings are able to challenge the prevailing understanding that law sits at the heart of the courts and can be used as bar against which the use and outcomes of a dispute forum can be measured. By removing law from this central position, other facets that are significant to the usage of dispute forums in Bialla can be revealed.

My discussion revolves around the examination of a number of Bialla's dispute forums including: the content of the disputes overseen there, details of the way in which disputes are treated in each instance, and the way in which each forum materialises physically on each occasion. In this way, my research considers factors that contribute to the use of these dispute forums and what that may mean for local communities. I explore how extensive group dynamics and long established conflicts are represented and addressed in each. Those venues that are unable to address certain disputes also provide a revealing aspect of my discussion. Limitations go some way to explain why such a wide range of forums are required to oversee the variety of disputes in Bialla. Ultimately, I argue that dispute forums are flexible venues that materialise as a result of actor-networks in order to address the wide variety of disputes arising in the area.

Acknowledgements

I would like to acknowledge the Economic and Social Research Council for their support of the Legal Innovation in Papua New Guinea Project through which I received my studentship position. Through this support I was gifted the time and funding required to see this research through to its conclusion. I also owe thanks to my two academic homes - the School of Anthropology and Conservation (SAC) at the University of Kent, and the State, Society and Governance in Melanesia (SSGM) program at the Australian National University. There is no way to measure all that I gained through my experiences working in both of these remarkable institutions.

There are many individuals who have come to form the academic cohort of “Team Eve” to whom I owe thanks. To the later addition – Dimitrios Theodossopoulos – you gave my work time and direction when it needed it most. A big thanks to Mike Fischer for stepping in as project leader, and sending me off to PNG with more gizmos, movies, and eBooks than any researcher could have dreamed of. My thesis (and sanity) thanks you. A special thanks to Judith Bovensiepen for taking me on as your student and guiding me through the sticky parts of all that a PhD entails. I’ve loved working with you and the success of this thesis is truly down to your insights and guidance. A final thanks to the founding member of the team, Melissa Demian who, by inviting me to undertake this remarkable degree, has changed my life.

I owe a huge amount to all the people in Ewasse and Bialla who constitute the beating heart of this thesis. I cannot begin to express the extent of my appreciation for all your endless patience and for sharing your wonderful world with me. The friendships I gained and kindness I received during my time in the field will never be forgotten, and don’t worry, I’ll be back to check on my pineapple patch one day, I just know it.

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Abbreviations

ADR – Alternative Dispute Resolution

HOPL – Hargy Oil Palm Corporation

ILG – Incorporated Land Group

NBPOL – New Britain Palm Oil Limited

OPIC – Oil Palm Industry Corporation

PMV – Public Motor Vehicle

PNG – Papua New Guinea

SABLs - Special Agricultural and Business Leases

VCLMS – Village Court and Land Mediation Secretariat

WNB – West New Britain

Glossary

Belkol – *Belkol* is a Tok Pisin term that literally translated refers to a cooling of the gut. *Belkol* is an exchange that is sometimes arranged between two disputing parties as a preliminary sign of good faith. This exchange ensures neither side will seek retribution whilst a final compensation payment or another appropriate solution is decided upon and delivered. *Belkol* payments can be quite substantial and often reflect the scale of the dispute.

Bialla – Bialla is a region of WNB. It is home to a town, numerous villages and a large amount of oil palm. The region extends for several miles along the coast. My research centres on Bialla town and the areas immediately surrounding that.

Bride-price – An exchange of goods made between families in recognition of a marriage between two individuals. Depending on the region the goods/money exchanged can differ greatly. A bride-price (sometimes called bridewealth) is usually paid by a groom or his family to the parents or family of his bride, although alternatives to this do exist. A bride-price exchange does not always take place before a marriage and may take years to pay in full.

Buai – The Tok Pisin term for betel nut. A nut commonly chewed around PNG, that is often combined with a ground coral powder in its consumption. This results in saliva turning red and requires frequent spitting as part of this process. Many Papua New Guineans compared *buai* to drinking coffee for energy and comfort. The number of signs prohibiting the chewing of *buai* in stores and offices in PNG makes the practice also reminiscent of cigarettes.

Ewasse – One village within the region of Bialla in WNB. The village in which I lived over the course of my fieldwork.

Genesant(s) – The individual(s) who first instigates a dispute's discussion in the village court or mediation forum. In the case of the village court, this is the person who registers their dispute with court officials and files for a hearing to take place.

Genitive – Formative, altering, or creative influence/force

Household – Individuals united through residency and those who demonstrate ties to said residence. These ties can be demonstrated through members’ involvement in household affairs and their say in the lives of those residing there. This most commonly includes married couples and their offspring. A household can also include extended family and in-laws. In these instances, a household may consist of more than one physical building, housing various members of the same household.

Kimbe – The provincial capital of WNB.

Kina – The national currency of PNG. This comes in the form of notes and coins, the smaller increments of which are called toea. There are 100 toea in 1 kina. The kina is worth 3.17 to the US dollar.¹

Lain – A Tok Pisin term that is often translated as “family”. *Lain* is more inclusive of extensive familial and group ties that appear in PNG than the English translation provides for. It is for this reason that I have chosen not to translate *lain* into English. The term *lain* allows space to describe groups that are connected through clan, marriage, shared land, shared interests, and those who are of no blood relation but are connected thorough other well-tended relationships. In my usage of the term a person's *lain* encapsulates those connected to an individual (often self-identified as such). In disputes a *lain* can be identified when they unite with one or other of the disputing parties.

Mediation – A state recognised event where magistrates and local communities work to oversee disputes prior to their appearance in the village court.

mediation – An undocumented occasion that can vary dramatically in style and venue. A mediation is used to discuss a wide range of disputes in the Bialla region.²

Pasin Marit – A Tok Pisin phrase that can be roughly translated to mean “the way of marriage”. *Pasin*, as an independent term is often used to denote a way of being, living, or doing, in West New Britain (WNB). *Pasin West* for example, is a phrase used to refer to the way people are in WNB. *Pasin marit* is an elastic phrase, so one person referring to it may not mean the same as another. It is also widely accepted that *pasin marit* will differ between provinces. For this reason, in my work I respond to the individual circumstances in which it

¹ Exchange rate correct as of September 2016.

² The distinction between Mediations and mediations will be made in further detail at the start of chapter four.

is used to discuss marriage in Biialla. Broadly speaking, it is a phrase that can be used to discuss certain actions associated with marriage, what can cause conflict in a marriage, and what a person may be able to do to ensure their marriage is peaceful.

Tributant(s) – The individual(s) called upon to appear in a dispute forum to discuss the dispute. Most often they will present an opposing opinion to that of the genesant, or need to explain their role in a dispute that the overseers can then assess.

A Note On Transcription and Translation

Many interviews were recorded and transcribed by myself from Tok Pisin. In instances where I quote someone directly I have removed halting phrases (umm, err, aaah) to create a more coherent read. My use of bracketing within quotations [] is to acknowledge any additions or alterations I have made to the original text. This only occurs in order to clarify meaning (e.g. through the addition of subject names) or for the sake of grammatical accuracy. In all other cases the content of my transcriptions have been left unaltered and unedited.

I also provide the English transliteration of quotes. This is in order to best capture the meaning behind statements, rather than mirroring words used. For the sake of transparency, I have made sure to also include the Tok Pisin version as a reference. This is also the case on occasions where I believe the Tok Pisin phrasing contributes something to the discussion. Those longer quotations without Tok Pisin also presented are from those occasions when the interview took place entirely in English.

A number of quotes from academic publications used in this thesis come from American publications. In these instances, the English (US) spelling is used.

A Note On Names

Having spoken with the village committee in Ewasse, it was agreed that my research participants should be referred to using pseudonyms throughout this thesis. This decision was made in order to protect the identities and respect the privacy of those who spoke with me during the course of my fieldwork. The use of pseudonyms has also been extended to include people I spoke with outside of the village and anyone discussed during my interviews who I did not meet with directly.

...weakness is a great thing, and strength is nothing. When a man is just born, he is weak and flexible. When he dies, he is hard and insensitive. When a tree is growing, it's tender and pliant. But when it's dry and hard, it dies. Hardness and strength are death's companions. Pliancy and weakness are expressions of the freshness of being. Because what has hardened will never win.

- Stalker (1979)

Chapter One Introduction

Ethnography cannot ignore disputes, because they are part of the fabric of everyday life in all societies.

- Caplan (1995: 8)

For many years, anthropologists have recognised disputes as a category of analysis that can “group people together” (Caplan 1995: 3; Gulliver 1979), even if only momentarily. As Elizabeth Colson has discussed, despite often seeming like “out-of-the-ordinary events” disputes mobilise certain support systems, highlight social changes and are often argued in terms of morality (1995: 65) – that is, in terms of sets of ethical judgements that are experienced and enacted as intrinsic directive forces in people’s lives.³ These momentary groupings are therefore capable of providing researchers insight into previously concealed conceptions of the social universes within which the people and disputes in question reside. When a dispute arises in Papua New Guinea, as in so many countries, one has many options as to how to deal with it, and these options are part of what makes disputes so revealing. Depending on the people and focus of the disagreement disputes may be dealt with publicly or privately, using a choice or combination of violence, exchange, debate, sorcery, shaming, arguments, or dispute forums.⁴ There are a variety of elements that would make one of these options more appealing or appropriate to disputants than another.

One of the more visible and recognised avenues in which one who seeks them might find disputes is in the state-sanctioned court system. Papua New Guinea (hereafter PNG) is home to a large number of courts. They provide disputants the means to discuss disputes and conflicts, with the hopes of reaching some form of resolution. Along with the national court, located in the country’s capital, there are also district and village courts that appear in greater number across the country. They were established as courts that would work at a more local

³ Robbins describes this “moral domain” as one in which actions are undertaken consciously by actors in response to values and the choices left open to actors by these values that have directive force in their lives (2004: 316). Lambek (2010a) explores this directive force in another way, but looking at ethical judgements that take place both consciously and unconsciously as an intrinsic part of our social worlds. Both are able to recognise the impact of these responses to values/judgements through speech and action.

⁴ This is by no means an exhaustive list of all the options by which a dispute could be addressed, merely a selection of the most prominent that I witnessed during my particular fieldwork.

level, and the village courts in particular were envisioned by lawmakers as venues that would consider disputes primarily in reference to custom.

The village courts provide an important focus of this thesis, and will be examined alongside a number of the other forums available in which a dispute can be dealt with at this local level. Between mediations, committee meetings, private settlement agreements, and compensation exchange agreements (to name but a few) the community I lived with in PNG utilised a whole host of forums in order to discuss and settle a range of disputes. The prominence of these venues is not something that should be overlooked in favour of discussing the courts. Gulliver's (1971) seminal work on disputes among the Ndendeuli of Tanzania, established the value of broadening discussion to consider a wide variety of dispute negotiations that exist outside of recognised court systems. Building upon this positive precedent, in order to explore the significance of certain disputes in one region of PNG, and examine how a range of dispute venues contribute to how they are dealt with, my work begins by simply asking what a dispute forum is and how we can go about discussing them. Only then can I begin to explore why such a diverse range of these forums might be required, and what their presence may mean for the use of the state-sanctioned village courts. What role does the village court actually fulfil in an area where state laws and oversight may not be the primary defining influence?

In order to begin to answer these questions, this thesis examines how dispute forums in Papua New Guinea are regularly engaged as tools to define relationships in a way that can facilitate peaceful conflict resolutions. This is primarily thanks to the flexibility of these forums and their emergence within networks. These findings are the result of twelve months of fieldwork that commenced in November 2013, the majority of which took place in the Biälla region of West New Britain (WNB). Much of my discussion revolves around Biälla's village court and its resistance to holding any static or permanent form. Instead, it materialises temporarily as the product of a network of court-making actors. It is through the temporary materialisation of the village court, and the significance of the actors who network in order to make it, that the court's place within a larger network of dispute forums can be identified.

Legislatively speaking, PNG's village courts fit within a hierarchy of courts that all contribute to a state mechanism of security and governance. State influence is by no means irrelevant to the courts, but its presence and the hierarchical approach to the courts it

promotes excludes a wide number of other dispute venues that are used alongside the village court in order to facilitate local dispute resolution. It is the influence and use of these dispute forums that will be discussed in the chapters that follow. In doing so, this thesis will elucidate what the consequences of the invisibility of these venues have been for research thus far and will go on to investigate what recognition of these venues could mean for research in the future. I will suggest that it is only through consideration of these forums in relation to the village court and each other that the extent of each venue's use in dispute settlements can be understood.

As Pat Caplan observes in the opening pages of her book *Understanding Disputes: The Politics of Argument* (1995), a study of disputes should by no means reside only within the realm of discussions regarding the anthropology of law. The study of disputes, she explains, can in fact highlight many of the key issues in anthropology, such as “norms and ideology, power, rhetoric and oratory, personhood, agency, morality, meaning and interpretation” (1995: 1). In the chapters that follow I will describe a number of disputes and in many instances issues listed by Caplan, such as morality,⁵ norms, and ideology, will feature at the heart of where these dispute arise from, and how they are eventually dealt with. State law, as I will come to demonstrate, does not occupy the same position in disputes. As such, its relevance in the wide range of dispute forums from which my research stems, is not taken for granted or assumed.

In order to feed this line of enquiry, a number of the chapters that follow will detail the events through which various dispute forums are physically realised in Biialla. In doing so, I am able to illustrate the wide variety of forms these venues are able to take, and how these temporary forms are important in allowing venues to cater to the changing disputes of the local populous. Highlighting the materialisation of these forums also allows me to identify the actor-networks that connect venues in a dispute forum network. It is these networks that will prove increasingly central to my findings. That is because it is the networks sustained by actors and inter-forum references (in which the overseer in one forum references the actions that would be taken in another venue) that a dispute forum's identity is made explicit.⁶ For a researcher, what this explication means is not only that we are able to

5 Throughout this thesis I favour the term “ethics” over “morality”, but I believe my interests stem from the same place as Caplan’s initial introduction to the subject. This is topic I discuss more extensively in terms of ordinary ethics and the work of Lambek (2010a; 2010b) in chapter six.

6 In this instance, by “identity” I am referring to what the venue is seen to be and how that image is informed by its material and verbal presence.

consider what the forum is capable of doing, but the significance of what it does in relation to those other venues it is networked with.

This discussion of a dispute forum network, and how the forums materialise, also provokes an enquiry into what authority these forums are drawing upon (if any) in order to oversee disputes and where that authority stems from. This line of questioning does not presume that state law is paramount in the designation or definition of authority in these forums. Rather, my research seeks to supplement the analysis we are granted through discussions of state law with a new focus on actor-networks. My work aims to identify the authority shared by many of Biialla's dispute forums by placing it within a context of surrounding sociality, relationships, and peace-keeping at a more local level. In doing so I am able to consider the village court's position beyond its presence as a tool of state governance.

In discussions of statehood, security, and development, PNG does not always earn particularly positive descriptors. The idea of “lawlessness” (Aly 2015: para. 6) is pervasive in international media coverage, and as such PNG’s government is often presented as having a lot to overcome. This is especially prevalent in current discussions on human rights in which there has been a call for more punitive measures against human rights violations in venues like the village court (Amnesty International 2011; Human Rights Watch 2015; Medecins Sans Frontieres 2016). Despite the substantial debates that arise from these discussions, my research does not centre around the village courts' existence as scattered arms of governance, or what the consequences of this position may be in a “borderline failed state” (Kenny 2014: para. 3). Instead, my findings allow me to demonstrate how the village court is actually one of many dispute venues in which local concerns are voiced and addressed using means that go beyond those defined by legislation or government purview. As Lattas and Rio describe, “[w]hat are often glossed as weak or failed nation states in Melanesia are alternative ways of governing through local social relations and customary practices” (2011: 3) - a sentiment readily explored through the examples provided by the dispute forums that emerged in Biialla. It is for this reason that I have found cause to suggest an approach toward dispute forums in PNG that questions the place of state law in disputes and promotes the identification of relevant actor-networks. This is in order to better discern how dispute forums are being used and what the emergence of a dispute can reveal about sociality in Biialla.

Village Court Origins

Although the very question of what constitutes a village court is something I plan to problematize, it is important for the sake of initial understanding to introduce the basic premise of what these courts are usually seen to be. For that reason, in this section I will work through what, where, and who legally constitutes a village court in accordance with those ideals expressed in the Village Courts Act (1973). As I have already suggested, the village court deserves discussion as part of a network of dispute forums that engage with one another in order to deal with disputes. However, as the village courts find their origins in legislation they are often seen to stand apart from other dispute venues that exist outside of state sanctioned parameters. As such, the village courts are rendered visible to state authorities through certain processes of court registration and periodic documented reports.⁷ Meanwhile, any unregistered and undocumented forums remain invisible to centralised government bodies. Put another way, the village courts are seen to differ from other local dispute forums in their “official” (hereafter without quotation marks) capacity as courts. They are also technically answerable to the state and all legislation attached to that although, as a number of the following chapters will describe, magistrates often find cause to work around this.

Although the conceptual distinction between official and unofficial venues will prove worthy of scrutiny, it is appropriate to begin with some acknowledgement of the legislation and language that is used to define the village courts in their official form. This discussion therefore begins with an introduction to what, where, and who is seen to constitute a village court in legislation. This approach allows me to examine the “ideal type” (Weber 1904) of village court as envisaged by their legislative creators. Rather than referring to any kind of strict standard of perfection, Weber's use of the phrase “ideal type” (hereafter without quotation marks) denotes an abstraction of an idea (such as capitalism) from social reality. It is instead a unified analytical construct formed by the “one-sided accentuation of one or more points of view” and the synthesis of “diffuse, discrete, more or less present and occasionally absent concrete individual phenomena” (Weber 1904: 90). Although it has been recognised that Weber “failed to explain what an ideal type is” (Wagner and Härpfer 2014: 215), in

7 The “state” is a troublesome entity in itself. I will be touching briefly on this subject later in my discussion of Abrams' (1988) work that challenges the existence of a state. For now, I take it for granted that the village court exists beneath this intangible umbrella.

terms of law-makers in PNG the parameters of Weber's premise allow me to consider the existence of a mental image that, when expressed in legislation, presents us with a rational model of what something is considered to be or through which a practical example of said thing can be scrutinized. In my work the thing is a village court, and the ideal type is that version of the courts projected and reproduced in the form of legislative guidelines and their intended social outcomes.

The reason this particular interpretation of the ideal type is of interest to me is because it enables me to establish the legislative standard against which many village courts are measured. This will be seen to take place in my description of some of the academic works that have been produced on the subject in chapter two. In my later detailed discussion of what the village court in Biialla is used for, I will be describing the many ways that the court diverges from this image and yet is still being engaged as a useful part of dispute mediation in the region by local residents. I will suggest that this legislative measure of a "successful" court is not all that useful for those of us seeking to understand the use and formulation of dispute forums.

What

PNG reclaimed its independence from Australia in 1975 after over ninety years under the rule of various colonial governments.⁸ Independence and a newly formed constitution brought with them a revised structure for law, courts, and justice. Discussions surrounding the most appropriate legal system to cater to PNG's diverse and often isolated rural communities predate independence by many years. Arguably the village courts find their origins in debates arising as far back as 1884 when colonial political administration truly began (Greenwell 2007). Variants on "native justice" systems were both acknowledged and implemented by colonial governments with varying levels of success in the years prior to independence (Goddard 2009). However, it wasn't until much later that the idea of empowering

8 From 1906 up until independence in 1975 PNG was under Australian administration (separate from Indonesian, West Papua). This came only after a period of division between the southern region that was a British protectorate and a more northerly territory of German New Guinea. The country was only united in the form we know it today following the second world war, at which time Australia also became administrator of the previously German occupied region.

communities to tackle legal issues locally really garnered the support needed to establish an official legislative system that would sustain it. As Goddard describes it, “[t]he issue of returning power to local communities was persuasive in the climate of the end of colonial rule, along with the issue of the rural shortcomings of the current legal system, and a perceived need for emphasis on rural 'law and order'” (2009: 50).

With independence on the horizon, these views gradually gained legislative shape in the form of the Village Courts Act (1973).⁹ The act paved the way for the creation of hundreds of new courts across the country. It introduced the village court magistrates as a form of recognised local authority through which certain disputes could be mediated. Under Australian rule it had been Australian citizens that had served in these positions of authority. Many were employed to work as representatives of government (*kiaps*). A single person often came to fulfil the role of policeman, magistrate, or district representative, depending on what the day called for. With Papua New Guineans themselves now holding these magisterial positions, the establishment of the village courts came to represent an important feature of the country's divisiveness from its colonial past.

The creation of the village courts also signified a shift in the law away from Common Law. Common Law had roots in Britain's legal system and had been instituted under colonial rule (Demian 2003). One way in which the Village Courts Act (1973) attempted to do this was by instituting a system of justice in which the emphasis was not placed on punitive measures but on reconciliation and Mediation:

The primary function of a Village Court is to ensure peace and harmony in the area for which it is established by mediating in, and endeavouring to obtain just and amicable settlements of disputes.

- Village Courts Act 1989: 4,52

9 Although originally published in 1973 it is often the 1989 edition of the Village Courts Act that I refer to and predominantly work with. Any significant differences between the editions have been checked to ensure points I make about them remain consistent and accurate although exact reference details may differ. Houghton (2017): *Courting Disputes*

Although one must have read through seventeen pages of definitions and legislation before arriving at this statement, the ideal expressed above is described in the Village Courts Act (1989) as the courts' "primary function". This short sentiment provides the foundation upon which the authors of the act envisaged all decisions would be made in the village courts.

Where

Alongside their avoidance of punitive measures, the village courts are legally endowed with some other attributes that made their practices stand out from the rest of the courts in PNG. One such feature is the mobility of where a court session may be held. Any area can gazette their provincial government with a request to start a village court. Following this, the task falls to the provincial government to establish the court and provide adequate funds in order to sustain it from that point onwards. What the establishment of a village court does not require is the provision of any fixed building or location in which the court sessions need take place. Much of my discussion in the chapters that follow revolves around the efforts that go into the materialisation of dispute forums, and how each forum is reliant on certain actors (or in some cases the absence of them) to maintain their ability to facilitate dispute settlements. Considering the legislation means this occurs despite the fact that the building and location of the courts are (officially speaking) of little consequence.

The Village Courts Act allows village court sessions to take place anywhere that they are required. Some even relocate depending on the day or based on where the magistrates feel it would be most appropriate to hold a court session (1989: 3,9). Returning for a moment to consider how these rules reflect an ideal type envisaged by contemporary lawmakers, this mobility was intended to allow magistrates to hold court easily without requiring the formal use of a building. This mobility was also meant to save disputants any long journeys to a court house. The court, at least in theory, could come to them. What this illustrates is a legislative attempt to allow, or even encourage, a village court to react to the environment in which it was serving, be that in terms of social or ecological requirement. In this way, it is clear that the village courts were always intended to differ from PNG's other legally sanctioned courts. What this means is that week after week the village court in Biella materialises and upholds certain requirements that are not born of legislative definition. What Houghton (2017): *Courting Disputes*

will become apparent in coming chapters is how certain actors come to shape this form that the village court takes, and the significance of their contribution to its materialisation as a place in which disputes can be overseen. In some instances, this interaction with the court-making process also enables them to contribute to the emergence of those “unofficial” dispute mediations taking place at a local level (in the form of the dispute forum network). The result of which is that the village court's influence extends beyond any parameters that legislation accommodates, or could have foreseen.

Who

The village courts are overseen by court officials who hold hearings and keep records of cases. The cases they oversee can be brought to court by absolutely anyone, and whoever chooses to bring a case to court must be present as the case is discussed in order to directly explain themselves to the magistrates. The role of those who appear in court is significant because the Village Courts Act (1973) makes it clear that not only are no lawyers required for a case to be heard, but they are in fact prohibited from being used in a village court hearing. Instead, disputing parties must represent themselves or can appear on behalf of a group who are united on one side of a case.

As for the employment of magistrates, within three months of the establishment of a village court it is the job of a government minister to appoint at least three village court magistrates. Those chosen must be fairly representative of the “traditional population groupings of the area” (Village Courts Act 1989: 4,17(2)) and have been identified and recommended (usually by a provincial secretary) for the position. These positions have always more commonly been filled by men, but thanks to a concerted effort in recent years there are now an increasing number of female magistrates registered in courts of all levels across the country. In the year 2000 new policies were introduced in an effort to enforce more balanced gender representation in the courts. As a result, there has been a huge increase in the number of female magistrates in recent years.¹⁰ In a survey conducted in 2011 there

¹⁰ PNG National Law and Justice Policy and Plan of Action (2000); also reported more recently on Radio Australia (2014).

were 700 women working as magistrates and 300 as clerks and peace officers. By 2013 the number of female magistrates had increased to over 900. This is up from nought in 2000, and ten in 2004 (Mukasa et al. 2014). Of course these numbers still seem low if we take into account the total number of village court officials throughout the country (15,000 – so female magistrates account for roughly 6%).¹¹ However, to go from ten to over one thousand in nine years is certainly evidence of huge change.

The Village Court Secretariat advises that any individuals chosen for the magisterial position should be “persons whom the people respect and feel confident about, that is, who know the customs of the area well, and can be relied upon to make fair decisions” (1975, cited Goddard 2009: 53). Key to this is the fact that magistrates do not require any form of formal legal training before they can be elected to the position. By adopting these criteria for magistrate selection, the idea is that the village courts can work alongside any pre-existing local power structures. It empowers (or perhaps merely utilises the pre-existing power of) respected members of local communities, acknowledging, and even regulating, local power structures that were already in existence in PNG prior to the establishment of the court. It is for this reason that magistrates often have dual roles in a community such as an elder, religious or clan leader, teacher, or otherwise respected official of some kind. These are all roles of authority that emerge entirely independently from the village court setting.

Peace officers are also employed by the village courts and are required to uphold court rulings and report any disturbances to the relevant authorities. It is the job of the peace officers to “serve orders, either oral or in writing, to persons to appear before the village court” (Village Courts Act 1989: 4,28(b)(i)). A formal process that deserves particular consideration in Biialla's case where the magistrates place a great significance on the summoning process as will be discussed further in chapter four. The magistrates also work alongside appointed court clerks. Once the magistrates, court clerks, and peace officers have been identified a court can begin to hold sessions. A village court can only be held with an odd number of village court magistrates and with a minimum of three in attendance (Village Courts Act 1989: 4,17(2)). These clerks are charged with the task of keeping records of every ruling made by the magistrates. Not only are any compensation amounts catalogued in these

11 This data comes from the website for the Department of Justice and Attorney General in PNG. As an undated online resource I cannot be certain of the when these numbers were recorded. My percentage is based upon the 900 female officials reported by the website. Mukasa et al. (2014) suggest that this number has grown. If one were to include female court officials who are not magistrates, I believe the number could be 7% or above. Therefore, this percentage should be considered a conservative estimate.

records, but each hearing must also be categorised as one of the offences named on a list in the village courts handbook – a handbook provided to each court official as a guide to practice. These records are then supposed to be passed on to the provincial government who make summaries of the court outcomes in their province. This is done in order to send a report to the Village Court and Land Mediation Secretariat (hereafter VCLMS) in the country's capital, Port Moresby. The VCLMS is then able to keep track of details such as the most common types of case in each court and province. Three of the most common examples of case categories used on court reports are adultery, debt, and assault. It is through this chain of records and reports that the village courts are made visible to the state in their legislative capacity. However, as I will be laying out in more detail throughout this thesis, this legal-centric interpretation of the village courts does not necessarily provide the clearest insight into what the village courts are or what they are capable of doing for those who use them.

An Introduction to the Village Court Dispute Process

Before a case is seen in the village court it is supposed to go through a Mediation. Mediation hearings do not often differ too substantially from village court hearings in terms of content but they do in terms of rulings. The same magistrates that oversee village court proceedings may be the ones to conduct a Mediation, but, unlike the village courts proper, only one magistrate need be in attendance for a Mediation session to take place. The emphasis in these instances is still upon finding a peaceful resolution between disputing parties, but the role of the magistrate(s) becomes one of eliciting a conversation between the parties rather than making a ruling themselves.¹² They work through the details of disputes and make suggestions until the disputing parties reach an agreement about what to do moving forward. If no agreement is reached, or if an agreement made through the Mediation is broken, then the case may progress to a village court. Even in these instance the hearing still differs dramatically from the country's district and national courts. By encouraging the use of Mediations wherever possible the Village Courts Act attempts to keep disputes from entering into the court system to begin with. This legislative aversion to punitive measures and the

12 See Gulliver for an interesting definition to the role of mediators when they introduce a “triadic interaction” to disputes, in which disputants retain their ability to decide whether or not to accept any proposed outcomes but the mediator definitely exercises a degree of influence over proceedings (1979: 213).

courts that apply them is a testament to the overarching goal of peaceful resolution above all else.¹³

If a Mediation fails often a dispute will transition into the village court. At this point it falls to the magistrates to hear the case and make a ruling that they believe will bring an end to the conflict. They can rule for parties to pay fines, debts, or compensation of up to K1000 (kina – the national currency of PNG) either in cash or by making up the value through an equivalent recognised medium.¹⁴ These equivalent mediums of payment are most commonly reported to consist of items such as livestock or garden produce. They are given on occasions where the magistrates recognise that it is appropriate or in areas where kina is a less practical currency.¹⁵ All cases and payments are required to be catalogued by the court clerk, and the recorded information is then sent on to the provincial offices. Any profit accumulated from fines that have been collected by the village courts are also included with this.¹⁶ As an alternative to compensation, or if a party refuses to appear in court after being summoned, jail time may be issued for a period of up to six months. To do so the village court magistrates need to file for an arrest with the police who take charge of the issue from there. The peace officers and magistrates themselves are in no position to arrest or incarcerate anyone. Prisoners sent to jail through the village courts end up in the same facilities as those from the district courts.

The small amount of remunerations that court workers receive for their work, and the description of a village court as able to “adjourn from time to time and from place to place” (Village Courts Act 1973: 3,2(9)), are both facets of village court organisation that reflect the expectation that the magistrates would have fairly light workloads and cases would not exceed a certain level of severity. By establishing the remit of the village courts so compensation rulings are limited to K1000 (≈£260), and by restricting them from overseeing

13 See: Village Courts Act 1989: 5,53(2).

14 My use of the terms “equivalent” and “alternative” in regards to value exchange and compensation in the village courts does not mean that magistrates’ decisions are always made in reference to an amount in kina and then converted into another value. In some cases, kina never enters into the exchange process at all. This is not only because it is not available but because it is not appropriate. There is a relevant discussion to be had in regards to the way in which compensation can be seen as an expression of custom (see Demian 2003), and here I want to be clear that by “alternative” I do not mean to imply “secondary”.

15 I should specify here that neither the Village Courts Act or the Constitution make specific references to what these alternative value goods can be or in what instances they would be used in place of kina. Instead, it is commonly left entirely to the discretion of the magistrates.

16 See: Village Courts Act 1989: 4,61

certain cases like land disputes, the village courts are clearly encouraged to limit the scope of their authority.

The Village Court Handbook goes some way towards classifying the cases that the village courts are expected to deal with.¹⁷ Having worked in PNG for over thirty years - with a large portion of that looking into justice and the village courts - it is in the work of anthropologist Michael Goddard that the best summary of how the handbook defines these cases can be found. He describes how the handbook encourages the categorisation of cases overseen in the village courts. It lists eighteen offences which are considered punishable in magistrates' rulings. There is a second category called disputes “which do not carry punishment, but in respect of which the court can make certain orders regarding compensation” (2009: 71). It is this category that Goddard says the village courts use as a “default” as there are many cases they do not want to make punishable rulings over and yet still consider to be within their jurisdiction. These disputes may involve topics such as adultery, unpaid bride-price, and outstanding debts.

By looking at the rules and definitions discussed above, we can begin to see how the government originally envisioned the village courts as performing following independence and the role that they were created to fulfil. Simultaneously, the preference that Goddard describes the magistrates demonstrate towards classing their cases as the less punitive category of “disputes” begins to suggest that any interest in village court practices should not stop with legislation. Instead, it should be extended to include the vision that court employees too have for the use of that venue, and how this vision is reflected in the choices they make. This is an idea I will be returning to investigate in chapter six.

17 The handbook is available in both English and Tok Pisin.
Houghton (2017): *Courting Disputes*

Boxed and Bound? Describing PNG's Justice System

With a clear set of parameters through which the courts were to be established, and by allowing certain flexibility within court procedure and rulings, the village courts were seen by lawmakers to be one way of providing government representation at a local-level (Demian 2014: 99). This was to be achieved through state-supported forums, forums that would allow locally respected figures to make fair rulings throughout areas of PNG that had previously lacked any means of legal access. The courts would be answerable to the state through the records that each court would be required to keep. This was the ambition encapsulated in the Village Courts Act (1973) and has proved popular among PNG's population, as evidenced by the consistently large number of requests to establish new village courts all over the country. The very first village courts were established in anticipation of independence in 1975, and by August 1985 there were already 856 village courts staffed by 7674 village court officials (ALRC Report: 1986). Although the most recent figures were not available at the time of writing, recent reports state that there are now over 1000 village courts located across the country. As of 1996 the number of village court officials had risen to 12,651 - an increase of nearly 5000 in only ten years (Banks 1998: 28). Before those numbers had even been reached the village courts were reportedly overseeing approximately 500,000 cases a year (Borrey 1993).

Despite this abundance of good intention, my research deliberately turns away from what these statistics seem to reflect and any interpretation of what the village courts are envisaged to do in legislative documents such as the Village Courts Act (1973). This is because, although legislation and policy is certainly a useful tool when it comes to assessing the origins of village courts, these documents cannot tell us much about the de facto reality of what each village court is actually doing on a daily basis in their different locales. As I will be discussing in chapter four, even the case reports made in the village courts and sent back to the provincial government are unable to give a complete image of what takes place during each dispute. This is thanks not only to the brevity of said reports but also due to the way that disputes are categorised. As a result, I have been resistant to the ideal type of village court hinted at in legislation and magistrates' manuals. In order to justify my aversion to a state-centric approach to the courts, it is worth briefly describing what I will be referring to as the *boxed view* of PNG's justice system. I want to briefly consider why the importance of

legislation and a legal hierarchy of courts should not be assumed when it comes to discussions regarding what the village courts do in their specific locales.

The court system in PNG is often categorised in legislation as a hierarchy of official forums. Each level of the courts is expected to address disputes of a different scale (Sikani 1996: 10). The village courts and land mediation courts are positioned at the bottom of this hierarchy beneath the district, national, and supreme court powers.¹⁸ The current understanding of village courts is that customary or small scale disputes, such as those defined by Goddard, are brought to court by members of the local population (2009: 71). In this interpretation disputants present their case to the magistrates, and it is considered the job of the village court magistrates to either dispense law or custom as a means to resolve disputes.¹⁹ As I have already described, once a conclusion is reached a court officer must complete certain forms in which cases are categorised and feed these reports up the ladder to provincial and then state authorities. These authorities can then use them to inform their own reports which feed into the broader national dialogue about security and development.²⁰ At this point these reports are also interpreted into statistics like those I myself have just referenced. These are made available to interested parties such as the international human rights organisation Amnesty International (to name but one), who's goal is to confront issues such as gender inequality in the country. What I have just described is a path by which information is passed from a single village court to a larger government department. Following this same path in reverse now, it is the job of civil servants to decide the parameters of the information they receive to begin with. These parameters are established on the documents they create and require the village courts to complete. Decisions regarding these parameters are made based upon the information civil servants feel would be useful to know about how the courts are working. This is done with the interests of various government departments and the state in mind.

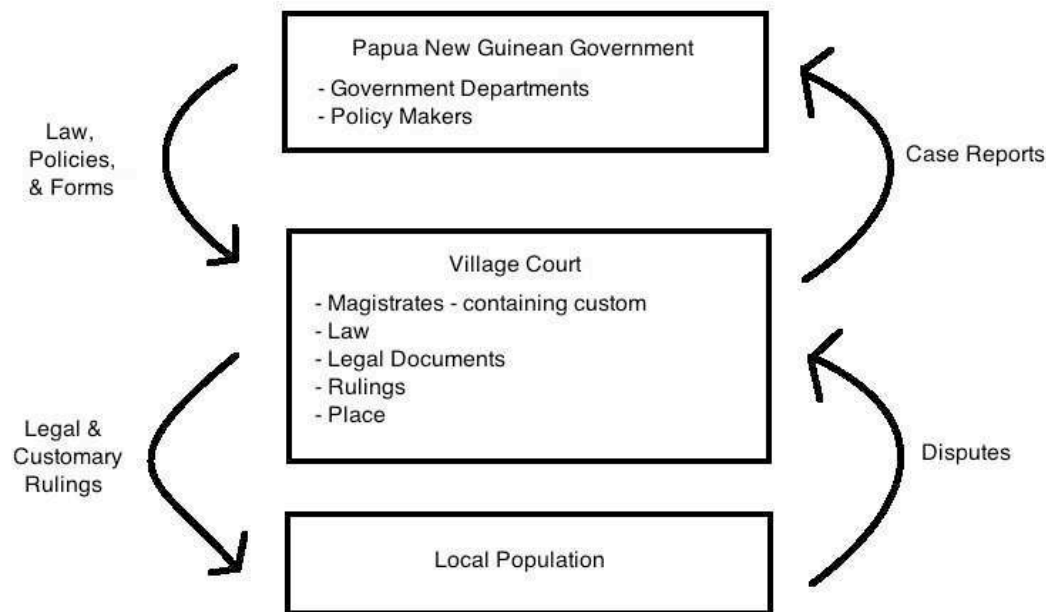
Each level of court also receives their own policies and reforms in the same way. Documents are circulated explaining any changes to policy or court practice that are expected to be introduced and applied. Simply speaking, law is passed down, the result of law is

18 The magisterial services actually refer to the courts in terms of “Higher” and “Inferior” positions – categorisation that works in reference to the courts' ability to tackle different cases (Magisterial Service of Papua New Guinea 2011).

19 I will be discussing the complexities surrounding customary law at length in chapter two.

20 See chapter two of Goddard's work *Unseen City* (2005) for a discussion of the production (of lack thereof) of records and categories such as sorcery in one of Port Moresby's urban village courts.

passed up. This is an idea I have attempted to summarise in the figure below.



I refer to this approach to the courts as *boxed* because each level of court is distinct and definable. They work within clear guidelines and with projected outcomes that are all guided by the ever-present (and yet simultaneously absent) state. The courts themselves are seen to only connect through systems of referrals and documents that work based on remits. Their connection to the government comes in the eventual form of legal summaries. This interpretation of legal processes in PNG means that every court acts based on knowledge of the categories of disputes it is empowered to oversee. They work in keeping within their own definition as laid out by state guidelines. Any case that enters the court system at the wrong level (meaning they require a ruling, or contain matters that exceed the remit of the court within which they are present) is referred “up” to a court with more jurisdiction. I was witness to several instances where cases were deemed outside of village court remit and therefore passed on to the district court, and so this hierarchy-focussed approach described in legislation is not entirely without merit. However, there are a number of problems with this approach for those of us interested in the actual uses of dispute forums on a daily basis.

Firstly, this hierarchy sees the village courts easily enveloped into discussions regarding state-wide corruption and policy reforms (Neubauer 2013), the result of which is that all village courts tend to be painted with the same brush, regardless of the huge diversity

of areas, populations, and customary specificities they may contend with.²¹ That is not to suggest that these discussions are unwarranted, but only to indicate that any attempt to understand the specifics of what a village court does would be blinkered by the assumption that every venue is doing the same thing.

The second problem a legal-centric approach presents is that legislation subjugates, or more commonly completely excludes, recognition of dispute forums that exist outside of sanctioned court categories. Many forums available to local populations are not recognised within the state's official legal structure, and as such are not considered when it comes to discerning the role of the village courts at a local level. This is of particular significance to my research because when disputes arise in Bialla there are a number of ways in which they can be dealt with. Often the choice of how to settle the dispute is made based on the nature of the dispute itself and the actors involved. “Reputation”, relationships, and actions can all influence how a dispute is interpreted by those involved and even increase or limit the number of forums to which they have access. For example, in chapter three I will be describing how a bad “reputation” can dramatically influence how a dispute is interpreted and dealt with among the residents of Ewasse.²² The many different requirements and influences that shape the treatment of disputes in Bialla means that there are a number of dispute mediation forums available that exist outside of any legally sanctioned court setting. As a result, my research has come to consider how the village court constitutes just one part of a network of venues, that each speak to the local requirements in Bialla in different ways in order to keep the peace.

Despite the wide range of cases that Bialla's village court hears each week, there are also many disputes that cannot be provided for, and thus the need for other venues begins to reveal itself. Disputes are often overseen in dispute forums such as Ewasse's village committee meeting, the local school, or on the town's bandstand where no paperwork is ever required. This means that the content of such disputes always remain firmly removed from any state records, and the rulings can sit outside of the remits to which magistrates would

21 A significance of village court diversity will be discussed in chapter two, with particular acknowledgement of Goddard's work in Port Moresby and Melissa Demian's research in the isolated Suau region of Milne Bay.

22 My use of the word “reputation” stems from its use by my host family in Ewasse and will be written in quotation marks throughout this thesis as a means to illustrate the specific context of its usage that may not extend beyond my fieldsite. The exact detail of how this term was employed and how that has informed my usage of it will be discussed in further detail in Chapter Two.

usually be held accountable. It is examples from these different venues that I will describe in detail over the course of this thesis. The significance that legal documents play in the shaping of the court, through both their presence and absence, will also be explored. By approaching Biialla's various dispute forums in this way, I am able to reveal a more extensive dispute resolution network available to local communities than any legislation is currently managing to capture or cater to.

The Need for Neologisms: Who's Who in a Dispute Forum

*We are stuck within the epistemological confines of our language, with its history of associations, its conceptual clusters and discursive bundles, but when our ethnographic encounters make it hard to 'hold certain terms steady' (2011: 88) we can also seek out new concepts.*²³

- Street and Coleman 2012: 12

Whilst conducting my fieldwork in PNG, I came to realise that much of what I saw take place did not fit neatly into any of the legislative parameters I had expected to see based on village court reports and legislation surrounding the country's court system. This has encouraged me to seek another way to present my findings that does not rely on a strictly legal-centric approach. Therefore, the first step I have taken to enable the problematization of the village court system begins with the very language we use to discuss it. Much of the literature surrounding village courts that currently exists contributes to well-founded legal and activist debates, often focusing on issues such as gender equality (Amberg 2005; Banks 1993; Human Rights Watch 2011). Not only that, but much of the literature that discusses the village courts relies upon a certain amount of legal language, locating the courts firmly

23 The bracketed citation within this quote is made in reference to Strathern, M. (2011). Binary license. *Common Knowledge* 17(1): 87–103.

within a recognisable, well-established, lexicon of law and justice (Gibbons 1994; Bohannan 1969). That is not to suggest this research is unfounded, but rather to introduce the idea that a study looking beyond the legal position of these venues should be cautious in application of certain weighted legal terms, and how a discussion of this kind may fit within a broader scheme of village courts research.

Even the laws that court officials are expected to apply in their treatment of cases may not be that useful for those of us seeking to understand court practices, especially when one begins to consider those instances when the courts exceed legal remit (Demian 2015b). As Marilyn Strathern has identified, “[l]egal doctrine takes, as the basis for decision-making, linguistic and categorical distinctions rather than whatever is happening to whatever we might want to call nature” (2005: 16). My work by no means resolves all of the hurdles that legal doctrine and linguistics provide. However, in the chapters that follow I do attempt to avoid placing law at the heart of my interpretation of dispute forums existence and use. This is done in an effort to recognise that disputes in Biialla are not necessarily dealt with in a way that supposes law to be a relevant frame of reference. As this is a concept that will continue to develop over the course of this thesis, in this section I want to briefly summarise some linguistic choices I have made in order to facilitate this.

As suggested in the previous section, by revolving research around a defined or *boxed* legal institution there is a danger of relying too heavily on legal categories in our attempts to explain what takes place on the ground. In other words, by filtering dispute forums through the categories provided by legal terminology we limit what we are able to see at all. Therefore, in an attempt to distance the village court in Biialla from any pre-existing expectations provided by a legal terminological framework, and the unhelpful rigidity that often comes along with that, I have found cause to create a linguistic difference between how I discuss certain actors in the village court from more commonplace English court descriptors. As a primary means of distinction from legal terminology, wherever possible I have made use of terminology applied within the courts in Tok Pisin or other forms of local vernacular. However, on those occasions where a single term to describe a feature of the court did not emerge in common usage from my fieldsite, I have found cause to introduce my own analytical terminology.

I have chosen to distinguish my discussion of disputes from legislative language in two key ways, both concerning the definition of people and their roles and connections to Houghton (2017): *Courting Disputes*

each other in dispute settings. The first instance of this will be in my identification of individual disputing parties. Instead of using the term complainant, I will make use of the neologism *genesant* in order to identify the party who initiates a dispute hearing both within and removed from the confines of the village court. In keeping with this, the word defendant will also be replaced, this time with the term *tributant*.

The second way I wish to expand upon current legal terminology is through use of a Tok Pisin term that allows for a wider discussion about who is connected to each dispute.²⁴ I intend to do this through my use of the term *lain*. My application of this word is drawn directly from its actual usage in the village court and PNG more generally. Used commonly in many situations (not necessarily dispute related) in PNG, *lain* is often used to identify connected groups of people who would be represented during mediations or connected to a dispute. I will therefore be using *lain* in order to avoid limiting complex ideas of kinship within disputes to more familial terminology (such as the word family itself, which *lain* is often translated as).

²⁴ Tok Pisin is one of PNG's two official languages, along with Hiri Motu. In Ewasse it was one of two main languages spoken (the other was Nakanai), and was the language most commonly used in village court sessions.

genesis

/ˈdʒɛnɪsɪs/

noun

The origin or mode of formation of something

- Oxford English Dictionary (2016)

tributary

/ˈtrɪbjʊt(ə)ri/

noun

A river or stream flowing into a larger river or lake

- Oxford English Dictionary (2016)

Recording information for legal purposes can be constraining. This constraint can come through requirements to complete certain actions, such as through a stipulation to make and keep records. This constraint also applies to the words we use to summarise events that take place in courtrooms and legal offices around the world. A person, for example, might become a witness or a defendant. A car key can be easily transformed into evidence. As a result, legal documents can become a troublesome lens through which to assess the actions and interactions that occur around individual village courts, not to mention the numerous other forums that are excluded from documented recognition.

Many people have written on the significance and co-dependency that exists between language and law (Gibbons 1994; Solan et al. 2015). It has been suggested that this co-dependency can be problematic for those attempting to access legal support, and can create hurdles for anyone attempting to institute changes in long established legal systems (Eades 1994). In my own research I came to realise that certain terms commonly used in regards to the village courts were in fact misrepresenting events. In particular, this proved to be the case

with certain legal terminology. This is because much of it was created in order to facilitate legal processes involving punitive measures, the likes of which are rarely seen in village court hearings.

Many of the terms I use to describe the village courts were chosen because they were used in conversations about law and the courts by Papua New Guineans themselves. For example, this will be seen in my use of the word “*mediation*”. The majority of these words find their root in English legal terminology, despite many differences in what they constitute in practice there. For example, I feel magistrate is an appropriate term and make use of it throughout this thesis because it was used commonly in the Tok Pisin form “*magestret*”. The same goes for my use of court from “*kot*”, and summons taken directly from “*summons*”. All these terms were used frequently by magistrates and disputants alike, as well as in conversations referencing the village court that took place between residents in Ewasse.

Despite many legal terms having echoes within the Tok Pisin used in referring to village court practices in Bialla, there are two terms that I do not believe are appropriate within my discussion. This is because they were not used in any of the dispute forums that I accessed during my fieldwork, and as such they project an unhelpful preconceived legal framework onto Bialla's disputes. The terms that I take issue with are *complainant*, and *defendant* – terms popular in both academic and government publications regarding the village courts (Banks 1998; Jessep 1992a; Scaglione 1990). The legal origins of these two words are implicitly weighted with the understanding that one party in court is complaining, and even accusing a second party. The image created is one of defendants brought unwillingly to court in order to face accusations that they are confronted with. This dynamic is both too simple and too aggressive to be relevant in Bialla's village court. Through the emphasis placed upon peace and mediation even the Village Courts Act makes it clear that magistrates should not seek to make punitive rulings wherever possible (1986: 6,53(2)). As such, any terminology that establishes disputants as potential winners and losers is an unhelpful (and ultimately inaccurate) framework to begin with.

The divisive positions created by the terms complainant and defendant are not the only reason I feel they should be removed from my research in Bialla. My decision also stems from the fact that these terms were not used at all during the village court sessions

themselves.²⁵ At most this would be because the terms were deemed inflammatory by magistrates, and in the very least they were completely irrelevant. Either way, in an attempt to continue to destabilise any preconceived approach to courts, laws, or the way actors interact within them, I have chosen to disregard these weighted terms in my work, choosing to propose the use of some alternatives in their stead.

To say that these legal terms are not helpful is not to say that the role that each party plays in a case are not important to identify. In the absence of the terms complainant and defendant there is no obvious alternative provided by Tok Pisin or any other local vernacular. When describing a person who takes another person to court there was not a single identifying descriptor or name. Instead, people would often say the phrase “*kotim em*” to mean “to court him/her” or even “brought him/her to court”. However, this phrasing does not easily lend itself to describing where a dispute begins its path into court and how certain people are involved. The individuals who appear in court as disputants as a result of being *kotim* (courted) did not receive any identifier (such as complainant/defendant) and instead we often referred to either by their names or by a classificatory feature if their name was not known “*meri Sepik*” (a woman from Sepik) or “*lapun meri*” (an old woman), for example. As the village courts do not allow for legal representation in the form of lawyers, the person who brings a conflict to court becomes an integral part of understanding a dispute, even shaping the very direction the case itself takes. As such, I have found cause to introduce some terms that help me classify disputants outside of the descriptions they may have been given in my conversations with residents during my fieldwork. These have only been attributed as a means to identify who initiated and responded to the request to appear in court, and should not be seen as a means to determine any other classifying features of their presence. For this I will return to descriptions provided by magistrates and other people I spoke to in Bialla.

The word *genesant* (hereafter without emphasis) is the first analytical term I will be introducing, and does not stem from usage in Bialla or Tok Pisin. It will be used throughout my thesis to indicate the individual who forms and triggers the process through which the case is made. My use of this word stems from the word genesis, as the mode through which something is formed (such as a case in the village court), without denoting anything further about how the mode goes about doing this. Unlike complainant, this word provides the detail

25 Outside of court sessions I did hear these terms made use of by the magistrates, often in reference to national and district court proceedings, but this was rare and they were not terms I heard used by anyone else in discussions regarding the village court.

of where a case began without burdening the disputing parties with legal roles that they may not pursue in the village court process. Not only that, but as I will be endeavouring to remove certain divides between the roles of people and objects in order to better understand what constitutes a dispute venue, I believe new terminology that identifies actors by their role within the creation of a case may go some way to encourage a wider approach towards every actor involved. Beyond the courtroom I also extend my use of this root word to discuss a theory of how the absence of actors, by which I mean both objects and persons, can also alter dispute venues. The term I will be using for this conversation is *genetive* absence. I will demonstrate the relevance of this expression throughout this thesis, but for the moment usage of the phrase need only be recognised as one in which the absence itself is a genetive force, or a force that creates/makes other events take place.

Returning to parties we see represented in the village court, the term defendant will also go unused. In order to describe the position of the second party involved in a dispute I suggest the term *tributant* acts as a more appropriate descriptor. Pulled from its usage in earth sciences, this term is adapted from the word *tributary*. Traditionally used to describe small rivers that eventually contribute to a larger river, I feel this word better captures the contribution that these individuals have in village court proceedings in a way that defendant does not. They provide another necessary feature of the case's existence, rather than assuming an accused or defensive position. This term also encourages both genesants and tributants to be considered as independent from one another, and yet as being temporarily defined by, and contributing towards, a larger whole. This idea will be elaborated on further when I discuss how actor-networks help to make the village court in chapter four. By clarifying the language with which discussions about dispute venues are held, my work is able to move beyond standard legal lexicon and begin to illustrate what the village courts, and other forums working alongside it, are doing in Bialla.

Lain

The Tok Pisin term *lain* was often used as a word that described certain relationships and social connections between people who appeared in the village courts, as well as other contexts, during my fieldwork. As there is no suitable translation for the way this term is used in Biialla, it is important to make use of the word *lain* within my own work. The reason that this word stands out from many of the other terms that I have happily translated into English is because there is no direct English equivalent to the word *lain*. In dictionaries *lain* is usually translated as *family*. However, I find this problematic when attempting to use it in a court setting, as the Euro-American legal conceptions of family are often based upon the idea of either a nuclear family unit or blood relations who share some element of DNA (Strathern 2005). This arises quite explicitly in legal and medical settings where certain repercussions of intestate, divorce, and paternity/maternity are applied through means of legal process or medical testing. But, as Margaret Jolly rightly points out, in Melanesia men may live together in separate dwellings from women and children, and it can therefore be a struggle to clearly locate or define family life (1989: 3). Family is a “slippery term” that can come with many preconceptions attached if one is not sensitive to its usage (1989: 2). In the village court setting for example, family does not immediately provide an accurate description of the extensive relationships that emerged during court session or any dispute forum for that matter. Instead, parties attend court alongside, or on behalf of, their *lain*.²⁶ A person's *lain* could include extensive connections of people based upon clan membership, marriages, shared land, or even shared interests, and work.

A *lain* is by no means a fixed term that represents similarly fixed relationships. It is a term that can shift to include different relationships depending on the context. This was especially the case when it came to disputes. In one dispute, that I will be describing in detail in chapter three, one of the disputing parties consisted of people united by their connection to a school in Biialla, while the *lain* they were disputing with all attended based on their relationship through shared oil palm plots. A *lain* is often constituted by those who are of no blood relation but connected through other well-tended relationships. Conversely, in another

26 The existence of familial or *lain* connections are not something registered or upheld through legal means for many around the country. This is most commonly seen in the case of marriage, or inheritance, where tangible marriage licenses and wills are not sought after or registered with any state authority.

mediation that I witnessed, the lack of progress the dispute made was put down mainly to the fact that the tributants, united by a sorcery accusation, may have shared labour but that was the extent of their connection. A local magistrate explained to me that because these tributants were not of one *lain* they did not see the dispute in the same way, and this meant they could not come to any agreements among themselves on how to proceed.²⁷ What each of them expected from the dispute mediation seemed to differ.

A *lain* can be made up of a wide variety of members all united by a cause or relationships. Yet to assume that every group who appear in court together constitute a *lain* would be a mistake. As a result, my usage of the term revolves around those instances when groups identified themselves as such, and in terms of disputes are seen to appear united as (or alongside) one of the disputing parties. My use of this term allows for a more inclusive approach to the extensive familial and group ties that appear in PNG than the English translation provides for. *Lain* demonstrates the significance of a person's relationships to those they unite with. It is capable of representing these connections in a way that another more general term such as *group* could not accurately encompass.

In order to understand why I have decided to use certain words and terms in the way that I have described in this section, one first needs to get a sense of the field in which I conducted my research. As such, the section that follows is dedicated to introducing my fieldsite, and some of the significant features that made up the environment in which I was working, and the activities that occupied my time.

27 In his explanation, the magistrate I spoke with did not use the term "tributants" as this is a word of my own creation. Instead he merely gestured to the group gathered and "*ol i no lain na ol i no wanbel*" (they are not of one *lain* and are not of one heart/mind/in agreement). I have used the term tributants here to help distinguish one group of disputants from the other.

Fieldsite

My research is based on fieldwork that took place in some of WNB's village courts. It also extended to include research conducted in many of the other dispute forums used regularly by residents of Bialla. This fieldwork informed my findings about how dispute forums network with one another, and as a result has allowed me to highlight how this network is used as tools for identifying and mediating turbulent relationships in Bialla. Much of the insight I gained into this subject was informed by the specifics of the courts I had access to, the region I was living in, and the people who went out of their way to help me. As my findings are so heavily influenced by the community I was living in, my discussion cannot proceed without a brief introduction to my fieldsite: a place that shaped every step I took to conduct my research, and the findings garnered as a result of this.

Ewasse



The majority of my research took place in and around the region of Bialla. Much of my time was spent in Ewasse, the village where I resided for ten months of my fieldwork. The village is located in West New Britain Province, off the north coast of PNG's mainland, on the island of New Britain. In order to get to Ewasse one needs to travel four hours west from Kimbe, WNB's provincial capital. Barring some serious potholes, the roads to the village are for the most part well maintained. This is mainly thanks to Ewasse's location in amongst the extensive plots of oil palm trees that crowd the northern coast of the province. Huge company Houghton (2017): Courting Disputes

trucks require frequent access to the palms in order to collect crops and return them to a nearby mill for processing. As a result, not only does the region have a reasonably extensive road network, but the company is quick to repair damage that would hinder their harvest vehicles. The mill is actually Ewasse's nearest neighbour, and as a result knowledge, talk, and work concerning the oil palm industry is common among villagers.

Ewasse village lands are extensive and include large stretches of gardens, made use of by *lain* associated with twelve different clans. The boundary of the village is therefore hard to define and so too are the specific number of houses or residents that make up the village. The village certainly has a centre though, created by the presence of a large school, two churches, and a playing field. These comparatively large buildings provide a hub for many of the village's communal activities. They are located only a short distance from the many houses that constitute the rest of the village. The finer houses in the village are made out of wooden planks, and stand off of the ground on thick wooden poles.²⁸ Most homes play host to three residents or more, most commonly connected to one another through relationships of birth or marriage, although this is by no means guaranteed. There are a number of less well-kept houses. These homes are made out of more makeshift materials and irregular planks. They are significantly less common in Ewasse though, and often house unmarried young men who may be in the process of building their proper homes, or waiting until they determine where they plan to permanently reside. It is virtually unseen for a woman to reside entirely alone in this fashion. Instead, women would be more likely to reside with relatives or friends until marriage. The homes of those who would identify one another as family often build their houses close together, creating a shared space in the centre that can be used as a courtyard or space for a *haus kuk* (kitchen). For example, the mother of my hosts had her own home, the entrance to which faced onto the same courtyard as ours.

Thanks to a fateful introduction one day while I was still residing at a research centre along the coast in Kimbe, I was able to move into this house in Ewasse with the Zanabi family who were willing to host me for the remaining ten months of my fieldwork. Sharing a room with two teenage sisters, Rachael and Haddasah, I became the newest addition to the Zanabi household. My new Papua New Guinean parents, Aaron and Joan, were both pastors

28 For an interesting overview of the changes that physical construction of housing and conception of dwellings have undergone in the Pacific it is worth reading Rensell and Rodman's edited volume *Housing and Social Change in the Pacific* (1997), and in particular Ann Chowning's description of the resistance to the adoption of stilted housing design in Galilo, New Britain.

in the local church (the Pentecostal Christian Revivalist Crusade or “CRC” as it was often called in the village), and had previously conducted missionary work overseas. Their two sons (and my new brothers) Gabriel and Yedaiah, both lived away from home. Gabriel was away at school in East New Britain, and he only returned home once during my fieldwork. Having finished school, Yedaiah had moved to the country's capital, Port Moresby, to look for work. This was not uncommon among the people I spoke to in the village, and my sisters too, were considering moving away from the village if a job, or marriage, required it.

For ten months, I made my home among the chickens, cats, dogs, and human residents of Ewasse. It was here that I spent my days gardening, cooking, and listening to stories that would provide some much needed context to the events I witnessed in the nearby dispute forums. It was also through my time in the village that I was made aware of the many dispute forums that are available to villagers, and through the relationships I had there that I gained access.

Bialla Town



Bialla town is approximately a forty-minute walk from Ewasse and the neighbouring oil palm mill, and plays host to numerous stores, a small health centre, a market, and a bank. It is also close to a number of fairly large schools, that are attended by students from the surrounding villages. The whole town is accessible thanks to a variety of motor vehicles. A frequent sight whilst walking the town's only major street, would be numerous blue or white Public Motor Vehicles (PMVs). These large cars would circle the town, while a location was yelled from

the window. This transport service allowed students, and everyone else, to get to and from town with reasonable ease and kept Bialla connected to Kimbe.

Over the past forty years the social landscape in Bialla has changed dramatically.²⁹ Although much of the population still identify as the Nakanai group that gain their name from the nearby mountain range, the local population (and diversity within that) in the area has seen a dramatic increase. In the past this stemmed from nearby logging projects, and in more recent years has been continued, and even escalated, by the introduction of oil palm. Workers have moved from all over PNG to join Hargy Oil Palm Limited's (HOPL) ever growing work force.³⁰ The growth of Bialla's high street is a direct consequence of this as more businesses have moved into the area to cater to the needs of the growing number of potential customers living there. The significance that these changes have had upon disputes in the region is a topic I will be discussing in greater detail in chapter three.

The viability of these projects can be witnessed every other Friday when those who have been paid make trips into town to stock up on dried goods and crates of South Pacific beer. Often those who had no regular paid work would go up to town on “payday Fridays” in order to cross paths with everyone who had. My teenage sisters from Ewasse admitted to always walking up from school during lunch hour on these days. They said there would usually be a *wantok* (friend) there who had been paid and would buy them lunch or give them some minutes for their phones.³¹ I could always tell the days they had been successful in this endeavour, as late at night our shared bedroom would glow from the light of mobile phone screens, while my sisters perused social media sites and bounced messages back and forth between themselves and “phone friends” (Andersen 2013) in other provinces.

29 This by no means only applies to Bialla. West New Britain, has seen dramatic social and infrastructural changes take place more broadly for a wide number of reasons since independence. Research conducted by Ann Chowning during the 80s and 90s acknowledges how Christianity (1990) and alcohol (1982) have influenced a range of communities in West New Britain. In more recent years, anthropologist such as Andrew Lattas (2001) have explored the changes resulting from capitalism and the PNGs growing cash economy.

30 Between the census taken in 2000 and 2011 the population of WNB rose from 184,508 to 264,264. Despite the steady overall increase in population to the country, the dramatic increase in population in WNB is centred heavily around the provincial capital (Kimbe) and nearby Hoskins and Bialla. For this reason, I am confident that this increase can be tied specifically to the growing industry in the region.

31 *Wantok* is a common term in PNG that has “infinite elasticity” (Kajumba 1983) in order to encompass or express a wide variety of relationships depending on context. Often *wantoks* can be a family friends or relatives. In other instances, the term can expand to include distant clan members, acquaintances or in extreme circumstances (such as overseas travel) anyone from PNG. As Kajumba has noted: “the further away one is from one's home village the more *wantoks* one acquires” (1983:3; cited in Monsell-Davis 1993:49).

Ewasse was by no means the only, or even the nearest, village to Bialla. The town was a place where many people would come together to shop and spend their time. Thanks to the growing economy of the region Bialla has attracted many people from all over PNG, and so the local population is a mix of people speaking many of PNG's different languages and hailing from many provinces. My main interest in Bialla stems from the fact that it is also home to the nearest village court that I could access from Ewasse. Village court sessions took place on a field near to the local police station and down the road from the district court. Magistrates, disputants, and onlookers would gather at a bandstand in order to air (or simply watch) disputes.

Methods

My research revolves around twelve months of fieldwork in West New Britain Province of PNG. For the majority of 2014 I was living in the village of Ewasse, during which time I was able to attend three different village courts, and seven other dispute forums. My main village court findings stem from the cases heard in Bialla's village court, which I attended in excess of twenty times over the course of the year. Court sessions would take place once or twice a week, and walking up to sit in on the hearings became a fundamental part of my research. A single village court session could oversee as many as ten different disputes although days where local bridges were damaged, or other local events drew attention, could lead to as few as two cases heard in one session. Forums outside of the village court setting differed dramatically. A key facet of this difference came from the fact that they would only take place when a dispute arose that required their attention. As a result, these forums would focus entirely on a single dispute during a session.

As I will be demonstrating, strictly categorising disputes in terms of numbers and whether or not they were overseen within a village court is something worth problematizing, but for the time being these details do provide a useful gauge with which to discuss how my time was physically spent during my year in the field. My time in each dispute forum was much the same. I sat amongst the crowd of onlookers that attended each event and made note of what took place. When I began my research I was making audio recordings that I was later able to transcribe, but I came to find that the presence of my recording device was a distraction to those around me, particularly Bialla's village court magistrates. Therefore, I

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mostly chose not to use it or positioned it further away. The result of this change was that most recordings became significantly less clear. In order to compensate of the lack of audio recordings, I altered my approach to revolve around note-taking as my primary form of documenting dispute hearings and interviews. As soon as I began working without my digital recorder, I made sure to work through my notes the same day as I had made them whenever I could in order to most accurately interpret my findings and recall specific details.

My ability to conduct this research was based upon the approval of a number of government departments. Upon arrival in PNG I sought permission from the Village Court Secretariat in Port Moresby, and I was given the contact details for the provincial village court secretary based in WNB as a result of this meeting. Once settled in Kimbe, I was able to meet with the provincial officers who were keen to discuss their work in the region, and proved to be a wealth of knowledge and contacts that made my research possible. The permission that I sought in the capital was the first step I took to pursuing a very transparent approach to my research. These authorities, alongside numerous other police officers, magistrates, and other legal advisers, were individuals I interviewed quite formally. I have called upon these interviews, along with policy documents and press releases, to inform my representation of government views.

With my work in Bialla's village court secured it was access to the region's other dispute forums that took more patience to achieve. As they were often not strictly conceptualised as dispute forums in the minds of Ewasse's residents at all, it took me many weeks to become aware of the variety available to the villagers. In addition to this, the disputes that took place outside of the village court were not often understood to be relevant to my research. There were also a number of venues that required me to earn a certain amount of recognition within the village community before I was welcome to witness them. For example, the weekly village committee meeting was something I was excluded from for a number of weeks before my relationships in the village developed to the point that access was granted. As my research will demonstrate, this venue proved to be a valuable place in which disputes were voiced and worked through in Ewasse. Once I started attending these meetings other venues of a similar kind that were also taking place in the village were made accessible to me, although none with such regularity.

As for the other venues discussed in this thesis, my knowledge of these events came down to perseverance and good timing more than anything. Talking to people in the village

every day, and following disputes from the beginning as they developed, meant I often found myself present in forums I had previously been unaware of, that would not have been mentioned to me in casual conversation. It is because of this that I am also well aware that there may be plenty of forums I never learned of during my fieldwork. As such, my findings should only be seen as an initial spark of insight with the hopes of igniting further investigation in the future.

It is because of the sporadic way the use of many dispute forums arose in Ewasse, that my research was so greatly improved by living in the village full time. This allowed for lengthy conversations and the slow establishment of intimacy which is arguably “key to successful ethnography” (Herzfeld 2000: 221). Thanks to my relationship with the Zanabi family in particular I was included in the practical running of the village, and could try to contribute to household tasks on days when the village court was not in session. Many anthropologists undertake participant observation as part of their field work, and I am no exception to this. To describe some of the fundamental aspects of my fieldwork as “hang[ing] out” and doing “all the everyday things that everyone else does” would not be inaccurate (Bernard: 2011: 259). In my case, this mainly took the form of taking part in local church activities (CRC), including singing and performing dances with the church's youth. Inclusion in activities of this kind not only concreted my acceptance in the village among the older residents, but they also made me privy to a healthy amount of local gossip, circulated by the teenagers I danced with.

Aside from CRC church events, the majority of what could be described as participant observation took place when I would join women from the village in their trips to the gardens and oil palm blocks. Most days would involve a trip to the gardens to harvest food, and this is where most of my discussions and interviews would take place. My experiences in the village can be held distinctly apart from the research I conducted in Bialla's village court. This is partly due to the fact that the court was attended by different people every week, and so I had no long lasting rapport with any of the attendees that allowed me to really embed myself in the process they experienced in the court. It is for reasons such as this that I would not describe my work in the village court strictly as participant observation. It also meant that much of my understanding of disputes came not only from witnessing how they were dealt with in dispute forums, but from those occasions where people took the time to tell me about past disputes that had since been resolved, and their personal use of the forums.

In keeping with my emphasis on transparency, I made sure to say hello to the magistrates each week and mention my research to them each time to ensure I was still able to make use of the disputes presented in court on every occasion. Despite refusing to sit alongside them at the magistrates' table, preferring instead to join other onlookers on the bandstand floor, my experiences in the village court were very much that of a formal observer. I did not have the same participatory experience of the court as I would have if I had, for example, been working in the courts, or indeed, made use of the forum myself. My findings in the courts therefore stemmed from what I witnessed through attendance, and numerous semi-formal interviews with those involved afterwards. This differed greatly from my findings in other forums around Biialla, as I would often be more intimately acquainted with those involved, and reactions to the cases would be discussed extensively by numerous people in the village afterwards. It was often these discussions, and not the dispute hearings themselves, that allowed me to gain extra insight into the cause of events, and the “reputations” of those involved than the village court was always able to do.

I believe in the end it was this time spent living in Ewasse, and the long discussions and disputes that I was privy to as a result of this, that allowed me to extend the discussion of disputes in PNG beyond the popular parameters of the village, district, and national courts, to one that is inclusive of the diverse and connected forums that provide many Papua New Guineans with venues more suited to their needs.

From PNG to Page: My Role as Middle(wo)man

Throughout this thesis I have worked to keep my role within events very apparent. On occasions where I myself was asking questions and leading conversations, I have endeavoured to keep my own presence, and intentions fairly evident in the ethnographic descriptions that are to follow. Equally, in those instances where someone else is guiding conversation and I am merely an onlooker, for example in dispute forums, I have also attempted to locate myself within the scene, as present, but silent.

Beyond my presence as a researcher it will come to light that many of my most informative discussions took place with women. As a female I washed in a secluded area that

was only used by women, and shared my room with my sisters, not my brothers. My spare time was mostly spent in the company of other women, rather than the men of the village and as a result this impacted the activities that I took part in. Although both men and women work in the gardens, the women end up spending more time harvesting food, while the men may work more on grass cutting. This also meant I was privy to far more intimate conversations among women than men.

One thing that did somewhat ease any gendered divisions in the village was my position with my host family as a “youth”. Seen as the equivalent of another teenage daughter I was able to talk to my host Aaron as if he were my father. This allowed us to stay up late talking, in a way that would have been deemed inappropriate with any other men. In certain instances, my gender is unlikely to have altered events - for example, in the village court where I was merely an observer. The more significant influence that my gender had on my findings was on those occasions where I was involved in a discussion surrounding cases and disputes in the village. This was particularly the case with adultery, where women were happy to talk to me about disputes they had with their husbands. Outside of Aaron, there were no other men that I was able to discuss adultery with in this personal way. As such, I was able to hear their thoughts when voiced in the context of a dispute forum, but never outside of this setting like I did with the women.

Chapter Breakdown

This introduction has given an outline to the context in which my fieldwork took place, through both specifics of my fieldsite and a broad grounding in the legislative origins of village courts. I have also introduced the argument that my work will contend with: that disputes in Biialla are overseen in a network of forums that, through their flexibility, are able to address a wide range of social concerns.

This argument is reliant on a specific theoretical groundwork that sees the synthesis of a number of current anthropological trends. Therefore, in order to fully explain my

theoretical approach, chapter two will suggest three core theoretical themes that will recur in different ways and develop as the thesis continues. I will be summarising these themes under the general titles of legal-decentralism; actor-oriented anthropology; and emplacement. The first theme, legal-decentralism, I have already touched upon in this introduction. Moving forward this theme will allow me to further discuss the research currently surrounding village courts in PNG. Much of this revolves around the concepts of custom, legal pluralism, and the significance of these topics within the PNG setting.

The second theme I use to introduce my approach highlights the use of actor-oriented anthropology. Through a brief introduction to subjects such as materialisation and how it can be used to engage with Melanesian relational practices (both theories that question ideas of body, personhood, and actor engagement) I am able to create a theoretical synthesis that will allow me to demonstrate the significance of the materialisation of dispute forums in Bialla.

The third and final theoretical theme that I will be discussing in chapter two is that of place and the emplacement of disputes. Building upon the idea of materialisation here I will call upon theories of emplacement and spatio-legal studies in order to expand on my insight into the subject of how a place can implement ideas of justice. This discussion will help me tie together the significance of each of my thematic sections into one synthesised theoretical framework from which my larger argument will pull.

Having discussed the theories that can be used to inform my approach, chapter three describes a number of disputes that took place in Bialla, and how they were each overseen in a different forum that I believe contribute to Bialla's dispute forum network. In Bialla, the oil palm industry and other local institutions are prominent features in many disputes, both as cause and resolution. Therefore, my discussion in chapter three explores why this is the case and what impact Bialla's peri-urban environment has on both the content of disputes, and the impact different relationships have on the venues in which they are overseen.

Chapter four focuses specifically on the village court and seeks to identify what actually constitutes Bialla's village court. My research reveals that far from being fixed institutions, the village courts are temporary products of what I will be referring to as a *court-making process* that takes place each week. By looking at the ways in which cases, relationships, and the court itself are manifest, the full scope of the village court's role in Bialla can be discussed. Building upon the theoretical framework defined in chapter two, in

this chapter I am able to consider how court-making actors may differ from one another and yet ultimately unite to form a physical expression of what the village court *is* and facilitate all that the village court *does*.

One dispute forum that is often made use of in Bialla is a mediation forum that takes place on the same bandstand used by the village court. This forum is of particular interest because in order for it to take place several changes must occur in the physicalization of the village court, many of which involve the removal or transformation of court-making actors. I call this the unmaking of the village court. In chapter five I describe what these changes are, and I introduce the potential genitive quality that court-making actors have even in their absence. With this in mind, this chapter concludes with a consideration of other forums that are not reliant on the making-unmaking process. Through this I explain how these dispute forums can contribute to the peace-making efforts that the village court strives for, but cannot fulfil alone. As such the village court's place in a much larger network of dispute mediation forums comes to light.

Having described a number of examples where the village court cannot be seen to completely resolve the disputes they are presented with, and having already established the need for other dispute forums to work alongside the courts in order to overcome legal remits, chapter six focuses on what happens in those cases where disputants may be unsatisfied with rulings. In instances where no ruling is made, what is it that these forums provide? Insight into this topic is gained through consideration of the disputants themselves who end up taking their disputes to court. Through a discussion of ordinary ethics, I consider how disputants are able to express their concerns in regard to their relationships, and how conceptions of disputes and certain actions associated with marriage may be shared amongst the members of community, despite often remaining tacit. Considered in conjunction, I discuss how actions, speech and the dispute venues themselves, can reveal a great deal about certain social dynamics in Bialla.

When considered in combination these chapters seek to establish how the flexibility of Bialla's dispute forum network is impacting upon local attempts to deal with disputes. Consideration of a variety of actors, and the flexibility displayed by dispute forums in Bialla, allows my discussion to complicate the very notion of what constitutes a dispute venue. This encourages us to question the role of the village courts, and challenge the “unofficial” status that conceals the significance of other dispute forums working alongside them. Considered

separately, each of these chapters reveal one aspect of how we can approach disputes in PNG and what these disputes can tell us about the country and the concerns of the people therein. United, these chapters provide a bigger picture that speaks to not only how people dispute, but what the creation of place and definition of relationships can do to facilitate social change.

Chapter Two

What is a Dispute Forum?

[T]he state has no more empirical claim to being the center of the universe of legal phenomena than any other element of the whole system does...

- Griffiths 1979: 48, cited in Galanter 1981

Introduction

Through a discussion of the theoretical groundwork upon which my research is based, in this chapter I am able to reflect upon some existing examples of village court research and clarify the importance of dispute forums as a subject worthy of study in the Papua New Guinean context. Thus far I have described the village courts in terms of their place in state legislature. Despite this, I have also indicated that an entirely legal-centric approach to courts is just one of many ways that venues like the village court can be discussed (Galanter 1981). Therefore, in the following sections I will introduce some of the other topics that are equally (and in some cases more) important in shaping the use and existence of dispute forums in PNG. The topics I have chosen to discuss here each inform my approach to dispute forums in different ways. It is therefore through a synthesis of some of these ideas that I am able to discuss many of my findings as they are presented in the remaining chapters of this thesis.

In order to examine the village court as one part of a network of dispute forums, rather than as a tool of state governance, I draw on three theoretical approaches: legal-*decentralism*; actor-oriented anthropology; and emplacement. These approaches provide themes through which I am able to discuss some key elements of my findings throughout this thesis. Building upon past discussions on legal-centralism (Galanter 1981; Griffiths 1986), the first approach asks what an emphasis other than law could mean for research into dispute forums within the context of PNG. Legal-*decentralism* (hereafter without emphasis) destabilizes any assumed centrality of the state and law in PNG's court system. Through a number of anthropological examples, my research highlights how other factors can be

equally (or more) influential in shaping the uses of the village court than law – factors such as ethics and relationships. By asking how these factors emerge within a range of forums, and how these forums are used to discuss them and why, I am able to discuss how the village court is used alongside, and often in combination with, these “unofficial” venues to settle disputes.

My second theme builds upon the first by asking how, without law or static courtrooms to use as guides, one can identify a dispute forum. In an attempt to understand what constitutes a dispute forum in Bialla, and what they are able to do, I have found cause to consider how these forums materialise and the significance of the actors involved. Through a discussion of a range of actors, such as chairs, magistrates and court summonses, and how they network with one another, I am able to examine what the material constitution of dispute venues may have to do with their capacity to mediate certain disputes and maintain peace. The significance of materialisation and *things* (hereafter without emphasis) in the PNG context has already been acknowledged by a number of anthropologists (Foster 2002; Reed 2007; Street 2014) and it is the likes of their work that have informed my approach and enabled me to develop it within the context of dispute forums. It is through this consideration of actors that I have been able to identify certain networks in Bialla, both actor-networks (which I will be discussing in more precise detail in chapter four) and the dispute forum network that allows disputes to be treated in the way that they are by local residents. My work will come to demonstrate how an actor-oriented approach has a particular relevance in the context of my fieldsite. In order to fully understand how this can be the case, in this chapter I introduce some other contexts in which researchers have found actors to be both human and nonhuman. Consideration of previous discussions regarding actor-networks and human/nonhuman interaction also allows me to examine how ethnography can be used as a means to identify, explore, and analyse their significance. It is for this reason that I look to works such as Henare, Holbraad and Wastell’s *Thinking Through Things* (2007) in which they explore the place of objects and materiality in analytical strategies.

The third and final theme this chapter will introduce is that of emplacement. My use of this term stems from the usage provided in Alice Street's book, *Biomedicine in an Unstable Place* (2014). In her work, Street describes how the concept of emplacement provides her with means to discuss how science relates to the place in which it is done. For my research I have adapted this idea in order to consider disputes and how they are able to

relate to the places in which they emerge. My interest focuses this discussion in order to consider the use of dispute forums, much like Street's research revolves around the hospital as a particular site in which science can be seen. In this final section, I will describe why this is a necessary element of my approach as it prevents the actor-networks that I will be tracing from stretching and connecting seemingly “without limit” (Strathern 1996). In focusing the parameters of my research in this way, I am better able to analyse my findings without pursuing endless networks of actors, or conversely boxing disputes within strictly legal forums.

Once again this discussion can be seen to engage with and build upon the themes that precede it. This is because following my recognition of certain actors and their contribution to the creation of dispute forums, my research will need to question what it means for a place to be created, especially one that emerges as part of a network or as the product of a flow of actors. This subject also allows me to consider exactly how the dispute forums in Biialla are able to oversee disputes when they are only temporarily accessible in any material form. It is for this reason that this chapter concludes with a discussion of emplacement, and how place can be identified and endowed with authority in certain ways through the coming together of actors with a mutual purpose – for example, the creation of a village court.

Following the establishment of these three themes, each theme will become a recurring feature of the chapters that follow, providing a theoretical grounding against which my findings can be considered. What a synthesis of the theoretical ideas introduced in this chapter will allow me to do is locate, or “emplace” (Street 2014: 196), disputes in a network of flexible dispute forums that emerges through interactions between the actors that create them. Before continuing with the theoretical discussion that will occupy the majority of this chapter, it is important to introduce why these theories are so relevant to my discussion of disputes. Therefore, in order to introduce a range of approaches that could be used to discuss dispute forums, and why I find some unsuitable, this chapter begins with a description of the village court in Biialla and just one of the disputes that I saw take place there.

Bialla's Village Court

We're seated outside on a large wooden bandstand in the middle of the field that abuts Bialla's main high street. The white paint on the wood is worn away in parts from people leaning on it, and deep red flecks stain the railings from the *buai* (betel nut) that is casually spat down into the grass throughout the day. Often used as a venue for meetings, performances, and as a general area to keep out of the sun, today the bandstand is the space we occupy for village court. Every Tuesday and Thursday (weather and magistrates permitting) a table and chairs are carefully carried out of the nearby one-storey office building. Despite my protestations, an extra one is often carried out for me, but today I am literally holding my ground and am sat on the floor at the edge of the stand along with a few other people waiting for their cases to be called. The table is ceremoniously draped with the provincial flag and weighted down with stones. Based on records kept in a notebook, cases are called forward and seen to when both disputants are present. Often cases are delayed due to absence of one or both parties, but today is busy. The field that the bandstand is situated on is dotted with groups of court-goers sheltering from the sun under trees and umbrellas. As a sign of how far people travel to use the court, one of the five magistrates explains that it is particularly busy today because a bridge that came down several kilometres away during the rainy season has just been repaired. This has allowed the villagers on the other side to access town again for the first time in weeks.

We've been here for forty minutes when two men are called up to stand before the magistrates. One is an older man who looks to be in his late forties. The other is a much younger man who could be about twenty. One of the magistrates initiates the case by addressing both men in a mixture of both Tok Pisin and the local language, Nakanai. He begins by explaining to them, and the onlookers, that the case is of an adulterous nature, and that goes against the path of Jesus.³² Following this, the same magistrate goes on to describe the specifics of the case as written on the summonses. These are piece of paper that both disputants were required to hand over before the case could proceed. Gesturing to the older man standing to the left of the bandstand, the magistrate explains to everyone who cares to listen that this matter has been brought to court by the father of a girl called Alice. They

³² “*Ol rot blo Jesus*”

continue by explaining that Alice has recently left her husband, Raff, and married another man, James. James is the tributant who stands on the right hand side of the bandstand, facing the magistrates. He fidgets distractedly as the magistrates explain the case. The dispute the magistrate describes can be summarised as follows: Despite her family's disapproval, Alice and James have continued to see each other. The couple have done this without any formal bride-price repayment to Alice's first husband, Raff. They have also held no wedding feast to mark the new union, so Alice's father is in court questioning the validity of their relationship.³³ By continuing to see each other, Alice and Raff have ignored the requirements of a preventative order that was created following a previous court case, in which the couple had been told to cease their relationship until Alice's marriage to Raff was either repaired or dissolved.

Today, the case mainly revolves around the accusation that the preventative order has been broken. James claims that he is not actively breaking the preventative order because he does not pursue Alice. He claims she always just comes back to him. He even moved away when he got a job at HOPL, and he now lives on one of the many housing settlements associated with the company. To his mind, he is merely an accessory in a family matter that Alice, Raff, and her father should sort out amongst themselves. This is all the magistrates need to hear and one interrupts to say that they have heard "too much" from them already on this matter. Raff and Alice are still married. Her behaviour with James is therefore adulterous, but the magistrates make no ruling on the matter because they want to hear what Alice and Raff have to say. As neither of them are present at court today, the magistrates leave the case unresolved until a later date. To leave a case unsettled in this way is a common occurrence in Bialla's village court. The magistrates often send people away who are not armed with what they deem to be necessary documents, witnesses, or even the correct disputing parties. In this instance, Alice and her first husband, Raff, are required to appear as witnesses before the case can proceed.³⁴ These strict procedures mean cases can drag on for months before being concluded with any ruling.

33 The return of bride-price or a wedding feast would both be considered formal indicators of Alice's new union and the conclusion of her marriage to Raff. With neither of these events taking place, it leaves the status of Alice's relationships unsettled. This is a concept I will be delving into further chapter six.

34 Interestingly, that does not mean Alice and Raff become the disputants themselves. Despite in many ways revolving around them and their marriage, the case itself belongs to Alice's father and James as Alice's father is genesant of the case, and identified James as the tributant. This idea of the different parties that can make certain cases is explored in greater detail in chapter six.

After making their requirements clear, the magistrates hand back the summonses to each disputant, changing only the date on which the pair are required to appear at court. Following this, the disputants leave the bandstand, and the next case can proceed. After working their way through a number of cases in a similar fashion, the magistrates all stand to announce the closure of the court. Each gives a short bow before leaving their positions at the table and heading off to chat and mingle. During this time, I watch as the flag is carefully folded by the court clerk, and the tables and chairs are removed from the bandstand, leaving the space vacant and ready for whatever the structure may be needed for next.

This example is by no means the most dramatic or captivating session that I saw whilst living in PNG. What it is, is a fairly typical example of the kind of case and procedure that takes place in the village court each week. As such this case provides a useful starting point to begin to examine the significance of certain actors and expectations surrounding use of the village court. This may come in the folding of the flag, or the magistrates' requirement to see the disputants' summonses – two ideas I will be taking up in more detail in chapter four. By looking at a single, unresolved case such as this, I am able to suggest why there are a number of ways that the village courts, and the disputes they oversee, could be approached theoretically.

Firstly, one could interpret the magistrates and village courts as dispensing law, and as such, seek to understand how the law is interacting with the concerns of the disputants. In taking this approach, ideas of marriage, divorce, adultery, and family all come together in a forum that could be interpreted as linguistically categorising the wrongdoing (in this case with the term adultery), considering any previous legal action (the preventative order), and dispensing an appropriate ruling. With this approach we would concern ourselves with how the law is manifested in the courts and what the disputants experience in their engagement with it. As a result, we would come to focus on legislation as the most significant influencer of the court, and see how the magistrates play a central role as interpreters of both law and the wants of the disputants (sometimes falling into the category of 'custom', the complexities of which will be discussed shortly). A detailed discussion of how the law is used in the courts could also open up interesting discussion about how the authority of the law is represented and sustained within them. This approach would also challenge us to identify whether courts are able to provide disputants with the outcome they originally sought, and if that capacity, or lack thereof, is important (a premise I explore further in chapter six).

Alternatively, one might be curious as to the substance of the court itself as opposed to any of the other dispute venues we know to exist in PNG. The importance of documents, the use of chairs, and the flag as a carefully treated emblem of the court that is produced each week without failure, all seem significant. Yet they currently remain unrecognised in most discussions of the courts. This approach also raises questions about why certain things that one would expect to see in material form remain absent. This can be seen in the example above, where the preventative order that is discussed has nothing to do with any material document. The order exists only in words and that, it seems, is enough. On the other hand, the notebook that is read from and the path of the other records that are made seem reliant on their material presence in the court. This was so much the case that on other occasions the absence of a notebook was enough to halt proceedings before they had even begun. It is seeing the significance of different actors in disputes such as this that has informed my second thematic choice of actor-oriented anthropology. Things influence the court, not merely with regards to their legal significance, but as actors in their own right, contributing in some way to the existence of the court each week, as well as its ability to be changed and facilitate social change itself.

As a third approach, the dispute described above may also encourages us to question what signifies a dispute forum as an identifiable place to begin with, distinguishable from all the other usages of the same bandstand. It is certainly not through any legal guidelines that the court gains its position on the bandstand in Biialla. It could take place (legislatively speaking) anywhere. So what has made this weekly routine of flags and tables so integral to court practices? It is tempting to ask if legal is even an accurate qualifier for the place that emerges there, and what, if anything, separates it from any other dispute venue? Knowing that there are multiple venues to choose from, is it accurate to present these venues as divisible and isolated places from one another, or should we think of them more like different departments of one dispute settlement agency, each contributing in reference to the events taking place in others? Having presented a few of the many approaches and questions that are raised when considering a single case in the village court, it is hopefully clear now why the following sections will focus on some of the theories surrounding legal-decentralism, actor-oriented anthropology, and emplacement.

Theoretical Groundwork

Research into the dispute forums of PNG is a growing field of interest among anthropologists. There has already been a small concerted effort by some academics to accurately portray the role of village courts in different communities and to raise the profile of other dispute forums. Goddard (2009), who's discussion of the categories used on village court documents I have already described, contributes to an important area of village courts research that acknowledges the need for a broader approach to justice in PNG – one that goes beyond the interests of the state (see also Demian 2014; Dinnen 2000). In his work on restorative justice in Bougainville, Dinnen too (along with his co-authors) recognises the importance of local actors in dispute mediations that exist beyond the purview of government and the state (Dinnen et al. 2010: 242). His work identifies the need to bridge the gap between the state and local justice systems. He does this by illustrating the potential failings of both systems when left to work in isolation from one another. The criminal justice employed by state powers, Dinnen claims, are “designed to incapacitate and punish”. A statement that Dinnen uses to suggest that criminal justice lacks the capacity to prevent conflict, and instead only seeks to control the outcome of it. He goes on to describe how local authorities may come with their own problems when working outside of government purview. This may come in the form of “informal self-policing” that can “deteriorate into violent vigilantism” when left unattended (Dinnen et al. 2010: 240). The reason I dwell on the concerns expressed by the likes of Dinnen and Goddard is because it is in works such as theirs that the need to consider the role of the state in local dispute forums really presents itself. It is as a result of these concerns that my first theme has developed in order to really reflect upon the place that law and state authority have in the village court and other local dispute forums in Biialla. So too have these discussions encouraged me to identify what it is that any approach that decentralises state power can tell us, and what it might ignore.

The approach I take in the work that follows has been developed through the use of a number of theories that emerged as appropriate during my fieldwork in Biialla's dispute forums. Through consideration of some select theories, I am able to better explain not only the connections that exist between venues, but how venues emerged as flexible places, reflecting disputes and expectations as understood by disputants. Although my own ambitions do not extend to reforming state-wide judicial practices, over the course of this

thesis I intend to present a contribution to current trends in the subject that lends itself to wider application in the field in the future.

Legal-Decentralism: Disputing without State Law

A question that really haunts my discussion of dispute forums in Bialla is how can a theoretical approach effectively enable me to represent the extensive local relationships and concerns expressed in village court proceedings, while simultaneously acknowledging the parameters that both a wide variety of actors and authorities (even in the form of an absent state) place upon discussions held there. In order to allow for my research to accurately reflect what I saw take place in the dispute forums in Bialla, the first step I take towards a practical theoretical framework to use in my discussion requires the removal of state law from its privileged position in research concerning dispute forums in PNG.

To explain the relevance of legal-decentralism in the context of PNG, I begin this section with a brief description of how state law has been used as a reference point in some recent anthropological research on dispute forums there. This will lead me to identify two dualisms that are taken for granted through the focus on state law in these studies, and how this outcome may not always be helpful when it comes to describing what dispute forums can do. The two dualisms that often arise in discussions of the court system in PNG, are law/custom, and official/unofficial. It is therefore these concepts that I will be identifying and questioning in my effort to suggest that legal-centralism is not always a suitable approach to disputes, even if they are taken to what would traditionally be regarded as a legal institution.

As I have already discussed, the image one gets of the village courts in legislation such as the Village Courts Act (1973) can be thought of as an ideal image, captured by lawmakers in the form of documents that are still referred to today. As such, the bar against which the “success” of the village courts is measured is often based upon the courts' fulfilment of certain legal criteria, and their ability to uphold the law where they are based. The legal description of what each court in PNG is able to do also allows for direct comparisons to be made between the courts. This allows researchers to consider how different venues in the court hierarchy may deal with similar disputes. Cyndi Banks, for

example, considers how PNG's probation service may provide a more lenient process for women who have a dispute to deal with.³⁵ Probation, Banks explains, is a sentence that “can be given by all courts *except* village court[s], for all offences except when a mandatory minimum sentence is provided for by any law” [emphasis added] (1998: 29). She goes on to describe how this system “attempts to join aspects of the traditional system of social control with the imported court system” (1998: 37), and how probation officers work to help women, who would otherwise not know how to engage in the legal process, to explain their dispute to the relevant authorities.

In this instance, the clear boxed identification of venues allows Banks to make a comparison that reveals certain things about how women engage with justice in PNG. However, in terms of my interest in what dispute forums do within the specific context of my fieldsite, this approach proves more problematic. As I began to explain in my description of the boxed court hierarchy in my introduction, by placing the village courts within this ranking of official legal venues, many other dispute venues are excluded from view. The village court is seen to work in reference to other courts and the law, rather than alongside and in reference to a variety of other local forums. In this way the extent of what the village courts can do, and how they go about doing it, goes unrecognised. Where Banks' approach stems from is an understanding that law and legal structures are situated at the heart of official courts. That means that all other concerns and actions that emerge in dispute forums are interpreted in comparison, connection, or conflict with that central premise. As all roads lead to Rome, all dispute forums lead to law.

I do not want to suggest that there is never cause to identify a division between the dispute forums that are created through government initiatives and those that are not. Nor have I found legislation to have no place in the dispute forums in Bialla. Research has been produced that identifies some occasions when the distinction between official and unofficial venues has been significant. This distinction provided a means to investigate how rules that are usually upheld can be bent or challenged in unofficial venues. Counts and Counts (1994) have found this differentiation especially useful in their discussion of how women can be seen to “win” disputes. Likewise, in Westermarck's work his subjects themselves identified and sustained a divide between the village court and other dispute forums. This was done in

35 The probation service she refers to is not something I came across, or even heard mention of in my own field work, so I will hold back from any discussion of whether or not her findings were accurate.

order to identify the type of dispute being discussed. For example, disputes were sometimes categorised as “big trouble” (1985: 112) or “little trouble” (ibid: 108). The identification of official venues was also a means by which people were able to describe their dissatisfaction with the government's justice system as an entity (1996). Westermark’s work in particular demonstrates the potential detriment of ignoring the social significance that the idea of state law brings to the treatment of disputes. However, in my fieldsite to have assumed government law was the *most* significant feature of dispute resolution practices would have been equally detrimental. This is due to the fact that a state or legal-centric approach to disputes cannot take into consideration those occasions when neither magistrates nor disputants are handling a case in terms of any legal definition or standards. Rather than the law being presented as somehow synonymous with the village court, instead I present law as just one of multiple categories of action through which, and against which, dispute forums gain their material and affective capacity.

In order to explain how a multitude of social factors make significant contributions to the dispute forums that I witnessed during my fieldwork, I need to briefly introduce how custom features in so much of the work produced discussing PNG's village courts. Custom is a popular subject of discussion in much of the research on dispute forums that has taken place in PNG (Goddard 1996; Banks 1998; Jessep 1992a; Zorn 1990; 1995). Turning to Banks again as just one example, her work goes some way to suggesting why this focus on custom in the courts is being discussed with such enthusiasm. Banks’ work (1998) exemplifies how law and custom (in the form of customary law) can be interpreted as being at odds with one another in dispute forums. This is demonstrated through her consideration of how women are able to access justice in PNG. She explains that the custom applied (most often by male magistrates) to cases in the village courts can be bent to suit male interests. As a result, Banks concludes that women are receiving harsher treatment than in the higher courts, where the pliability of custom and the interests of men cannot be upheld due to a more “Western” legal remit. Banks' work demonstrates how custom can become such a crucial element of discussions regarding law in PNG. She provides just one example of how the law is shaping our perception of village courts in PNG, with particular reference to what this does to create a fixed idea of custom that the law can interact with.

Although Banks' findings are of great interest, there is an argument to be had that her approach, and that seen in many discussions surrounding disputes in PNG, could be

expanded upon by removing law as the means to describe the impact of custom in disputes. In order to explain this idea, I now turn to the work of Melissa Demian (2015a), as she discusses the problematic use of custom as a category analogous to law. In her work, Demian describes how the privilege that is given in legislation to the relationship between law and custom in PNG is problematic. She describes the limitations that can result from this relationship – a relationship that does not accurately reflect how Papua New Guineans perceive *kastom* to shift within the local political landscape. My discussion of Biialla's dispute forums will not directly speak to the matter of what custom is. However, I do want to consider what references to categories such as custom may mean for our interpretations of law and the uses of venues like the village court. What articles such as Demian's encourage me to ask is, when seeking to understand disputes and the venues in which they are overseen at a local level, is it correct to keep law as a fixed point of comparison to which other dispute mediating practices are analogous or conflicting against? Is law even comparable?

Like myself, Demian too recognises that custom has emerged as a key area of discussion in term of PNG law. She argues that this is in part due to its constitutional status in the form of customary law and, even more so, in light of the Underlying Law Act (2000) which encourages an increase in use of customary law in the courts. This act was introduced in an effort to develop a functional “underlying law” that could eventually come to replace the common law – a strong remainder from PNG's colonial past. For Demian, this use of custom makes it distinguishable from the *kastom* that she recognises is actually what Papua New Guineans are often using as a measure of “the correct or appropriate way of being” (Rousseau 2008:16 cited Demian 2015a: 94).

Custom is seen by state legislators as “a set of prescriptions or rules seen as organizing the social and political lives of Papua New Guineans” (Demian 2015a: 95). The problem with this definition of custom, as Demian identifies, is that it is rendered “placeless” as it exists removed from the context of any set place where it can be seen to stem from. The result of which is that in the eyes of both lawmakers and researchers, despite custom being seen to “belong” to individual societies, the diversity that exists in PNG is rendered comparable and understandable through the use of this blanket term (2015a: 92). Despite the differences the term tries to encapsulate, the very use of the term is universalising as custom is everywhere. *Kastom* on the other hand, is entirely reliant on the specifics of the place in which it is literally rooted, and lacking in any analogous existence to that of law.

Custom is a term that is able to encapsulate difference within itself. It allows for local divisions within the category that create “concomitant subdivisions of custom”, the identification of which, Demian explains, has encouraged a legal pluralism approach to law and customary law in PNG. However useful at a state or international level, when it comes to a discussion of *kastom* at a local level a legal emphasis on custom as distinct from common law “can have the peculiar effect of erasing all other categories against which Papua New Guineans might wish to distinguish *kastom*” (2015a: 93). That means that instances where *kastom* should be regarded in a dynamic relationship with another category (Demian uses the example of money) are not represented as such in legal settings. This is because the significance of categories against which *kastom* may be distinguished is omitted from the constitution and statutes, such as the Underlying Law Act 2000, “in order to make the relationship between custom and law one whose weight ‘ought’ to be felt at all levels of lived experience in Papua New Guinea” (2015a: 93). In the scenario that Demian describes, we see how an approach that is reliant on law or custom (in its form as a legal effort to incorporate local relationships and action into legislative settings) is limiting to any actual understanding of local experience or understanding of *kastom*. Any differences that are inherent in *kastom* vanish in an attempt to represent it as a partner to law. The result of which is custom becomes a one term fits all category, almost entirely dependent on its identification based upon “what it is not” (Scheele 2008: 895; Wilson 2015).

Returning to my own research, this “flattening” of *kastom* that takes place in Demian's example is likewise seen in the village courts. Rather than focus on the place of custom in the village courts, I submit that it is the courts and dispute forums themselves that are often too easily considered as analogous to law. By positioning law at the heart of what the village courts are supposed to do – and be – there are many other categories of action that vanish. Categories such as *kastom*, the market economy, and religion each play a part as factors positioned alongside law, not complementary or opposed to it. Each emerges “not from state legal discourse but from shifts in the local political landscape...the category or categories against which [in Demian's example] *kastom* is differentiated may have nothing whatsoever to do with law, but with a different order of experience entirely” (Demian 2015a: 93).

Recognising that law is by no means the only defining factor influencing how people understand and choose to deal with their disputes is incredibly important. An approach that

distances itself from the assumption that law defines court practice invites investigation into the existence of other court-making actors and categories of action that influence how disputes are addressed within multiple dispute venues. In Bialla, this approach allows me to identify the flow of disputes and networks of actors that pass between different dispute forums and the village court. The connections I wish to highlight between dispute forums are therefore not bound by the use – or lack of use – of the law. Instead, emphasis is placed upon the connections and divisions that emerge between forums through actions and actors, all of which can find their relevance through any number of social categories deemed relevant by disputants.

As I will be elaborating on over the course of this thesis, there are many factors that can be seen to influence disputes and the use of different dispute forums. I will be describing the importance of specific forms of social interaction in shaping certain relationships, and the increasing influence of the economic environment and new employment opportunities that Bialla's development has afforded. Whatever the content of the dispute, I do not believe what we see in Bialla is multiple coexisting ideas of law in the legal pluralism sense. That is not to say legal pluralism lacks a place within PNG at large, but merely that within the local context, even when talking about dispute forums, to assert that law is the concept through which disputes are played out or should be compared would have a “flattening” result.³⁶ Much like Demian found with law's privileged relationship with custom over other categories of action, to give law (however many versions of it) a privileged relationship with dispute forums removes the important influence that a multitude of social actors and categories may have. We should not take for granted that what courts do is law, instead law is just one factor that *might* inform what courts do.

36 Caplan argues this a little more strongly when she suggests that legal pluralism is a “sterile concept”, without which we are able to see legal systems as “indeterminate orders” that in turn allow us to “dissolve the apparent discrepancy between rules and behaviour” (1995: 220; see also Moore 1978; Comaroff and Roberts 1981: 243).

With the law no longer occupying an assumed position of significance in dispute forums, it is with a “purposeful naiveté” that I now aim to consider the things I encountered during my fieldwork. My approach is partially reliant on an investigation of things as they present themselves, rather than working from an assumption that they must “signify, represent or stand for something else” (Henare et. al. 2007: 2). As a result of this, dispute forums in Biialla emerge through the coming together of a number of things that each engage in different relationships and employ a variety of means in order to oversee disputes. As dispute resolutions are then shaped and enabled (or prevented) by the interaction between these things, by highlighting their position within my research it allows me to identify how dispute forums gain the capacity to *do*.

Before elaborating on specific disputes in Biialla, I want to clarify my use of a concept that provides the second feature of the theoretical synthesis I make use of throughout this thesis. Having already suggested my interest in things in the opening paragraph of this section, I hope that absence of context for my usage may have already illustrated the frustration that can come with a lack of clarity. Employing the method of Henare, Holbraad and Wastell in their book *Thinking Through Things: Theorising Artefacts Ethnographically* (2007), what can be gained by talking about things is a removal of assumed divides that so often appear in anthropology between culture and nature, sociality and materiality, and, most relevant in my fieldwork, between objects and people. This attempt to remove certain fixed dualisms is by no means an exclusive feature of Henare, Holbraad and Wastell's work, especially in Melanesia where Strathern has been encouraging a removal of orienting dichotomies for years in order to allow for the privileging of her favoured “analytic limit”: Relations (Strathern 1995; Reed 2003:11).

My own motivation for the removal of certain dichotomies in my research comes from a resistance to the traditional categorisation of objects, which was summarised by Harman when he wrote:

...objects tend to vanish from conscious awareness and to perform their functions invisibly. Objects are tools, not in the sense that all objects are “useful” for something but in the sense that all objects tend to vanish from view in favor of some larger context or ulterior purpose by which they are dominated.

- 2005: 268

Harman's assertion that objects vanish within larger contexts is relevant within the village court context. The courts are often either seen as fixed wholes, or the products of singularly human efforts (be it through action or legislation they have written and employed there) rather than a sum of many, perhaps nonhuman, active parts.

The inclusive capacity of things, on the other hand, allows the anthropologist to be led by their fieldsite without relying on a division between objects and persons, that may in fact not be applicable, as a means of interpreting their findings. Likewise, things allow what may have previously be deemed as objects to un-vanish. Turning away from Harman, the reason that I find the approach of Henare, Holbraad, and Wastell (2007) so immediately applicable to my research, rather than some of the influential and relevant materialist, relational or artefact-oriented theories available (for example Foster 2002; Strathern 1988; Bennett 2010), is the emphasis they place not just upon things, but upon things-as-heuristic.³⁷ This concept is seen as a shift away from things-as-analytic, in which things are approached as a means through which to explore or exemplify theory. A heuristic approach allows things to reveal certain “field[s] of phenomena”, only after which do these fields engender theory. What this means is that things make up a field from which a more “classificatory repertoire,” which aims to expand on a subject, can emerge. As Henare, Holbraad, and Wastell argue “[a]nalytics parse, heuristics merely locate” (2007: 5).

What I personally gain from this approach is the ability to allow dispute forums to emerge and connect to one another through the relationships and actions shared and fulfilled by a variety of things in Biialla. Things that may previously have found themselves in

37 See also Latour (1993), in which he describes the benefit of a heuristic approach to things in that we gain the ability to recognise hybrids and quasi-objects, that would otherwise be obscured in a modernist approach revolving around the purification (or separation) of object and subject.

different analytical categories such as court documents, *buai*, and a disputant,³⁸ can now all be identified and regarded through their own (and on occasion, shared) efforts and acts revealing a shared space, or dispute. Throughout this thesis, it is those things that have revealed themselves to be significant to the doings of a dispute forum that I discuss, rather than any parameters of the forums that may come from a legal-centric, or even dispute or human-focussed approach that come with their own “theoretical baggage” (Henare et al. 2007: 5).

What this approach suffers from is a demand for patience on the part of the researcher and the reader of their findings. The fact is that things (when seen in this way) cannot be readily defined up front, as their very usefulness is reliant on the idea that many things that would historically be constrained within one half of a dualism (such as object versus person), are liberated from categorical constraints and interpretations. Things that are important to a dispute forum, for instance, may only appear so after lengthy periods of fieldwork. They might rely on a single occasion in which events do not go as planned in order for their role to be revealed. It is for this reason that unfinished dispute mediations and unmet expectations are such a prominent feature of the chapters that follow.

At its simplest, what this liberation allows for, as I will demonstrate fully in chapter four, is a recognition of things as the orchestrators of relationships, action, and influence. This liberation occurs in situations where things would otherwise be interpreted as artefacts representing something other than themselves (for example a flag representing the idea of a state that is located elsewhere), or as a person that is fulfilling the role of a magistrate (the person and their job distinguishable from one another, and as such one able to apply law and the other not so). I do not object to the existence of all dualisms wherever they may be discussed. In certain circumstances dualisms not only exist, but they can play a significant role in how things differentiate from one another and act as a result of that. It is for this reason that my research broaches this discussion only in regards to the dualisms of official/unofficial (as I have already discussed) and objects/persons (or human/nonhuman) in PNG. By focusing my consideration in this way, my discussion has also been able to consider elements of Actor-Network-Theory (hereafter ANT), and what this theory may mean when used to describe the events that took place during my fieldwork. Despite differing from an

38 The court document is seen as a container of more abstract meaning involved with law and court procedure, the *buai* as a consumable object, and the disputant as a person.

approach that sees things-as-heuristic, ANT provides me with the theoretical means to dismantle the juxtaposition often upheld between objects and people. As I have already suggested, this is of particular relevance in Biialla as it allows for previously unseen connections between forums to be revealed. That is not to say there are no divisions realised between actors at all. As Law explains, “[it] is rather that such divisions or distinctions are understood as *effects or outcomes*. They are not given in the order of things” (1999: 3).

I will be describing networks and my use of ANT at greater length in chapter four, but for the time being, let us consider the question of how a thing and actor based approach to disputes can take place. In my approach the term actor is used to signify those things that demonstrate more significance to the doings of dispute forums. It is therefore how I go about identifying those things of greater or lesser significance to my area of study. The process by which we are able to identify the acts of things, is neatly demonstrated in Adam Reed's work that he conducted in Bomana, a male prison in Port Moresby. In his essay '*Smuk is King*': *The action of cigarettes in a Papua New Guinea prison*, Reed exemplifies how things can be construed as “irreducible components of thought” (2007: 34). This approach leads Reed to discuss cigarettes (*smuk*) as something more than an artefact that can be associated with incarceration or have the meaning of incarceration attributed to it. In other words, cigarettes in Bomana are not merely objects with a meaning projected upon them by inmates. Instead, he demonstrates how incarceration may be the artefact produced by smoking – the action of cigarettes. The way that Reed is able to build his argument is first by recognising the prisoners' own identification of cigarettes as active upon their lives. *Smuk* shortens time (not metaphorically) and removes anxiety by altering inmates' minds, memories, and as such, distances them from their lives beyond the prison. Inmates go on to act, think, and feel differently due to the act of *smuk* upon them. Very soon *smuk* positions itself as the “dominant actor in prison” (2007: 36), truly impacting upon sociality and the constitution of the prison. Rather than merely a thing that is engaged with by inmates in order to pass the time, cigarettes create both the possibility of new relationships, and the substance of those alliances. A flow of things that is central to social reproduction in Bomana (Reed 2007: 40).

Reed's observations in Bomana provide a means of understanding part of what I saw take place in Biialla's village court. There, things were subject to the actions of other things around them. Some things proved to be more influential than others in court proceedings, but when it came to the construction of the court a number of things emerged as equally

influential actors. This was especially apparent when looking at court summonses, which I will describe in greater length in the chapters that follow, but for the time being can be loosely summarised as active in defining the things involved in a case. The summonses led to things (for example a disputant, or a piece of evidence) appearing in the court, transforming them into relevant parties to court proceedings.

Much like the course that my own research takes, Reed's identification of cigarettes as significant actors in Bomana is aided as much by what takes place in their absence as it is from their presence. Upon the removal of cigarettes from the prison the prisoners were altered. They became lethargic and less sociable than they would otherwise have been, and they kept to their beds for large parts of the day. Time lengthened and anxieties about obligations beyond the prison returned (2007: 36). The anti-social behaviour of the inmates only changed when a new circulation of tobacco returned to the prison. Through recognition of these changes, Reed distinguishes cigarettes from other types of object that were in circulation in the prison. He describes the ability that *smuk* has to so substantially alter the experience of incarceration, and how it actually “necessitates the devaluation of other things” (2007: 42). This was most apparent as inmates stopped acting with national currency in mind or thinking through it at all. It is as a result of this discovery that Reed suggests the need for artefact-based anthropology to recognise the consequence that one material substance (in his example, *smuk*), emitting its own meaning, may have upon the use and significance of other things.

The impact created by the absence of certain things has provided me with the means to identify the doings of a village court and the things most relevant to this. However, unlike Reed saw in Bomana, the transformation that takes place in the village court upon the removal of certain actors has led me to identify the creation of a whole new dispute forum. A forum connected to, and yet significantly distinct from, the village court. It is for this reason that my interest in these events are described in terms of what the absence of an actor may do – what I refer to as genitive absence.

In my research, things are not used to make dispute forums. Instead, numerous things emerge themselves as the makers. The result of this is not only seen in the humans acted upon (like in Reed's example where the thoughts, experiences, and relationships of humans are seen to be the product of the act of *smuk*), but also between nonhumans, allowing me to identify a network of active things that extend well beyond a single case, courtroom, or

disputant. In my work, the things I identify as crucial to the workings of certain dispute forums and their connection to one another can be generalised as those things that have emerged as the most active. Again, I am able to turn to Reed (2007) in order to elaborate on how one thing may be identified as more active than another. In his consideration of the role of *smuk*, Reed describes how cigarettes have come to hold a higher value than national currency within Bomana – a significant shift from the usual order of value seen outside the prison walls. What enables this shift is the difference in substance between the two. Both can be seen to flow as things between groups and individuals as a form of value, at times accumulated and dispersed in order to create, sustain, or withhold relationships. This is seen in the prison through the fact that certain prisoners would not take cigarettes from anyone belonging to a gang other than their own. What differs in prison is the very substance of *smuk* as a consumable (2007: 40). *Kina* and *toea*, Reed identifies, are reliant on ongoing exchange in order to accrue value. *Smuk*, on the other hand, cannot be distinguished from its eventual consumption, as it is the mind and time altering effects of the cigarettes that give them their value, and must be guaranteed. A value stemming therefore from the vital substance itself as consumable, not from the flow of exchange.

By highlighting the distinction that can be made between cigarettes and national currency, Reed provides an example of how some things emerge as more significant to thought and practice than others in every situation we encounter (in this case a prison, in my case a dispute forum network) through their activeness and the very substance of which they are constituted. As a result of this, in the course of my research I have come to identify these significant and active things specifically as court-making actors.

Emplacement: Dispute Forums and why Place Matters

Having considered all of the works discussed in this chapter, the question I am left with is this: how can one identify and write about these actors, and the networks they constitute, without boxing them, while simultaneously avoiding getting lost in an endless chain of “networks within networks” (Strathern 1996: 523)? Where does an actor-network stop?

The way in which I manage to avoid over-extending my discussion of the actor-networks in Bialla has already been suggested by my stated interest in dispute forums. Rather than looking at actor-networks in Bialla, or PNG at large – a discussion that could lead in more directions than any single text could comprehend – my research approaches actor-networks and disputes as mutually explicating categories. Before venturing ahead into my discussion of what it is that this approach reveals, this section elaborates on what this approach means for my work, and how it can be utilised without boxing dispute venues within certain preconceptions of materiality, or law.

My approach to Bialla's dispute forum network is predominantly influenced by Latour's Actor-Network-Theory (ANT). In his description of Pasteur's development of the anthrax vaccine, Latour makes use of networks as a means to question what constitutes a scientific laboratory. Similarly, my work identifies actor-networks in an attempt to identify what a dispute forum is, does, and the actors and events it depends upon to do so (1983: 143). However, it is worth noting a key inconsistency in my approach from that which Latour applies. Where I diverge from this approach is in my agreement with a point Strathern has made in a consideration of Latour's work. Strathern argues that the analytical possibilities of Latour's approach to networks means that theoretically they can extend “without limit” (Strathern 1996: 522). Networks therefore can give way to more networks within them and to which they connect, leading researchers along useful paths in some cases, but making meaningful analysis a difficult thing to grasp. It is for this reason that Strathern promotes “cutting the network” in order to allow for more productive consideration of certain aspects of what networks can produce and ultimately impact upon. Analysis, she explains, “must be enacted as a stopping place” (1996: 523). That analytical stopping place, in my work, comes handily in the form of actual places.

In anthropology and cultural geography, studies of space and place have demonstrated how the subject can benefit from ethnography's ability to provide detailed accounts of the experience of place. Rather than merely providing the setting for fieldwork, place has increasingly grown in popularity as an anthropological artefact in its own right. Researchers have found ways to discuss the specifics of place alongside more macro-processes of globalisation and projects of governance and development (Low and Lawrence-Zúñiga 2003; Giesiking et al. 2014). This has been particularly striking in the works concerning cities (Duneier 1999; Herzfeld 2009; Werbner 2002), and has also contributed keenly to

discussions of gender (Moore 1986; Rieker and Kamran 2008). Law has also arguably undergone a “spatial-turn” (Philippopoulos-Mihalopoulos 2011: 193). As an approach that presents the challenge of thinking through the repercussions that a connection between law and space presents, had I taken a more legal-centric approach my work in the courts would have been a natural fit to contribute to this discussion.

As it stands, my work makes use of a more phenomenological approach than some of those mentioned above. I concern myself less with the presence of legal influence, for example, and more with how dispute forums are identified and used as places by those actors engaged with them. They are places capable of reflecting certain “sets of relations” (Reed 2004: 4), be that between a variety of networked court-making actors, or between the disputants using the venues themselves. Gaining the capacity to identify these relations is crucial to my research as they are broadly responsible not only for the existence of the range of dispute forums I will be discussing, but for the disputes discussed within them as well. It is for this reason that much of my work revolves around how dispute forums are conceptualised and physically realised.

In their emergence as sites in which disputes are discussed and reframed, places, as an experience of dispute mediations, have allowed me to analyse actors with a mind to revealing their roles in regards to disputes. The court-making actors that emergence in/as place provide a focal point through which social arrangements (and rearrangements) can be identified and discussed.³⁹ Without this kind of limitation, a discussion of actors and networks such as mine could easily continue to follow actors along pathways ad infinitum. An interesting premise, but one with some practical pitfalls. In order better explain my approach the rest of this section will be dedicated to a more detailed description of how place can be identified as the product of actor-networks, and how theories of emplacement have helped shape my analysis of that.

In his work, Reed's ability to discuss incarceration is aided by looking specifically at the influence of one thing (*smuk*) within a single place – Bomana prison (Reed 2007; see also 2003). Outside of this context, as Reed himself points out, cigarettes have nothing like the impact they do upon the incarcerated. As a result, not only do the cigarettes contribute to the

39 By social arrangements, here I refer to how people relate to one another and how these relationships manifest themselves. A simplified example of a social arrangement is marriage, made manifest through events such as weddings. A social rearrangement may come in the form of a court session that initiates a divorce.

venue, but they are somewhat reliant upon it to hold the active position that they do. Consideration of the place in which these things act (or which things act as) provides a useful context that allows us to see said things at work. As Marc Augé has observed, “place – anthropological place – is a principle of meaning for the people who live in it, and also a principle of intelligibility for the person who observes it” (1995: 52). It is for that reason, that this aspect of my theoretical groundwork turns to a brief consideration of what might constitute place when it comes to dealing with disputes in Bialla. By looking at the paths of significant actors and applying theories of emplacement I am able to identify the relevance of place in forming Bialla's dispute forum network. In later chapters, this practice will allow me to develop this line of enquiry further by illustrating what the flow of actors between/as places allows the network to do.

Over the course of this thesis, my research will reveal that the village courts, and other dispute forums in Bialla, are flexible. My identification of significant actors must, therefore, be provided by a context (e.g. incarceration or disputes) that goes beyond an assumed venue (e.g. prison or court). Instead of relying on the emergence of actors *in* places, my research is built around actors that emerge *as* places in response to disputes: flexible and heuristic. As my description of Strathern's “cutting” approach suggests, my discussion on the paths of actors has been informed, and cut, by my interest in disputes. It is here that the importance of the need to identify significant actors that I outlined in the previous section can be seen. This is because place, in my research, is identifiable through the interactions and relationships that play out between a variety of networked actors. It is therefore only through a discussion of multiple actors that I am afforded the ability to identify dispute forums as places at all and, as a result, reveal the wider network that they are part of. My justification of the significance of some actors over others in this approach is therefore paramount.

There is nothing static about place. This is based on the understanding that actors are in no way bound by place, but are instead “place-binding” (Tilley 2004; Ingold 2009: 33). The way that Ingold summarises this approach in his own work is by identifying humans as “wayfarers” moving along paths of their own making, laying trails, and knotting together at points where several wayfarers meet – the result of which is place. These knots (places) form as the product of the entwining threads of wayfarers that, upon entwining, become bound up in the lives of one another. Ingold uses the example of a house to explain how it forms as “a place where the lines of its residents are tightly knotted together” (2009: 33). Yet despite

place emerging in this way, Ingold is quick to clarify that these wayfaring lines are not contained solely within the house (or any place) in which they are knotted. Instead, “they trail beyond it”, making them capable of appearing as lines in other places, as threads may in other knots (2009: 33). Ingold's preoccupation in this instance is with human existence as the most vital part of place-binding (or “making” which is the word that will appear more commonly throughout my work). However, his conception of place-forming paths and the entwining of actors at different points can be expanded to include a variety of nonhuman actors.⁴⁰ His approach therefore remains a useful reference point to introduce how I have come to identify the forums I discuss during this thesis. Not only that, but Ingold's description of place-binding wayfarers contributes to my understanding of just how places themselves can network through the paths of actors that appear as part of them.

At its heart, what the synthesis of the theoretical ideas described in this chapter thus far allows me to do is locate disputes, or emplace them (Street 2014: 196), in a flowing network of dispute forums. The reason emplacement is such a pertinent theory to draw upon is because it allows me to consider how the significant actors I will identify, and the “ethical criteria and judgements” (Lambek 2010b: 42) that inform the content of disputes, relate to the places in which they emerge (or which they emerge as). As Alice Street (2014) has identified, emplacement is a way of describing how science relates to the place in which it is done. She elaborates upon this idea specifically in relation to the presence of biomedicine in a Papua New Guinean hospital. Co-opting her use of the term, and drawing in Ingold's identification of wayfarer paths, what my research does is look at how disputes relate to the place(s) in which they are addressed, while crucially still allowing for these forums to remain entirely flexible.

Flexibility is an important term that helps describe the treatment of disputes in Bialla. This is because, beyond just acknowledging that actors and places are not static, the term “flexibility” allows me to describe how disputes in Bialla emerge in dispute forums tangibly as venues and disputants. It is through these tangible iterations of disputes that the need for flexibility can then be identified. Disputes are reliant on certain aspects of forums bending and reframing the disputes and themselves in order to allow for social rearrangements. Flexibility explains the court's capacity to adapt in the way that it often did in Bialla. It not

40 Only in this instance does Ingold display this human-oriented focus. Numerous of his other works highlight the vitality of materials as substances that flow. Therefore, I do not feel like I am corrupting his argument too much by bringing in the influence of nonhuman actors. See Ingold 2000; 2011; 2013.

only indicates the ability of magistrates to reframe cases as they saw necessary, but it encompasses the ability of forums to bend and to initiate the use of another venue in order to cater to the needs of the dispute at hand. Dispute forums in Biialla are not merely in motion, but are able to flex in reference to one another, displaying the network they are all part of. In this way, places allow a network to be “pinned down”, allowing them to be observed and traced, by those of us so inclined, as a result (Ingold 2009: 37).

Returning briefly now to Demian's argument regarding the difference between *kastom* and custom as one “grounded” and one “placeless” concept, I would contend that dispute forums are similarly “grounded” in (and *as*) the places they occur (2015a: 95). This understanding affords them not only their incredible diversity and capacity to rearrange (or effect change) within the local community, but also reveals why any attempt to define them within legislative guidelines may conceal a comprehensive discussion about what they can do. Having identified a need to locate these disputes without boxing them, a consideration of emplacement theory, in combination with Ingold's wayfaring paths (which I will be discussing more in terms of network in chapters four and five), are the theories that have enabled me to do so.

Conclusion

The emplacement of disputes that I have just described is only made possible through the recognition of significant court-making actors (or wayfarers). This significance is partly demonstrated when one considers how actors interact, the venues they make, and how disputes are overseen there as a result. These significant actors will come to play a central role in the dissemination of my findings in the chapters that follow. As a result, it is important to acknowledge how the insights they provide are only afforded through the removal of legislation from any assumed position at the heart of a dispute hearing. As a final simplification of what this whole chapter has been working towards, it is through a process of legal-decentralism that I am provided with the means to better identify and interpret significant actors and their roles in disputes. The interaction between these significant actors

is what allows me to identify dispute forums as places. It is these places, and the actors that flow between them, that constitute the dispute forum network and thus provide me with the heart of my argument: that through flexibility and networks dispute forums gain their capacity to facilitate social rearrangement. It is through this approach that I am then able to discuss what social rearrangements might look like in Bialla, and what the impact of that might be upon the residents living there.

The three theoretical approaches I have described above are somewhat reliant on one another in order to enable a discussion of my research. My entire approach is made possible by the consideration and synthesis of the theoretical concepts discussed above. Concepts that have helped to define an approach to disputes that removes legislation as the key standard against which forums are measured, and identify actors that come together as both flexible forums and networks. United these theories arm me with the tools with which I am able to identify flexible dispute forums, and discern what it is that they do.

Chapter Three

One Size Fits One: *Lain*, Businesses, Institutions, and the Need for Numerous Dispute Forums

*In scenes of encounter and the events that support them, participants **interactively** define themselves and each other...The relevant locus of agency – living individual, disembodied ancestor, household, faction, clan, interclan alliance – is subject to ongoing construction and transformation. It is liable to shift, subject to the strategies and miscues of the interaction, reflecting a more general set of possibilities, as individuals can be split “into a variety of presences” (Hill and Irvine 1992:7; see also Strathern 1988) or assembled into a collective subject (Merlan and Rumsey 1991).*

- Keane (1997: 7) [original emphasis]

Stay together, stand together, walk together, talk together.

- Committee leader speaking at Ewasse's Committee Meeting
Fieldnotes 27 May 2014

Introduction

To understand the village court and the many other dispute forums available in Bialla, it is important to first gain some understanding of disputes in the region at large. How they arise, who is involved, and how they develop over time, are all matters that eventually feed into how the village court and other forums are formed. Therefore, before examining the specifics surrounding the makings and doings of the village court (chapter four onwards), and its contribution to Bialla's network of dispute forums, this chapter works to establish the kinds of

Houghton (2017): Courting Disputes

disputes that arise in Bialla. I also establish why the range of *lain* and disputants involved mean that numerous kinds of dispute forum are required.

Sharing stories with other residents in Ewasse made me aware that there were a great many disputes that had continued to resonate in the village, despite sometimes years having passed since they had been overseen in a dispute forum.⁴¹ Conflicts between particular *lain* were described to me as “unfinished” (“*i no pinis yet*”), and were described as having appeared under the guise of numerous different disputes and in a range of forums over the years. For example, assault or theft cases, as my later chapters will demonstrate, can have more to do with an unpaid bride-price between two *lain* from many years before, than it does with the criminal act discussed in the dispute hearing. That is not to undermine the value of these forums in their handling of disputes, but rather to suggest that these efforts are more often made towards conflict management, rather than resolution (Black 1991; Hassell 2005). In this chapter I begin to describe how these forums are contributing to the discussion and renegotiation of relationships between groups, encouraging us to shift our expectations of what these dispute forums set out to achieve, before their contribution to peace-keeping in Bialla can be realised.

I would like to make the point here that these stories were not shared with me in response to my research, or any questions that I had asked regarding disputes in the village. More often than not, direct questions of this kind were not the way to get answers. Instead, these stories would arise from longer conversations regarding the route of a walk I had taken, a discussion about local schools, or in reaction to a larger community event that was taking place. Indeed, during the course of my stay in Ewasse, it soon became clear to me that inter-*lain* relationships and disputes were deeply embedded in everything, and as a result almost any conversation about land or marriage would lead to a story of the kind this chapter will be examining. The recollection of certain disputes of this kind by the residents in Ewasse demonstrates how the conflicts overseen in dispute forums are often symptoms or products of much larger and longer term concerns arising between parties. As such, some of the disputes that had already been overseen in forums in Ewasse were considered to have resolved only one part of a conflict taking place between two groups.

41 Counts and Counts have similarly described disputes that took place during their research in WNB in which as many as 12 years could pass and the full ramifications of a dispute could still not yet be realised (1991: 107).

This chapter will show how the village court is just one of many forums regularly mobilised for resolving disputes. Although following chapters focus on the inner workings of the village court, it should be made clear that this process is contiguous with these other forums. By introducing these forums, I am able to establish the significance of *lain*, “reputation” and the longevity of disputes. That is not to say that disputes are always reflections of long standing inter-*lain* relationships, and many disputes I saw during my fieldwork did appear to be relatively isolated events (as much as anything can be isolated when it comes to relationship and a dispute network in PNG). However, it through these stories of ongoing disputes that I came to recognise how, by allowing fragments of the same disputes to flow between venues, the dispute forum network attempts to limit the potential damage of these conflicts in a way that no single dispute hearing could. One of the clearest ways in which these fragments were made identifiable to me and openly discussed in Ewasse, was in regards to the oil palm industry, and other local companies based in Bialla. Stories about disputes involving companies can all be seen to take place in dispute forums that are deemed appropriate to oversee them, but in their telling of these disputes the storytellers inevitably would link events back to a much longer dispute history between the village, and the company.

Some disputes had long histories that came to impact upon the way they were overseen in different forums. Therefore, many of the disputes I will be describing in this chapter require descriptions of how people related the origin of certain disputes. As a result, unlike the disputes I will be describing throughout the rest of this thesis, a number of the disputes in this chapter I did not witness first-hand, and as such I am only able to recall based upon the stories I was told during my stay in Ewasse.⁴² This means I was not present to witness the way in which the dispute forums physically came into being in these instances, at least in the networked sense that I will be exploring at length in the chapters that follow. The decision to examine disputes through the stories of my research participants in this chapter was consciously made. This is because these stories allow me to introduce a very specific aspect of what it is that makes the variety of Bialla's dispute forums so important to local residents. That is, that the disputes that emerge in/as forums are often only fragments or symptoms of larger, ongoing, group conflicts. This means that different forums can be used

42 For the sake of transparency, I will make clear in each dispute description whether or not I was present for the dispute hearing itself, or whether I was told of it at a later date.

to focus on different aspects of long running disputes, working in reference to larger issues without being required to address every facet of an entire long-running group conflict.

As a result of some of the more prominent long-running disputes that people were keen to discuss in Ewasse, this chapter has developed to pay special attention to the presence of certain companies in Bialla. In an area such as Bialla, with its recent increase in population, local businesses, palm oil production, and numerous churches and schools, there are a significant number of disputes in which relationships with these companies and institutions become apparent. Over the course of this chapter I will explain why companies and institutions play such an important part in disputes in Bialla, and through specific disputes illustrate why the village court in Bialla is currently unable to oversee disputes of this kind. What this discussion leads to is an acknowledgement of just how one dispute forum may be able to oversee disputes that another may not, as well as introducing some of the forums that make up part of the dispute forum network in Bialla, the workings of which will be developed over the course of chapters four and five. Taken in combination, this will allow me to explain not only what each of these dispute forums is able to do, but why.

By emerging as places in which certain relationships and interactions between actors are made visible, dispute forums can be used to identify any “relevant locus of agency” (Keane 1997:7), wider social contracts, and those interactions that maintain (or threaten) inter-*lain* relations. By thinking about dispute forums as the products of interactivity in this way I am able to explore the significance of the actors who come together within them, the groups they may represent, and how broader relationships are expressed.

In the case of this chapter, by highlighting the position of companies as they appear alongside other disputants within these forums, I am able to illustrate how the interaction between these parties are shifting the constitution of the places in which their disputes are overseen. This in turn helps to reveal how dispute forums in Bialla are adaptable in order to cater to the changing needs of the local populous. This is mainly seen in the fact that the disputes I highlight require compensation and *belkol* payments that exceed the remit of the village court, challenging other local dispute forums to find ways to engage with companies and institutions both as disputants, and as entire *lain* outside the parameters of this recognised forum.

One of the businesses discussed is HOPL, the company whose mill neighbours Ewasse. The reason for my focus on this company in particular is because it featured so heavily in disputes, either as setting, subject, or as a disputant itself. The prominence of this company in disputes that took place outside of the village court has led me to consider the potential impact that a growing oil palm industry may have had in Bialla as a whole. I submit that the ongoing changes brought about by the oil palm industry, and some other recent developments in the region have had a direct impact upon the content of disputes and helped shape the forums in which they are dealt with. With changes to jobs, the economy, population, land use and urban development in the area, by looking at the range of disputes arising in Bialla and the different ways in which they are overseen, I will begin to illustrate why there may be cause for a variety of flexible dispute forums to exist, setting up my later argument as to why these places should be seen alongside village court, not purely as “alternatives” (Westermarck 1996; Hassell 2005).

Much of my discussion of dispute forums in Bialla revolves around a certain premise: that is the notion of *lain* and the creation of self in relation to others and as part of groups, rather than solely as an individual.⁴³ As this premise sits at the heart of much of my work before venturing into this discussion any further, this chapter begins with a description of a dispute that exemplifies why this is an appropriate approach. In this instance a local oil palm company emerges as a key figure in dispute proceedings and allows for an examination of how disputants come to represent groups, rather than individuals, during dispute hearings. Following on from this, through a description of cases in which the people of Ewasse engaged in disputes with HOPL, I investigate exactly how companies can be seen to emerge in relationships and as disputants in Bialla, and how seemingly separate dispute mediations can be reflective of larger underlying conflict between two *lain*. Despite no single forum resolving these kinds of long term conflicts to their completion,⁴⁴ the dispute forums in Bialla are able to see to disputes in different ways, and as such are a necessary part of a larger collective of dispute forums at work in the area. Moving away from disputes linked to the oil

43 Many anthropologists have explored ideas of selfhood in terms of relations and how negotiations of the self cannot be understood removed from the social relations one is part of (Battaglia 1983; Overing 2000). My work mainly explores this concept through Strathern’s description of the *dividual* that I will be explaining in greater detail as this chapter continues.

44 By which I mean to suggest completion is a state of finality, in which disputes will not be raised again and do not impact upon future relations or conflicts between those who had been involved. For an interesting criticism of the expectation that dispute hearings should produce conclusions, resolution, and harmony see Colson (1995).

palm industry, the final section of this chapter explores this idea by describing a dispute that was overseen in the local high school at Biialla Town. The central role of this local institution, and the eventual involvement of other local businesses in the dispute mediation highlights features of these disputes that the village court would be unable to cater to, and how these other forums remain flexible in order to overcome any of the village court's operational constraints.

Martin, Natalie, and My First Dispute

Martin was in trouble. He looked anxious and tired as we sat on his balcony drinking wine one evening. Having only arrived in PNG two months ago Martin was the new kid on the block. He had taken a job with a large oil palm company – one of West New Britain's growing international industries –, moved into his company provided house, and already fallen into the neat routine of driving his 4WD into work each morning, and back at night. It was common for me to hear stories of expatriate workers feeling dissatisfied and bored by what Kimbe had to offer, and Martin was no exception. Having already started to feel a yearn for new friends and home comforts, Martin told me that he had taken himself out to Kimbe's only night club frequented by the oil palm expatriates, and Papua New Guineans alike: Lino's. Over the course of the evening he had made friends with a Papua New Guinean woman named Natalie, and she had accepted an invitation to join him for dinner one night later in the week. Once dinner was over Martin and Natalie ended up spending the night together, and following that had not spoken again.

Two weeks later Martin was made aware of a letter that had been sent to his boss. It was from Natalie's husband, Awute. In the letter Awute complained about Martin spending the night with his wife, and demanded compensation for the wrong that had been done. It mentioned how Natalie had left her children unattended while she was with Martin, and used

English terms such as “child abuse” and “adultery” with great regularity.⁴⁵ The letter demanded K16,000 (kina) to be paid by Martin's employer to make up for what had happened.

What this letter highlights is the involvement and placement of accountability⁴⁶ upon Martin's employer. Rather than approach Martin personally on this matter, the dispute was taken up with the oil palm company as a whole, as it was deemed accountable for the actions of those considered to be part of it. Put another way, the oil palm company in this instance becomes an active group that encompasses many people and relationships within it, and is adaptable to changes that come along with that, much like a clan, family, or *lain*. A company, at least on the surface, can also appear to function much like a *lain* or clan in the area might. Acceptance to the group may come with the benefit of land, housing, a certain livelihood or income, and in the matter of disputes, protection.

This may all appear to come down to a matter of interpretation, as it could be argued that companies all over the world have been providing workers with similar deals for many years. However, what makes this such a sticking point in my fieldwork context is not the fact that companies can be interpreted as doing this, but that they are being engaged with in the local community as if they *are* doing this (West 2006). In other words, they are being engaged with, (and as we shall see in later sections, choosing to engage with other groups) in the same way that other groups in PNG “interactively define” and engage with one another (Keane 1997: 7).

Although the complexities of this subject do invite lengthy exploration through wider theories surrounding reciprocity, reputation and exchange relationships, all of which have extensive grounding in the Melanesian context (Mauss 1925; Munn 1992; Strathern 1988), I will briefly highlight two aspects regarding why Martin's case requires the focus on group affiliations that I have suggested above. The first of which is drawn from Strathern as she points out that it is not individuals that we should even expect to see in many Melanesian

45 The idea that the man can be held accountable for a woman's behaviour when it comes to leaving her children to see him is not unheard of in other adultery disputes I have come across. Other researchers in WNB have even record this as something that was mentioned in disputes to indicate the work of a sorcerer in influencing a woman's irresponsible choices (Counts and Counts 1991: 105)

46 In this instance “accountability” is a word I am utilising to indicate the party, group, or actor, of which compensation, action, or response is demanded. Who are requests concerning disputes addressed to, and who is expected to act to respond to them. This will continue to be the meaning of this term throughout this thesis, unless otherwise indicated.

contexts, but “dividuals” (Strathern 1988). These dividuals form as “plural and composite sites of the relationships that produce them” and as a result the “singular person can be imagined as a social microcosm” (1988: 13). It is through an understanding of selves as fundamentally formed in relation to others that certain prominent relationships and influences can be identified in the form of groups or *lain*. But even in these cases group affiliations are then able shift in relevance depending on circumstances and the upkeep of the relationships that constitute them over time. In her work *Kinship, Law and the Unexpected* (2005; see also Strathern 1988), Strathern describes how Euro-American groups and sociality sees the coming together of multiple individuals, from multiple worlds (what she calls “multiplicity”) uniting and changing through their relations to one another. In the Melanesian context however, it is out of a shared “origin” or social world that specific relationships and individuals come to be defined. The united and the relational being is the starting point, not an outcome:

Persons exercise different kinds of authority depending on the relations that summon them, and they are made into different persons in the course of it. So contrasting types of multiplicity come into view. If we talk of multiple origins in relation to Euro-American works, then multiplicity comes from the way persons are added to one another's enterprises. If we talk of multiple origins in relation to their Melanesian counterparts, then multiplicity comes from the way people divide themselves from one another. Singularity (individuality) is an outcome not an origin.

- 2005: 161

With this in mind, the way that groups form and reform in regards to disputes, and often surpass any individual as the focus of attention or main actors within dispute meditations, seems fitting within the wider scheme of Melanesian sociality that Strathern explores in so much of her work. Certainly this approach was in keeping with my own experiences of life in Ewasse. Once I had been living in the village for a few months for example, I was told in no uncertain terms that “You are *meri* Ewasse now. If someone touches you, they touch the

whole village”.⁴⁷ This sentiment is echoed in the quote taken from my fieldnotes that opened this chapter. Recorded at a committee meeting that took place during my stay, this sentiment was expressed many times over the course of my fieldwork, and came to reflect the overall opinion of Ewasse residents that unity was synonymous with the village's peace and power. Which leads me to my second point, that institutions and companies can be identified as engaging in group dynamics in the same way as, for example, a clan would.

This is where I turn my attention to the work of Paige West. In her work *Conservation Is Our Government Now* (2006), West describes how the Gimi people, that reside in the Crater Mountain Wildlife Area of PNG's Eastern Highlands Province, have entered into a complex relationship with the Conservation-as-development project actors at work in the same area. How relationships of this kind develop and manifest themselves in action is something I want to discuss in greater detail in a following section, but for now I turn to West in order to illustrate how a group, such as the Gimi, may come to perceive their relationship with an institution. She explains how the Gimi see their cooperation and labour as being given to the conservation-as-development project as part of an exchange for “development”. As such, the Gimi come to see their participation as part of long-term social relationships that they form with both individuals *and* institutions. West uses the example of a woman who cooks dinner for some conservation biologists to explain how these long-term relationships with institutions can develop through interactions with individuals. In this scenario, the woman may take the meal that she has cooked, and the fact that the conservation biologists are staying on her husband's land, as evidence of entering into a social relationship with not only the individual biologist, but also with the institution they work for (2006: 47). West goes on to explain that as a result there is an expectation of reciprocation from the biologists for the hospitality they have received, and as such the woman mentioned in West's example fully expects to become engaged in a long term gift exchange, in which the institution will eventually provide “development”. As such, it is not the individual biologists who are considered individuals who must reciprocate for the hospitality they have received. Instead, this relationship has been forged with the institution as a whole, and as such reciprocation and future maintenance for said relationship is something for the institution to fulfil. Here we can see the beginnings of how groups like the Gimi, or indeed Awute's village, may feel connected in relationships with the institutions with whom they share

47 “*meri* Ewasse” means “a woman of/from Ewasse”.
Houghton (2017): *Courting Disputes*

resources/access/employment. From this premise it is then perhaps not such a leap to begin to see how misunderstandings on either side of these relationships, or failure to provide one side of a perceived exchange relationship (as West goes on to illustrate in the case of conservation as a form of wealth) may lead to disputes, and the need for dispute forums that can appropriately see to them.

Returning to the balcony in WNB, Martin went on to describe how he had been left feeling embarrassed when he found out about the letter his boss had received, with no idea how to deal with what had happened. He had known nothing about Natalie's husband and, although he knew she had children, was shocked at his choices and actions (rather than Natalie's) being in any way associated with their welfare. "I didn't make her come here, and I offered to drop her home. I can't believe this is happening just because I was lonely", he explained.

As it turns out, although Martin was at a loss of how to deal with the situation, his employers were not. They sent a representative of the company, along with Martin, to the village where Natalie and her husband lived. They drove over with security guards in company vehicles, and there they listened to the accusations relayed to them by a local policeman who just so happened to live in the village. Far from the K16,000 that was originally demanded in Awute's statement, instead they offered a K1000 payment to Natalie's family to make up for the damage caused, and they also gave a K1000 contribution towards the village in general.⁴⁸ This was done as a "sign of good faith" between the villagers and the company, rather than Martin as an individual. This money was all cash that Martin provided, but he was represented by the company's designated mediator. Awute too was not situated at the centre of proceedings. Martin told me that it had been the policeman from Awute's village that had stepped forward to deal with the company representative, and the conversation soon revolved around maintaining peace between the company and the village with which it shares land, rather than strictly about two people. The only evidence that the dispute had stemmed from the actions of Martin at all came from the requirement that he step forward and hand the money over to the policeman, following which he shook hands with Awute and left.

It was only after I'd been living in WNB for many months that Martin's description of these dispute proceedings began to fit into my wider understanding of who these dispute

48 At the time K1000 worked out as just over £200.
Houghton (2017): *Courting Disputes*

forums were really catering to. In some respects, Martin's case was not unlike many the disputes I witnessed in Bialla, such as that I described in chapter two between Alice's father and James. Although much of the discussion in that instance revolved around Alice's actions, it was her father, on behalf of his family and their relationship with Raff's family who appeared in court. It is in this aspect at least that what takes place in the dispute between the oil palm company and Awute's village is similar. Martin (like Alice) is ostensibly a figure around whose actions the dispute revolves, and yet he remains almost entirely absent from the proceedings through which the dispute is resolved. Instead, it is the concern of the company he is affiliated with, that seeks to maintain relationships that extend well beyond the individuals involved.

What this example forces us to question is who it is that dispute forums are actually required to represent, and how whole groups of people (or in this case a company) come to be associated with one another and even gain this association from their identification by other disputing parties. For example, I'm not sure Martin's natural inclination would have been to associate himself with the company he worked for in this dispute, but he gained the group identity and was treated as such within the dispute forum that emerged due to the perception of his affiliation as defined by Awute. The construction of the groups involved in this dispute were shifted through their interaction with one another. Martin's *lain*, as it were, was somewhat defined by the way Awute engaged with the oil palm company.

The idea that this compensation payment took place not only between Martin and Awute, two individuals, but between two far larger groups, the oil palm company that Martin works for and Awute's village, is an idea that I will be exploring in many of the disputes that follow. Disputes of this kind continuously demonstrate novel ways in which extensive and often not straightforward group ties, or *lain*, are equally represented in dispute forums. Much as I have already introduced in reference to the oil palm company's perceived role in this dispute, the idea of what constitutes a disputing group commonly extends well beyond that which was foreseen in any village court legislation, to the point that companies are now regularly appearing in dispute forums much like a clan or *lain* may do. As for Martin, he was left a little emotionally bruised by the event, but otherwise I never heard of this incident being raised again apart from in the form of a small company memo that circulated, merely suggesting new employees steer clear of Lino's nightclub.

Serious Business: Disputes and the Many Roles of Oil Palm Companies.

When disputes arise in Bialla there are a number of ways in which they can be dealt with. Often the choice in how to settle the dispute is made based on the nature of the dispute itself, and the actors involved. The range of subjects around which disputes can formulate, and the multiple configurations and groupings of the actors involved in them, are all reasons that there have come to be so many dispute mediation forums available outside of the context of the village and district courts.⁴⁹ By taking the oil palm industry as an example, this section will explore how companies and institutions may be held to the same standards in Ewasse as other members of the village are, and as such demonstrate that companies are engaged in long term relationships with the village, much like its residents are. I posit that these relationships can be seen to impact upon the use of dispute forums in the region.

By considering the reputation of an oil palm company in Ewasse I am able to describe why it is that the conflicts between two groups may have long term roots, and how, perhaps, the disputes we see presented in forums are not always the entire story. Instead, these longstanding relationships that are marked by periods of peace and conflict reveal dispute forums to be part of a continuous flow of relationships and actors, rather than as fixed forums overseeing isolated disputes. It is by highlighting the emplacement of disputes in different forums, especially in instances where a dispute is moved from one kind of forum to another, that these longstanding, often latent, relationships are made visible. This being the case, what this section will work to illustrate is how relationships, judgements, and “reputation” can influence when and how disputes may arise between *lain*, and how disputants can make use of a variety of forums at different times in order to deal with different facets of their shared conflict.

There are certain elements of the stories I was told regarding the role of oil palm companies that I have been unable to confirm. But it is not the truth of accusations against oil palm companies that I intend to explore here. What interests me is how “judgements”

49 This is often due to the fact the certain groups cannot be represented in the village court due to the format in which cases tend to be represented by between two and four individuals, and always have a single genesant. This is not the case in other dispute venues. Other limitations to compensation payments also impact upon the type of dispute that can be seen there. The impact of village court remits is something I will be discussing in later chapters.

(Lambek 2010b) made in the village can be seen to result in certain actions and disputes that affect the way companies have come to work in Bialla, and the way they engage with the relationships they create through virtue of their location and impact in the region. Before discussing my specific interpretation of judgements within the context of Bialla's dispute forums, as I am using businesses and institutions, and in particular oil palm companies, in order to investigate this idea, it is worth quickly summarising how it is that oil palm has come to be of such stand out significance to life in WNB, and what looking at companies of this kind can reveal about the flexibility of dispute forums.

In the Presence of Oil Palm

Despite the introduction of oil palm to PNG in the 1920s, it wasn't until 1967 that oil palm production really took off. WNB saw the establishment of what is now the largest oil palm development in PNG, and since then operations have only continued to grow. Other large projects have been established in a variety of locations, including HOPL's plantations and mill in Bialla.⁵⁰ Between the company run plantations and smallholder blocks in the area, Bialla is now home to over 23,000 hectares of oil palm, one result being that WNB is now widely known across PNG as "the Oil Palm Province". When travelling in other parts of PNG the initial assumption of those I met was always that I must be linked in some way to the palms, "Oh you are a Kimbe girl? You work for the oil palm?" This is unsurprising when one considers the dramatic scale of oil palm operations in the region. The north coast of WNB is thick with the plantations of New Britain Palm Oil Limited (NBPOL) and HOPL. It is a key feature of the landscape and the province's identity. Even the *laplaps* (cloth wrap skirts) in the markets, emblazoned with the recognisable trees, often state as much. I will discuss oil palm land organisation and how the crop came to be so prolific in WNB, as in the disputes that follow it will be important to recognise just how production of this fruit is so integral to the constitution of *lain* that emerge during disputes. It is a feature of disputes that helps to show exactly why such a range of dispute forums are required in Bialla at all.

⁵⁰ HOPL also owns a second mill 50km East from Bialla.
Houghton (2017): Courting Disputes

Looking down from the window of a plane on the approach to Hoskins airport it is obvious where the oil palm blocks are.⁵¹ The regulated distance of the palm and their distinctive shape covers extensive patches of WNB's northern landscape. Land has long been recognised as a hugely significant topic worthy of discussion in PNG (Leach 2003; Küchler 1993). Therefore, I have no doubt that further examination of how people use and relate to land in Bialla (both plantations, gardens and the relatively more urban sites) would prove to be incredibly revealing. Hence it is knowingly that I now briefly attempt to summarise (and vastly oversimplify) land tenure in PNG. Land can generally be regarded as either "alienated" or "customary" (Armitage 2001; Henry 2013). Alienated land is that which is owned by state or freehold, whereas customary land is that which is owned by the indigenous population. As we have seen with customary law, these categories cannot be taken to indicate anything too fixed about how this land is actually being used, run or registered. However, it is still striking to note that 97% of PNG's land is still commonly reported as falling into this category of "customary land". (Government of Papua New Guinea 2007; AusAID 2008).

Despite laws preventing companies from purchasing any customary land directly, through certain lease systems companies are still able to obtain, and develop large pieces of land. For example, a form of lease-leaseback system called Special Agricultural and Business Leases (SABLs), allow landowners to form something called an Incorporated Land Group (ILG). Within an ILG united landowners are then able to register their combined customary lands for development. They can then lease their land to the government (and only the government), and establish a lease that will most likely be for a period of 99 years. Following this agreement, the government is then able to lease the same land back to the ILG, which in turn subleases it to a company who can move in to develop and manage the land as they want.⁵² Put more simply, schemes such as this have enabled companies to continue to grow their plantations, while simultaneously allowing land to technically remain under customary ownership. Filer identifies the disparity between the image surrounding continued customary

51 An oil palm block is a plot of land belonging to a smallholder who makes use of it for the growth of palm. The plots in WNB are typically 6-6.5 hectares as these were the original parameters established by the Land Settlement Scheme (LSS) that took place in Bialla in the early 1990s. Families were moved onto blocks of this size, with the idea that 4 hectares would be for palm and 2 for gardens and housing. The impact of LSS and the many changes to land use and livelihoods is an interesting topic worth exploring (Curry, G and Koczberski, G. 1998; 1999, Koczberski, G., Curry, G.N. & Gibson, K. 2001; 2005).

52 See Filer (2012), and Nelson et al. (2014) for further explanation of land ownership and usage practices in PNG. These articles explain the systems in place in PNG that allow companies to make use of customary land through a scheme that unites local land owners and is overseen by the government and local authorities. A system that comes with its own benefits and difficulties.

land tenure in PNG, and a rather different reality as he explains that between 2003 to 2010, SABLs “were issued over a total area in excess of 4.2 million hectares, which is almost ten percent of PNG's total land area” (2011: 270). Although he speaks of PNG at large, this sentiment certainly resonates with anyone visiting WNB, as all of life seems to take place both physically and metaphorically in the shadow of oil palm. Between company run plantations, and those being run by local landowners, it has reached the point in WNB that you can now walk for hours without a break in the shade of palms being grown.

At its simplest, all these decisions and developments are built upon the quest for the oil rich fruit that grows in spiky red bunches, and are cut from the palm trees by hand. Looking into the trees you can expect to see shadows as men wander through the palms with their long pruning poles. It is physically strenuous work, especially in the heat of the day. On the smallholder blocks it is often a family effort to get the fruit harvested and gathered by the roadside while the bunches are still viable.⁵³ Company trucks are a common sight, as they make their rounds to the blocks in order to gather the harvested bunches from their piles by the road. In Bialla's case, every harvested bunch is sent to the large mill that is located directly adjacent to my home in Ewasse village.

As one might expect, the growth of this industry in a previously undeveloped area such as Bialla, has attracted a number of smaller businesses to the area, providing food and goods for the local workforce. Bialla has seen vast expansion as a town in recent years, and continued to grow before my eyes during the course of my fieldwork. Along with this increase in local businesses, Bialla has also experienced a huge increase in population. HOPL's workforce continues to grow, as do the size of families that settled in the region to grow oil palm in the 1970s. Not only that, but many people are now moving into the area in order to take advantage of the other jobs available in local stores and offices. In order to cater to the local population Bialla is now home to numerous schools, a (reasonably) reliable transport network, a major international bank, and a comparatively well stocked and sanitary medical centre. Not to mention the dozens of local churches and numerous markets (ranging from those in large permanent venues, to a few people selling coconuts from stalls by the roadside) that have sprung up as road networks and communities have extended.

53 In this context, a smallholder is a person named on paper as owning of a set piece of land. This land can be leased for oil palm growth and worked by the occupants for a wage.

In the examples that follow, I demonstrate that companies such as oil palm are a significant presence in numerous disputes, but also that the role the oil palm industry plays in proceedings can shift to meet the requirements of the different disputes and forums. Discerning how groups identify and treat one another during disputes helps to develop a clear understanding of what dispute forums are working to cater to. Each of the following examples describes a different way in which people chose to engage with the oil palm industry when it comes to disputes. This approach demonstrates how flexible these dispute forums are, and the shifting roles that individuals and companies alike can take within them. It also illustrates why all this flexibility is required. In many cases it is a company's ability to maintain different relationships with the residents of Bialla that enables this flexibility. A prominent topic of the conversations I had with residents of Bialla was "reputation", and how this could influence a person's (or company's) relationships. Therefore, it is the concept of "reputation", and its impact upon relationships that I would like to examine next.

"Reputation", and Relationships

Whether discussing jobs, water, roads or marriage, HOPL was often at the heart of many of the stories that I was told during my fieldwork in Bialla. In each story HOPL's "reputation" seemed to shift depending entirely on the point the teller was hoping to make, or the mood they were in. "Reputation" is an interesting concept to consider in Ewasse, because it hinges on certain interactions, practices, and judgements, that inform how individuals and groups treat, describe, and respond to one another. This is pertinent in my research, because it is so often when people do not agree on how to maintain their relationship (often through an interaction that has caused tension) that disputes arise. I will be exploring the ethical domain that informs judgements and practice in more detail in chapter six but for the time being in this section I dedicate my attention specifically introducing my usage of the term judgements, how they can inform speech and action, and how "reputations" discussed and responded to in the village provide one means to identify them. Ultimately, I will explore how "reputations" can be seen to impact upon life in Ewasse, and how understanding reputation can help me to identify the kind of relationships companies have with villagers there. In doing so, I will be

able to discuss the broader question of why certain disputes emerge, and are addressed, in the variety of ways seen in Ewasse and the surrounding region.

The importance placed upon reputation in the village cannot be overstated. At its simplest, “reputation” (hereafter without quotation marks) was referred to (in English) by Pastor Aaron in reference to how people are thought of and treated by others, often as a consequence of their fulfilment of their part in relationships through reciprocity or day-to-day attention. When explicitly describing how a person’s reputation may change, residents often mentioned how this would come as the result of their actions being “weighed” (“*skelim*”), although what they were being weighed against was often harder to pinpoint. Developed as a result of a seemingly ongoing social evaluation from others (in the form of “*skelim*”), reputation was presented as something that was ultimately informed by the actions and relationships that a person maintains and the way in which they go about doing this. It was also not something that was fixed, as a person could well be held in high esteem in the village, and then engage in a practice that altered that position, for example, by committing adultery or not fulfilling their part of a reciprocal relationship exchange. It is this aspect of evaluation that takes place in the form of “*skelim*” and the way people interpret and respond to the actions, speech and everyday practices of others as a result (such as the events that would lead a person to describe them as “adulterous”) that I will be referring to as “judgements”. By looking at reputation as a topic in conjunction with the concept of judgements that I have borrowed from the field of ordinary ethics, I am able to identify and discuss the social effect of reputation as an outcome of the ongoing judgements that inform them. Therefore, before exploring reputation in relation to disputes, I will provide a very brief summary of my usage of the term judgements, as it will appear repeatedly during the course of my discussion.

As numerous academics have already acknowledged, judgement is useful as distinguishes itself from reason (Kant 1998) and morality as an influence upon social dynamics by being inherently “perspectival and situated” (Lambek 2010a: 26; see also Arendt 2003). In this way judgements, unlike thinking more generally, can be identified as non-individualistic. They take place in anticipation of communication with others and in reference to one’s own situation within their world and those others who occupy it. Considering the emphasis placed on interactivity and all things relational in the Melanesian context that I have already introduced, the idea that judgements and evaluation can be

discussed in terms of the effects of looking out from oneself to the world shared with others, seems a natural fit with many other aspects of sociality discussed in this thesis. In chapter six I will be discussing in greater detail the concept of ordinary ethics, and criteria that come to inform the judgements people make in their daily lives. For now, as a term that allows me to move forward with my discussion of reputation in Ewasse, judgement can be simply summarised as that which informs a person's decisions and actions moving forward, allow them to reflect on outcomes of past decisions, or cumulatively informs their opinion of another actor. Judgement can be thought of as evaluative, and, although often tacit, are made accessible to analysis and discussion in my work through both speech and action. This make take the form in a person choosing to explain their judgement of another person's actions to a court magistrate, or indeed from their absence from any dispute forum, when events have taken place that others would deem dispute forum-worthy. In both instances, a judgement has taken place that has informed the actions of the individual involved, and this, in combination with the responses (physical and verbal) other actors have to that action, reveals the judgements involved.

Returning now to the topic of reputation, as a category of analysis, reputation is a hard thing to pin down, especially in those instances where multiple people may engage in the same practice and be considered to have different reputations as a result. This will be seen most keenly in the examples I present regarding adultery, in which the act of adultery itself does not always determine a person's reputation or relationships in the village moving forward. Instead, their actions surrounding the adultery, and the choices they make in addressing the relationships they may have threatened by committing adultery, can have as much influence on events as the act of adultery itself. It is in this that the cumulative aspect of judgement can be demonstrate. Therefore, in my discussion of the subject it will be through discussions I had with residents of Ewasse when a person is explicitly discussed in terms of their reputation or, in those instances when my conversations took place in Tok Pisin, those occasions when a change of a person's treatment has taken place as a consequence of a choice they have made and how other residents have "*skelim*" (weighed) that choice.

There is no single word in Tok Pisin that emerged in reference to what I will be referring to as "reputation" throughout this thesis. Instead, actions and individuals were often described to me in terms of events that took place, and the consequences for the people

involved as a demonstration of the opinions and consequences linked to an event. I have associated these discussions within my discussion as they were in keeping with Pastor Aaron's conversation with me when he employed the term "reputation" specifically.

Reputation, or how a person is thought of (and as a result, interacted with) is something that features as an influence upon many decisions that are made regarding disputes and forum appropriateness among the residents in Bialla. In Ewasse having a "bad reputation" (hereafter without quotation marks) can be seen to impact upon decisions, relationships, and the daily experiences of those parties involved. It is no small thing to become ostracised from the village. It can seriously alter a person's circumstances if they are no longer asked to join in when work is made available, or if their opinion is no longer welcome at church and committee meetings. It is for reasons such as this that a person's reputation amongst other villagers, and the wider community beyond their immediate family, is of such great importance.

As much as a bad reputation can have consequences upon a person's life in Ewasse, one may also acquire a reputation which brings rewards in a variety of ways. Most commonly, this is seen through an increase in social invitations and recognition in a number of respected roles. For example: in order to become a magistrate, it is a person's reputation outside of any dispute settlement capacity that is taken into account over any formal education or other qualifications. Likewise, during disputes a person's reputation may impact upon which dispute forums are open to them. In Ewasse, it was certainly considered a privilege to seek council from the local committee meeting (a forum I will be describing in greater detail later in this chapter). This was also a privilege that could be deprived if one was seen not to pull their weight in other village activities (Houghton 2014).

One of the starkest examples of the consequences that come with a bad reputation can be seen in the case of one of the local pastor's cousins, Olan. His house stood out from many of the houses in the village, as it was clearly constructed at a higher cost, although had a similar structure to many of the other building in the village. It was raised higher off the ground, supported by metal poles rather than the wood used to support most of the houses. The Papua New Guinean census would categorise this house as "High cost", whereas the rest of the village would have been regarded as "Self help low/high cost" or in some instances,

“Makeshift”.⁵⁴ The sloping roof and formal gutters of Olan's house helped guide any rainwater into a huge green tank at the rear of the building. The garden surrounding the property was marked with the only chain fence in Ewasse, and a sign in the front gate warned whoever entered of a dog. Owning a dog was by no means a rarity in the village, so the sign had always puzzled me. Equally, the water tank was not the only one in the village, but it was the only one I knew of that was not being shared by at least three or four families. It never occurred to me that the owner of the house was in any way removed from the local community until I ran into Olan in town one day after a court hearing, and he introduced himself. As a former national court judge he felt it might be useful for me to come and talk with him about my research, and he described how close his house was to where I was living. Surprised that no one had made this suggestion to me before, I agreed to stop by one day later in the week.

That evening I mentioned this encounter to my host family. It was then made clear to me that Olan was a cousin that no longer shared a connection to our *lain*. Although I was not told to avoid him, it was certainly indicated that I should come to my own conclusion not to seek him out for help with my research in future. As it was indicated to me that his help should not be sought after, I decided to forgo our planned meeting, genuinely feeling my own reputation – and perhaps therefore also my research – may have hinged upon it. Later in the week, I asked Aaron what it was that had made this cousin so distanced from his community. Aaron explained that despite previously having a “good job” and being “well respected”, Olan had become detached and was no longer contributing to the village in the way that others living in the village thought he should. For example, since his return from the capital, Olan had never attended any of the four types of church available in the village.⁵⁵ He had also recently chosen to take a second wife – a young woman from the Highlands. This was widely regarded among the villagers I spoke to as a mistake, not only due to the widely shared ideal

54 Papua New Guinea Census Unit Summary Form (2011)

55 My family and closest friends all attended the Pentecostal church of the CRC. By far the physically largest church in the village was the Catholic church. There was also a small sign indicating the presence of a Seventh Day Adventist church a little further out towards the gardens. The final denomination present in the village (at least in the form of a physical building) is The United Church. This denomination was established following the amalgamation of Presbyterian and Methodist missions. It is now widely recognised across PNG. Despite what would appear as a subject that may divide residents in Ewasse, religious distinctions in both practice and beliefs never came up during Committee Meetings or as a focal point of disputes. As a result, religious influence is not something I have explored extensively beyond my involvement with the CRC each week. The variety of denominations and how they emerge as relevant categories of interaction (or not) in WNB is a topic I am sure would warrant closer inspection in future studies.

of monogamy that is prevalent in Ewasse, but also because (unlike Olan) his first wife was very well liked in Ewasse, and she remained a common face among church-goers at the CRC church gatherings and in other village events. This second marriage had led to a series of very public fights between the original couple.

One evening Aaron explained the difficulty of having Olan as his first cousin. “My culture is stupid; we cannot know our first cousins...we are supposed to respect each other too much to talk”. He identified this cultural practice as the reason he did not feel in a position to influence his cousin's choices, and could not help alter his reputation amongst others in the village. “He has been listening to younger men like his nephews and they are drunkards and womanisers so he thinks that this marriage is ok”. Aaron told me that Olan had paid K1,500 bride-price as a “shame payment”. Although he did not tell me what is usually given in bride-price payments in the village, he did make it clear that this amount was very high for the Nakanai region of WNB. To pay that price was therefore interpreted by the villagers as an admission of shame. Having heard of other instances in which a large bride-price had been paid (especially when the marriage involved a family from the Highlands region, and a man of significant wealth able to give it), I am not sure that every case in which K1,500 was paid would have been automatically seen as a “shame payment”. However, what this detail of Aaron's story does demonstrate is how a bad reputation can grow to influence everything a person does. It started with not attending church or sharing with other villagers, and now every act surrounding this second marriage is interpreted as somehow negative and proof of Olan’s negligence towards his relationships in Ewasse.

The fact that Olan was a cousin of the *Zanabi lain* meant that my hosts felt uneasy about openly condemning him. They expressed reservations about standing up for Olan’s first wife despite their support for her. This hesitation at bad mouthing relatives in public was by no means isolated to the Zanabis. In fact, it was a widely shared opinion among those I met in WNB that to speak badly of a close relative in public, whatever their actions, was best avoided. However, this is not a fixed rule and on occasion relatives were known to speak out against one another. Given the choice though, most people would much rather keep family disputes as private as possible in most situations. This is an idea that can be seen to influence the parameters of the village court as well. In the same way that certain familial disputes would not be spread around the village, so too are other disputes deemed best kept within the confines of the village itself. Voicing a complaint publicly on the bandstand in Bialla for all

to hear is often considered a last resort. Although officially there is nothing to stop the village court from overseeing disputes between relatives of this kind, this forum is seen to be unsuitable for the range of very personal disputes that may arise. As a result, other dispute forums that allow for a more private or local means to voice conflicts emerge to fill those requirements that the village court cannot.

Returning to Olan's case, we can see the Zanabi family similarly overcome the constraints of their family connection to Olan by finding a more appropriate place in which to demonstrate their displeasure with his actions. In this instance, it was done through their prominent positions as pastors in the local CRC church. This was mainly achieved through small and simple acts, such as enthusiastically welcoming Olan's first wife to church every Sunday, and occasionally inviting her home for tea. This was backed up by their refusal to speak with Olan unless forced into a situation where it was unavoidable, all of which sent a clear message that seemed to ripple through the village. The opinions of the Zanabi family were expressed through the amount of time they committed to their relationships with each member of that marriage, showing their support for Olan's first wife by spending time with her and making sure to share bits of food and drink. Olan on the other hand, was actively avoided wherever possible, and would not have been welcome in the Zanabi residence. It is when these expressions of opinion take place across a large proportion of a village, that a person's reputation can be most easily identified.

Here it is worth briefly acknowledging the role of religion (in its many guises) in matters of this kind, as churches often appear as institutions with ideologies that are employed by people in a huge range of matters and regions of the country. Christianity, especially in regards to the increasing number of Evangelical Christian congregations across PNG, has grown into a subject of great interest and popularity among anthropologists as ever more branches of the faith emerge, far from the original few missionary movements of past decades (Robbins 2004; Wardlow 2007; Jebens 2005; Foster 2002). Even in my discussion of Olan's reputation, his absence from church each week was often emphasised in conversation as justification for his ostracism. Although disputes were never discussed or addressed explicitly during church gatherings, how the absence from services can impact a person's life in the village is worth brief consideration. As Olan's absence negatively impacted upon his reputation in the village, much of the authority (a reflection of a good reputation) that my

hosts had within the village came from their respected positions as CRC church leaders, who were often seen to set examples that other villagers would be expected to follow.

So what is a person choosing to engage with when they attend church each week? What is Olan seen to be rejecting? These are questions I want to briefly consider through a recollection of a typical CRC service. Due to my position in a household that was so closely tied to one specific denomination (CRC) I was not able to formally attend any of the other churches in the village. Not only did Joan look upset when I asked about the possibility of attending a Catholic service, but I was also never invited to one, despite having frequent contact with numerous members of the different denominations in the village. My conclusions about the roles of religious gatherings in Ewasse is therefore entirely drawn from the Sunday services at the CRC church.

The Christian Revivalist Crusade (CRC) is a Pentecostal church and part of a bigger missionary group that Pastors Aaron and Joan are members of. Called by the sound of songs resonating through the cool air for the early morning every Sunday (and many days in between) the whole family dresses smartly and heads to the construction that is not far from the house. We gather and sing until a pastor heads to the front to start the service, at which point the congregation all take their seats on narrow wooden benches. Most weeks I would estimate no less than forty people attend the Sunday service. This is less at midweek sessions, and can triple for special occasions. During the week, this open-walled building is where Ewasse's Bible School holds lessons. It is attended by many children from the village and surrounding area, seemingly regardless of their strict religious denomination.

Both Joan and Aaron preach at our church services regularly, along with a couple of other pastors from the village. Each has their own style, and depending on who is taking the lead on any given day, the tone, structure, and substance of the service will be quite different. Pastor Aaron is into specific stories, lessons, and detail. He may use a board to show specific timelines of Biblical events, or read a story directly from the Bible, interjecting to elaborate on what the story teaches us at each juncture. Comparatively, despite spending far more time at home studying her Bible, Joan's services are mainly filled with songs and personal testimonies. These testimonies involve members of the congregation offering to come to the front and speak about how they have come to know God, and how their lives demonstrate God's existence.

Today, Aaron is leading the service and is discussing the different generations who share the village and what they need to teach each other. He uses examples of lessons from the Bible (specifically Proverbs) to begin each point, before applying the lesson to individuals, or the specific context of the village. The Bible he refers to is in both Tok Pisin and English (depending on the side of the page you read from) and he jumps between both to create emphasis or ensure comprehension as some of the elder members of the congregation do not speak good English (if any). The service ends with a mumbling of prayer and more singing that amasses until the room is united in the loud, emotional utterance of tongues. Every service, regardless of who is leading it, ends with almost the entire congregation (barring myself and some of the very youngest children) transitioning from songs into speaking in tongues in this way.

After the sound dies away (this can take the best part of an hour) then the women and men gather on different sides of the room to discuss certain “village business” (“bisnis blo Ewasse”). This may include fundraising events for the church or other local facilities, or preparation for a Women's convention or another local *kastom* event. I was never privy to the men's discussions following the service, but Aaron assures me that it is nothing too dissimilar from what the “mothers” (“*ol mama*”) discuss.

The reason it is worth interjecting the level of detail about the church service into my discussion of Olan's reputation, is because there are a number of features of a single service that can be seen to inform not only the shared opinion of action and language used to discuss it, but also it is following these services that we see the community (or the CRC portion of it) come together and designate roles to one another for the coming week, offer their contribution to village-wide events, define priorities for the village in coming weeks, and express the continuation of their commitment to certain relationships. This is pertinent because this is everything Olan is seen to be refusing to take part in, and hence, is tied to what he is ostracised from.

During the service itself, Pastor Aaron discusses punishment, especially for children. It is the job (“*wok*”) of older generations to teach (“*skulim*”) those younger than themselves. This was predominantly discussed in the form of physical expressions of their disapproval through hitting. “If you smack a child in Australia or England it would be abuse. But here we have our values and customary practices to consider” Aaron told the congregation. This was seen as a key element of raising “respectful children”. As a very simple example, this basic

lesson expressed in the church setting, goes on to inform the actions and judgements made by members of the congregation beyond the church walls. Not to mention, their judgement of how they determine other people to have acted. This kind of lesson may not always be followed, but certainly it illustrates how the Bible can come to be used as justification for many of the actions of Ewasse's residents, and why straying from these teachings may lead to the disputes we see emerge in local forums. "Thank God we have the Bible to guide us. We have the law that makes the rules but it cannot do everything. The Bible guides us", Joan explained. Interestingly, the only time I ever heard Joan refer to the law at all was when she juxtaposed it with the Bible. It was always presented as "not enough to live by", if it was mentioned at all. The striking absence of legal influence she relates, once again supports my emphasis on the removal of legal parameters as a means to discuss use of dispute forums in the region.

Beyond the explicit language and lessons expressed during church services, Olan's reputation in the village is tied to his lack of attendance of church because he is absent from the discussions that take place afterwards. As the women and men divide to discuss village matters, they take the opportunity to exchange food items, renewing, reciprocating, and maintaining relationships with other members of the community. They also delegate jobs to one another that should be completed during the week to contribute to a larger village ambition. This may be as simple as working together to weave baskets for an upcoming *kastom* in which they will be used in an exchange. As I have mentioned before, being seen to contribute to the running of the village is a key way to gain a good reputation, and without attending the service in which contributions are explicitly discussed, there is little chance that Olan will be able to redeem himself. Absence, not only excludes him from this discussion, but demonstrates to other residents that he does not care.

Taking a wider lens, the language of the Bible is also arguably influential in shaping the terms and syntax employed by much of the community when explaining their distaste with Olan's actions. The very idea of taking a second wife was abhorrent to every Ewasse resident I spoke to, and it was often through biblical stories that villagers chose to explain this to me. Olan was a "sinner" and polygamy was described as a "custom from before" that no longer has a place in the village.⁵⁶ By framing the discussion of Olan's second wife in

56 For an interesting investigation into how tradition is juxtaposed with modernity in some forms of contemporary Papua New Guinean discourse see Gewertz & Errington (1996).

terms of their interpretations of the Bible, by noting his absence from CRC church meetings each week, and then identifying themselves as men or women “bilong God” (of God), Olan was presented as actively insulting much of what his fellow villagers stand for through his actions.

Turning away from the CRC service to focus once again on Olan's reputation in Ewasse, this example is of particular interest, because it is the situation that first indicated to me the way in which single conflicts reflect longer term social rifts, as well as the reason that these rifts are deemed unsuitable for the village court setting. In this instance, Olan's ostracism was the result of more than just his polygamy. It was instead linked to the social contribution he needed to make to village life in general in order to maintain his relationships and reputation. Certain kinds of paid work usually factored into a person's reputation in Ewasse, especially if that job allowed a person to contribute to their family or the village in some way. For that reason, it was surprising to know Olan was a former national court magistrate in Port Moresby and yet was not held in high esteem. Aaron explained this to me. “People don't weigh your qualifications”. In the village, people have responded to Olan’s actions and choices since he moved back. His failure to participate in the village or in any church has led to him losing any position or influence he used to have. In contrast, when Aaron returned to Ewasse with his family after ten years of missionary work overseas, he immediately worked on rebuilding his relationships in the village and addressing past unrest. “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”. Aaron also took great care to attend village meetings and contribute properly to work that needed to be done. In comparison, by returning and not contributing to village events or caring for his relationships there, Olan is now portrayed as being in a very unfortunate situation.⁵⁷ Despite his money, it is a general consensus among the rest of the village that he is in danger. Aaron even went so far as to say “[Olan] has fallen into hell”.

Olan's experience is a testament to how a person's relationships and ease of life in Ewasse is seriously impacted by their reputation, and the many ways in which this reputation can be affected and expressed. The impact of exclusion can also go even further to inform aspects of a person’s very identity. If I briefly return to Strathern (2005), her theoretical

⁵⁷ I have no evidence if Olan would see it that was as I did not speak with him. Without the support of your village, a man is seen to be adrift, and insecure. As Aaron once described it: “A man without land is like a coconut on the sea.”

discussion of dividuality describes how a person may primarily act as a composite sites of relationships and where a person's identity can embody a sociality. This being the case, the severity of what ostracism could mean for a person becomes strikingly apparent. In the case of Olan, who he is (to himself and in relation to the other residents of the village) is fundamentally altered by the way he engages (or in this instance, is no longer able to engage) with the day-to-day relational aspects of village life. Aaron provides a useful comparison in his description of his own position in the village as being a direct consequence of his positive relationships - "I am an influential person because people know I am a good honest man". This comes from the understanding that for people to know you are "good" you cannot just sit and do nothing: there is always something to contribute or a relationship to tend to.

During my research I did discover that there were other factors that had an effect on the position that people and certain families held within the village, and reputation is just one part of that. Family, clan, religious engagement and gender all contributed to a person's standing and the expectations attached to them resulting from that. Despite this, everyone I spoke to was adamant that, at its core, one's influence in the village could be won or lost through the relationships one maintained and the life that one chose to lead. The most common examples given were: that everyone was expected to adhere to attend a church, to contribute money or goods when required, or to fulfil a particular role that contributed to the running of the village. Depending on who you were, what actions and categories you were "weighed"⁵⁸ against might differ. For example, if you had one of the few cars in the village, you would be expected to drive a woman to the labour ward at any time of the night. If you did not have a car (as was the case for most people) this would not be something you're your reputation would hinge upon. Women and children would call upon each other to help with chores or work in the gardens or blocks. Those villagers who worked for HOPL or in government offices would usually contribute shop bought goods or money. They were also called upon for any tasks involving computers or printing that needed to be done. What different people were considered able to contribute in the constant circulation of interactions and reciprocity in the village is always shifting but, as we have seen, remains a very important part of life in Ewasse. Neglecting your part in the maintenance of relationships and

58 The Tok Pisin word "*skelim*" was often used as a means to discuss how a person was received and their actions judged in the community.

the stability of life in the village is likely to see your reputation diminish in the eyes of those around you, and, as we will see with HOPL, this in time can lead to larger conflicts.

The reason I take the time to explain Olan's story is because it is in this tale of ostracism in Ewasse that an interesting comparison can be made between the community's interpretation of and response to Olan's actions, and of HOPL's. It is this comparison that first led me to consider the kind of relationship that Ewasse residents had with their palm oil producing neighbour. During my fieldwork, it emerged that the only dispute that every family in the village was contributing kina towards was a legal case against HOPL. This dispute had been ongoing for seventeen years by the time I came to hear of it. It was also the reason that HOPL was not the only one in danger of gaining a bad reputation. This dispute meant residents of Ewasse had established a reputation among employees at HOPL.

Much like Olan's "shame payment", any village development project that HOPL contributes to is widely assumed to be an acknowledgement of some form of wrongdoing.⁵⁹ Considering HOPL's undeniable impact on Bialla and the surrounding area, it is perhaps unsurprising that the company is associated with many of the changes taking place there, both positive and negative. HOPL is described by most of Bialla's residents as the main reason for developments made to local infrastructure, economy, and employment. As a result of the huge influence HOPL is seen to have around Bialla, many people during my fieldwork discussed HOPL in terms on ongoing changes, and this came with certain examples of what the company must do in the future. This ranged from wages, to local support for schools and events, to corporate responsibility, sustainability programmes and housing, sometimes this even extends to those who are not working for the company at all.

People complained about the decrease in local wildlife diversity and issues relating to pollution. Despite HOPL's ongoing attempts to create a sustainable product in palm oil, the increase in land given over to the crop and reduction in the number of gardens and virgin forests, led local residents who were still living off their gardens to feel they were getting unwanted attention from the scavenger birds. During my time in the village, Aaron left the house every morning before dawn in order to drive to our gardens and chase away the parakeets. There were several local movements that protested the existence of the long pier

59 One example of the form these contributions to the village took was in the company's development of access to clean water through the donation of several rain collection tanks, and a pump system for a fresh water pool.

that HOPL had built to cater to the oil tankers that transported oil to Japan, among other international locations. Several people expressed their concerns at the erosion of the coastline since the pier had been there, as it had altered currents around the shore. Concerns were not always environmental either. HOPL was held responsible for the increase of drinking on the company settlements where many workers are housed. Squatters were frequently chased away from village owned customary land located in Biälla town. When I asked if squatters had always been a problem I was told that with the increase in employment opportunities in the region, other people had followed the money and tried to establish themselves in town, working in the market or selling betel nut. The company was also associated with this social unrest.

The relationship Ewasse residents have with HOPL is expressed in one way through discussions surrounding what people say they think the company should be doing, not only in terms of oil palm and ecology, but in terms of individuals, the village, and surrounding lands. Similar to the way that the community in Ewasse responded to Olan's actions in a way that ultimately led to his ostracism, so too HOPL was held accountable for not living up to what Ewasse deemed to be its role. This will be seen more clearly when I identify HOPL's actions (or lack thereof) that can be seen to have led to disputes with Ewasse (as a village) in following sections. For now, it is the similarities between the treatment of Olan and HOPL in Ewasse that I wish to pinpoint. This is because it is in their comparability that one is able to recognise both disputes as products of their relationships with the residents of Ewasse. HOPL is not treated differently to the way Olan is because it is a company. HOPL, like Olan, moved into the area and was not seen to engage in a continuous relationship with village life in the way that any other resident would. That does not mean that this engagement cannot differ, but each was expected to play their part. Failure to do so not only impacted their reputations, but led to conflict. For Olan, this conflict took the form of being yelled at with great frequency by his first wife and those associated with her, and resulted in his eventual ostracism. It is HOPL's equivalent experience to this that I explore in the following section.

I spent many mornings during my stay in Ewasse listening to Pastor Aaron describe his opinions and experiences. These epic tales ranged from the mistakes of his youth, to the time he spent overseas as a missionary, and his sometimes fantastical solutions for contemporary problems.⁶⁰ On these mornings, our conversations would touch on the growth of oil palm in the area. Aaron was never one to hold back when it came to his feelings about HOPL. As the morning started to get hot, Aaron would often come in and join me for a cup of sickly sweet instant coffee. On one such morning, Aaron had been explaining why he believed it was bad for villagers to sell their land to HOPL. This led to his description of how land had been a point of conflict between the two parties in a number of ways, and over the course of many years.

In order to properly explain the current relationship between HOPL and Ewasse, Aaron's story needed to begin in the mid-90s. He explained that there had been a long standing case between the village committee of Ewasse and HOPL over environmental damages. The village committee consists of representatives from each of Ewasse's twelve clans, and meets regularly in order to discuss issues relevant to everyone in the village. Anyone can present an issue at committee meetings, and for that reason it covers a huge range of topics, from bake sales to riots. During my stay in the village, the village committee meetings took place in a clearing on the far side of the village. Everyone – men, women and children - would sit in the shade of huge mango trees and listen to updates about local happenings, contributing their thoughts when they felt like it. These gatherings could last anywhere between half an hour and several hours depending on the issues raised.

On the occasion Aaron described, the village committee came to represent the interests of the village in a legal setting as well. He told me that in recent years, accusations had flown both ways between the committee and HOPL, both struggling with the close proximity between their lands. Ewasse has always had a sensitive relationship with HOPL because the land on which the mill is built was originally owned by the clans of Ewasse. An agreement was made between the village and the company at that time, but the residents of

⁶⁰ One of my favourite of these was the day he explained how we could create a breed of killer bees who would target terrorists.

Ewasse always expressed a lingering sense of ownership, as well as interest in the way the land was used and their access to it. Despite this, relations between the company and the village had been mostly peaceful until 1998 when the village approached HOPL demanding compensation for land and sea damages. Following a scientific survey of the decline in marine life in the area, and a measurement of the erosion the area had experienced, Ewasse was in a strong position, and their case was registered in the national court. However, due to lack of funds the case was never pursued far enough to receive compensation of any kind from HOPL, so it was dropped as the villagers got fed up of paying for a dispute taking place in the capital with no end in sight. However, just because a case does not continue through official legal avenues does not mean it is in any way dealt with conclusively.

When Aaron moved back to Ewasse from the Philippines and became a chairman of the village committee in 2005, he asked people to start contributing money again, promising he would bring the same case forward because the coast was only getting worse. Coming once again to the importance of reputation, Aaron told me that people only agreed to this because based on his active role in the community since his return they knew he would spend the money wisely, “I asked the community if you trust me, give me money and I will see this case through court. They all gave me money at once”. In this instance, Aaron is using the “trust” shown by other villagers through giving him money to spend on the village’s behalf, in order to demonstrate his reputation to me. With the money he gathered, Aaron reopened the case at the national court in the provincial capital, but it was soon dismissed as the scientific data that had been a key component of the case before was now out of date. This was the only proof they had of environmental damage, which would require updating if they wanted HOPL to be considered legally responsible. Following this revelation, the case once again lost momentum.

In his description of this dispute Aaron illustrates just one example of a fairly common way in which HOPL is said to deal with conflict. They had a reputation for fighting cases to a point that those opposing them could not afford to sustain it any longer. Every dispute would immediately be dealt with between lawyers in Port Moresby, rather than through any more local means. From my conversations with villagers in Ewasse, HOPL's use of the national court was described as “unfair”. Many villagers felt this venue did not allow for their voices to be heard. Although I was not given any specific reasons why the national court was seen as excluding to the village as a whole, the emphasis was always placed on

maintaining a direct line of communication with the company. The national court was seen as a venue that not only stopped this, but actively removed disputes from their place in the village and put them somewhere else (namely in the capital). “[HOPL] *noken harim mipela long Mosbi*”⁶¹ a woman told me during a committee meeting where the case was being discussed.

In 2010, years after the case against HOPL had been suspended for the second time, some heavy rain caused one of HOPL's waste collection systems at the back of the mill to overflow. This spill spread all over Ewasse's customary land and into gardens. Many of Ewasse's residents were furious. Villagers saw this as just one more piece of evidence that HOPL was not taking care of their land properly. With their dispute stalled in Port Moresby, it was agreed something else needed to be done. A number of the young men from the village climbed the fences surrounding HOPL's mill, and blocked all of the drains in revenge. This act caused the grounds on which the mill was built to overflow with waste. The result of this act was that HOPL threatened to take certain individuals from Ewasse to court for trespassing, damages and the assault of one staff member. Aaron was keen to explain to me that he would always encourage people not to “break the law” (“*brukim lo*”) before acting like this, but having already attempted to do so for years everyone was left so angry that they could not see any other way to express their frustration. Through HOPL's refusal to speak with them locally, and their lack of funds stopping them from accessing the national court, Ewasse residents all felt they had been left without an appropriate means with which to deal with their numerous concerns.

Aaron's story illustrates his understanding that the multiple disputes that had arisen between Ewasse and HOPL were all linked together. The actions the villagers had taken against the company following the waste overflow were not described in isolation from the general ill-will shared between the company and the village before these actions. Each event can be seen to contribute to HOPL's reputation, and it is this reputation that informs the actions taken by the villagers in response. Not the single event of the waste spill. In this way, the grievances that never made it through national court becomes a bass note of this conflict. The waste spill only added to this more long-term interpretation of HOPL's disregard for its relationship with Ewasse. It was merely the culmination of many years of frustration, playing

⁶¹ “[HOPL] cannot hear us all the way in Port Moresby”
Houghton (2017): *Courting Disputes*

out through a single incident. This is an idea that I will demonstrate can also be applied to what we see take place in dispute forums when they emerge.

So far, HOPL's role in Aaron's story seemed fairly predictable for a company of that size. However, as Aaron continued his story, HOPL and their role in the dispute started to change. Aaron explained that sometime after HOPL had registered its case against these Ewasse residents with the national court, there was an oil spill that came from one of the ships docking at the pier HOPL had built out to sea from the mill. It was a large ship that had come to transport palm oil overseas and as a result of this accident the coastal waters around Ewasse had been covered with oil. The spill also killed parts of the local reef and marine life, infuriating local residents who used fish from the nearby reefs to supplement their diet. As a means to express their outrage, once again the villagers blocked HOPL's drains. The previous case registered against Ewasse's young men was still pending, so fearing this second incident would only worsen the situation, Ewasse's village committee decided to approach HOPL and requested an alternative settlement be reached outside of the courts. It is from this point that the emergence of a dispute forum entirely removed from any government oversight begins. Through further conversations with the residents of Ewasse it became apparent how this venue served the purpose of both disputants better than the national court was able to.

The village committee invited HOPL to come to Ewasse, and Aaron sounded pleased as he recalled the day that two men and a woman came to represent HOPL in the village. Residents of Ewasse made food that was served to the representatives in an attempt to make up for the damage the villagers had done to the company grounds. The two parties ate together and bartered a mutually agreed compensation. Aaron told me that despite discussing compensation, this payment was not actually expected to be exchanged, to the point that he could not actually recall what it was. Instead, it was the act of sitting down and eating together that made peace (*mekim i dai tok*) between HOPL and Ewasse. The other thing that was established during this meeting was an agreement that the company would frequently hold open meetings in which village representatives could come and discuss concerns and keep abreast of any new undertakings of the company. It was this point that Aaron was particular pleased about. "We talk with them often, and that is what makes them so much better than NBPOL who never take the time to talk with anyone about what they do". NBPOL is the other prominent oil palm company in WNB. Although I do not know if there is any truth to what Aaron says about their lack of communication with local

communities, his favourable representation of HOPL despite their disputes, as well as his emphasis on communication as something he expects between these companies and local villages, does illustrate the relationship he believes these companies are engaged in with local residents.

HOPL undergoes an interesting shift in order to engage with the conflict in a way that allowed it access to the dispute forum Ewasse provided. The dispute mediation that followed would not have been accessible to HOPL's representatives had they continued to attempt to oversee the conflict on behalf of a disembodied entity through the work of letters and lawyers that had previously been their chosen mode of communication. Instead, although only three representatives attended the feast at Ewasse, they were able to stand for the presence of the whole company, much like the village committee was able to speak on behalf of the whole village. This is something we will similarly see take place when a whole clan is represented by a few spokesmen in the village court in later chapters.

HOPL's acceptance that this dispute with Ewasse revolves around a continuous relationship is key to the dispute's resolution. In removing disputes from the local area and only dealing with the village in law offices in Port Moresby, HOPL developed a very negative reputation among the villagers in Ewasse. As a result, when their land was flooded HOPL was met with a response that the village felt was justified considering how badly treated they already felt by the company. By relocating the dispute to a local setting, and engaging in the long term relationship with Ewasse that the villagers had always considered the company to be in with them ever since they had purchased their lands, not only had the immediate conflict been resolved, but HOPL actively began to repair its reputation, which, Aaron explained to me, would mean incidents like this were less likely to happen in the future.

The embodiment of large invested entities (the company/the village) in a few people, and the emplacement of their dispute within a local forum sees the significance of the dispute and the relationships gain new analytical purchase. By looking at the mediation that took place between HOPL and Ewasse's village committee in isolation it is likely that the focus of this discussion would have revolved around Ewasse's residents' flooding of the HOPL compound. In which case, it is more than likely that the oil spill, and the deeply embedded resentment felt in Ewasse towards HOPL, would have been overlooked. This is the case despite the fact that those I spoke to in the village described each incident as connected. As

such, what this section has begun to uncover is how disputes that appear in forums may only be small parts of far larger conflicts between *lain*, and how these disputes can be the result of damaged relationships. What this discussion points to is an initial understanding of why so many different dispute forums may be required, and encourages us to recognise how the variety of disputants (in this case a company) may also be impacting upon the venues in which disputes are seen in.

In this instance HOPL appears as a disputant in its own right, described and treated as an identifiable (and active) whole. HOPL was a *lain* in and of itself. Yet in many other instances the company takes on the role of venue and authority through which other people's disputes can be mediated. The ability of institutions and companies to take on many roles within Bialla contributes not only to the number of forums available to oversee disputes, but also the flexibility that these forums must employ in order to work. This shift in roles that these companies and institutions can undergo during disputes is by no means limited to HOPL, as we shall see when discussing the local high school in the section that follows.

Bialla Secondary School and the PMV

So far I have described how groups or "*lain*" are crucial relationships that figure into how identity is formed in PNG, often more so than any individual selfhood. As a result, I have submitted that it is worth paying close attention to those occasions when disputants appear to represent more than their own interests, as they may come to speak for, or even embody, the judgements or actions of an entire *lain*. Following this I have proceeded to consider how disputes that arise in Bialla often reveal the relationships between different *lain*, and may in fact be the culmination of more long standing conflicts between them. As such, I have proposed that disputes should not be considered either as belonging to a single individual or existing temporally removed from the longer span of the relationships that produced them. As a result, relationships, reputation, and judgements can all be seen to impact the disputes that arise, and what form they take.

Having introduced these ideas, it is my intention in this final section of the chapter to describe what this range of relationships and disputes mean for the forums that may emerge to oversee them, and what further insights the variety of forums that are called upon can provide. I have already introduced the idea that emplacement of disputes within forums can reveal the significance of the extensive relationships associated with them. In the example that follows I am able to illustrate how forum choice and adaptability is such a crucial part of this. By looking at how disputes relate to the forums in which they are discussed the constitution of the relationships invested in said disputes are made visible, along with certain criteria of action and speech attached to that. Adaptability is a crucial part of this because as forums shift to cater to different aspects of disputes, those aspects (often previously indistinguishable) gain greater definition and analytical purchase. In order to explore this idea, this section will examine how a dispute forum can adapt to the needs of the disputants involved (in whatever form they may take), and why this leads me to conclude that the wide range of dispute forums in Bialla are both necessary and capable of addressing matters that the village court is less suited to.

Having thus far focused primarily on disputes linked to oil palm companies, here I think it is important to expand my discussion to consider how other businesses and institutions in the region are engaging in disputes in a significant way, as *lain* in their own right. For that reason, I will now discuss a dispute forum that emerged at Bialla Secondary School (although even in this instance, the influence of the oil palm industry is not entirely absent). There are a number of other local institutions that appear in disputes in multiple roles much like HOPL does, and any number of these could have been chosen to widen the scope of my argument here. I have chosen to focus on a dispute that was mediated at one of Bialla's schools, as the dispute that was overseen there is a particularly interesting instance in which the school appears as dispute forum, mediator, and disputant simultaneously. The school also draws upon a connection with other local businesses in order to settle the dispute, demonstrating how businesses and institutions in Bialla are actors capable of maintaining their own relationships during disputes in much the same way that individual people, or village groups, may do.

Despite residing in Ewasse when this dispute hearing took place, I was not present at the school to witness the mediation myself. However, considering my close connection to many of those involved in the hearing, as well as many of the students and teachers at the

school itself, I had plenty of people who were willing to describe what happened. It is from a culmination of these stories (including the events that took place prior, during, and after the use of the dispute forum itself) that I have produced the description that follows. As in the case of HOPL, it is not the accuracy of description of events leading to the dispute that I focus on here. Instead, I explore what emplacement of a dispute within the school as a dispute forum can reveal about the relationships between different people and institutions, and the way this forum is able to provide a means to deal with the dispute at hand, as best as my informants can recall.

One evening a teacher got drunk with some students at Bialla's largest high school and encouraged them to throw stones at school buildings and the school truck. This teacher then proceeded to drive the school truck down the main highway that links Bialla to the provincial capital. Whilst driving he had a head on collision with a PMV (one of the public buses used as a main source of transport in PNG) that was on its way up to Bialla from Kimbe. The few passengers of the PMV all came out of the crash with only minor injuries. Although his injuries were significantly more severe, the teacher in the school truck also survived the incident. The PMV driver however, did not survive. It was his death that led to a fierce dispute arising between the PMV driver's *lain*, and representatives of Bialla Secondary School.

Despite those connected to the school, whom I will collectively refer to as the “school *lain*” from here on,⁶² being adamant that it was PMV driver who had caused the crash, the PMV driver's *lain* came up to the school to demand compensation for his death. They arrived with black paint smeared on their bodies to signify their grief. Many were carrying spears. They all took up residence on the large school field in a united demonstration of their desire for an agreement to be made and their grievances to be heard. After some time, the grieving villagers were met by a number of representatives for the school. These representatives were made up of school board members and a number of parents and teachers who had been fetched from their nearby houses to be present. Once the two sides were both represented on the field and sat facing each other in the shade, a mediation began.

62 I mention my usage of this phrase because it was not a means of referral used by anyone else. The group representing the secondary school were just referred to as if they were the school. For sake of clarity I have decided to identify them as a *lain* in keeping with how the PMV *lain* were.

Numerous other people were gathered around to hear proceedings, especially from the PMV *lain* who had been travelling up in a steady stream from Kimbe since the morning. However, there were only a limited number on each side who actually spoke. It just so happened that Aaron was not only the local pastor in Ewasse, but also a prominent member of the school board. As such, he was called upon to oversee the dispute. Aaron acted as an overseer of sorts, indicating what he expected each disputing side to be discussing at each stage of the mediation. However, his role was not only that of mediator. Considering his prominent connection with Bialla High School, Aaron was acting with the school's interests in mind, and representing the school itself in court. In this way we can begin to see how Bialla Secondary School not only provides a place for this dispute, but is a key disputant and mediator in its own right.

Representatives from the PMV *lain* gave the initial description of events and demanded K50,000 *belkol* payment from the school.⁶³ *Belkol* or “interim” payments sit entirely apart from any compensation that might be agreed upon in a dispute hearing (Counts and Counts 1994). *Belkol* (literally meaning a cooling of the gut) is a payment that demonstrates a promise between disputing parties not to fight while awaiting a compensation payment. Put another way, it is a preliminary sign of good faith between parties, to hold off on any retribution while a sum or appropriate compensation is worked out and delivered. These payments can be quite substantial and often reflect the perceived scale of the dispute. For example, an adultery case may not require *belkol* at all, whereas a case involving clans that feel slighted over stolen lands would demand quite a large sum to hold off on any violent action while the dispute is being settled. It is worth keeping in mind how the perceived scale of a case can be expressed by disputants through their call for *belkol*, as this is something that can shape perceptions of forum appropriateness – an idea I will be discussing in the conclusion of this chapter.

Focusing for the moment on the demands made in Bialla Secondary School, it was to my great surprise to find that the school's representatives responded to this initial *belkol* request by referencing village court policy. In the village court, legally sanctioned compensation cannot exceed K5,000 for a death. Having explained this, the school's representative continued by saying that although K5000 would be the awarded amount if they were in the village court to settle this, that was not the amount the school *lain* wanted to pay.

63 Approximately £10,000 at the time.
Houghton (2017): Courting Disputes

Following this, the two parties bounced between one another, suggesting amounts and giving reasons why they believed it to be appropriate. Eventually K12,000 was agreed on and paid a surprisingly short while after. To gather that amount of money in only two weeks is unlike any other payment I heard of during my research, which was enough to lead me to ask about how the school had managed it. I discovered that this money was gathered so quickly because it had been made up of contributions from both the school and other local businesses in Bialla.

There are two key components of this dispute that I want to focus on. Firstly, it is worth considering what, or who, constitutes the two disputing parties themselves and what impact this has on how the dispute forum seeks resolution. Through the PMV driver's *lain* we see one example of how forums of this sort are able to accommodate the extended and fluid relationships that constitute this disputing party – an ability much called for with the increasingly mobile population of PNG. When investigating how those who had attended the mediation described their connection to the man who had died, it was only a very limited number who placed emphasis on any kind of family or clan connection. This makes them somewhat distinct from the people I had spoken to in the village court who had more often than not used familial or clan connections to identify themselves with, such as father, or wife. Instead, the ties of the PMV driver's *lain* seemed to be forged by shared oil palm plots, or those that neighboured the block belonging to the PMV driver's more immediate family.

This is worth noting, not because it is rare for elaborate and extensive relationship networks to be forged in PNG, far from it.⁶⁴ It is not the relationships and interactions associated with them that are changing, but the content that they revolve around that is extending to include changes in economic and environmental contexts. As a result, the disputants constituting the PMV driver's *lain* in this instance were united through the livelihood of oil palm. None of this *lain* considered themselves to be from WNB originally. They settled in the province when opportunities arose in the oil palm sector, and the

64 Demian's (2004b) discussion of adoption in the Milne Bay region of PNG is a wonderful example of just how different relationships may emerge or disappear from everyday discourse, and as such neatly reveals the significance of shifting roles and social ties depending on the situation. Demian speaks of this with particular emphasis on adoption in the sense that one such adoptive relationship only became explicit through a pig exchange. Prior to this point, the man she describes had previously only been identified through his position as a new husband and father. In this Demian provides us with an example of just how extensive relationships are forged and sustained in PNG, but also demonstrating how certain moments of social transformation (in her case death and marriage, in my case dispute mediations) can enable us to see them.

relationships demonstrated through those who attended the mediation in Bialla are therefore a direct consequence of their allocated land and the oil palm industry as a whole. I mention this not to reinforce my previous argument that the oil palm industry is majorly shaping Bialla both economically, physically and socially (although it does demonstrate just how interlinked oil palm is with the lives of local residents), but instead to illustrate the need for dispute forums that are able to cater to extensive *lain* of this kind. This is vital, as the amount that is required to end a dispute of this sort, and the number of people with interest in the final amount that is exchanged, must be able to exceed that which the village court is able to handle.

Of course this mediation is also noteworthy because, despite the differences, both parties physically appear in this mediation in the same way – by which I mean through the presence of representatives of the dispute who stand and voice their interpretation of events, building to a mutually agreed compensation. The school's representatives had not emerged as one *lain* prior to the dispute taking place, but instead, as seen in the case of Martin earlier in this chapter, the *lain* (much like the forum) emerged in order to answer what the conflict required. Pastor Aaron had certainly never portrayed himself as a speaker on behalf of the interests of the school prior to or following this event. But the flexibility of this venue allowed him to shift into the role when it was required of him. Likewise, the fluidity of the role means that no misunderstandings that might have arisen as a result of the dispute would come back upon him as an individual, or even onto Ewasse or his clan. This is yet another example where we see that the “individual” is not the relevant category of identification engaged with here. Instead, it is the institution of the high school, and the interests that institution may have that are constructed and engaged with as the relevant locus of agency by both disputing parties. This is something that Aaron made very clear when he addressed the PMV *lain* (and he made very clear to me in his retelling of events afterwards). Despite being a member of the school board, he wanted everyone to know that he was not acting with any self-interest. Compensation was demanded from the school, not from Aaron. The grieving *lain* were addressing their complaint to an institution, and not the people therein.

Much like the oil palm plots, the high school is a feature of Bialla that creates and maintains important social ties between the people united through it, either through their jobs or through classes there. However, these ties extend beyond those who make use of the school for one of these reasons, to the school's own relationships as an actor in its own right.

This is made most evident when the school makes use of its relationships with other businesses in Bialla in order to fulfil the agreement made during the mediation. This leads me to the second key component of this dispute – who eventually contributed to the agreed upon *belkol* payment, if no one representing the school were able to contribute as individuals?

In the end, the K12,000 payment was made up of contributions from the school funds and from other local businesses. I asked what would have driven the businesses in Bialla to contribute to this payment. It was explained to me that representatives from the school went around to tell the local businesses that if unhappy with the *belkol* the PMV *lain* would block the highway connecting Bialla and Kimbe. This would be detrimental to all local businesses and so they had an incentive to contribute. Investing in a peaceful outcome and maintaining a “good reputation” for Bialla was in everyone's future interest. It is also worth mentioning that these businesses are not owned or even run by Papua New Guineans. It was most commonly Filipinos who were working at the Malaysian owned stores that make up the vast majority of Bialla's high street. Consequently, it was these workers who were in charge of making the contributions and who were in charge of maintaining the stores' relationships with the high school.

In *belkol* payments of this kind it is commonly members of a *lain*, family or village, who express their commitment to their relationships with one another by making up the required amount. If money is needed for such a payment, it becomes a feature of the reciprocity constantly employed to maintain and create relationships. *Lain* contribute if they can, safe in the knowledge that their contribution will come back to them in another form eventually. If we keep thinking of people who unite in their responsibility for contributing to dispute settlement as a *lain*, then seeing how this kind of connection has expanded to include these institutional and internationally inclusive relationships is significant when considering why dispute settlement cannot be confined purely to the village court process alone. In this urban context we see the extension of the relationships that would usually be called upon during dispute settlements to encompass growing industries in the region. As a result, mediation forums are required to continuously adapt in order to address conflicts that fall outside the remit of the village court.

Conclusion: Forum Appropriateness

This chapter has worked to introduce some examples of the kinds of disputes that arise in Bialla, and how the constitution of the disputants involved can contribute to the emergence of a variety of dispute forums. Similarly, it is through the emergence of these forums, and a consideration of the emplacement of disputes within them, that I am provided the means to identify the sometimes elaborate constitution of disputants and their relationships to begin with. In order to illustrate how these forums can be used to identify certain relationship dynamics and how they are able to cater to the interests of the disputants who make use of them, I have focussed on two main facets of disputes in the region. Firstly, on the constitution of relationships and *lain* in Bialla. Secondly, on how these group dynamics should encourage us to understand disputes as extending beyond the confines of a single dispute hearing. By giving these two aspects of disputes special attention, we can begin to understand how dispute forums should be recognised as interactively defined places, formed out of the relationships that are then mediated and sustained within them (Ingold 2009; Keane 1997).

As further evidence of this process of forum formation, I would like to conclude this chapter by briefly highlighting what it is that disputants feel certain forums can best provide. As I touched upon when describing Olan's reputation in Ewasse, there is often no official reason to speak of that would prevent many of these cases from being overseen in the village court, and certainly nothing immediately obvious that would restrict them from any of the other forums that emerge locally. Therefore, one aspect of what makes these forums so necessary comes down to disputants own understanding of their conflict, and how they feel (and then express to others) that it would be most appropriately dealt with. In Olan's case, there is no way that Aaron would have considered it appropriate to formally object to Olan's actions in the village court, either on behalf of himself or on behalf of the village at large. Aaron's family connection to Olan would have made this seriously inappropriate and offensive act, that would ultimately damage the Zanabi family's reputation. The village too is well respected (and in some cases feared) among other *lain* in Bialla, and a case of polygamy

was seen to undermine that.⁶⁵ As I have already suggested, reputation is a powerful thing, and not something one wants to jeopardise if possible. What this shows is that certain disputes may be shaped by a shared desire to keep the conflict within the confines of a specific village: a desire that makes certain forums unsuitable. Likewise, the high school can be seen to have emerged as a forum in order to cater to the very specific details of the dispute discussed there. Any dispute in which the school was not itself an active disputant would have been ill-suited to the venue, and any authority the school had over proceedings would have been redundant as Aaron and the other school representatives would not have united as a *lain* in the way they did in this instance. This is not to say the school did not emerge as a place for disputes on other occasions during my stay in Ewasse, but it never took exactly the same shape again.

As well as these forum preferences expressed by disputants there are also some more technical reasons that the village court in particular was deemed less well suited to overseeing certain disputes than some of the other forums available in Bialla. As we shall see in the chapters that follow, despite their flexibility there were some legal constraints that the village court can be seen to consistently adhere to in Bialla. Constraints that were significant enough that meant certain disputes, especially such as those involving oil palm and other local companies, could not be taken there. These constraints include the compensation cap of K1000 that was mentioned by dispute representatives in the high school dispute. Any case overseen in the village court, regardless of content, must adhere to this cap.⁶⁶ This amount is far too small to settle some of the disputes that arose during my fieldwork, especially when one considers the duration that a dispute may have been building for, and the large *lain* involved in it. Not only that, but some disputes require a preliminary *belkol* payment, that is always kept well divided from any discussion of compensation.

In the case of Bialla's high school, the fact that it is *belkol* being discussed is due notice as it helps to illustrate one of the ways that some dispute forums emerge better suited

65 The reputation of Ewasse among other local *lain* was brought to my attention firstly by Ewasse's residents themselves, as well as from my interactions with oil palm workers ("I can't believe you live in Ewasse! Are they as dangerous as everyone says?"), then also among groups I came into contact with in Bialla town, who would always know the village by name, and more specifically the Zanabi family, who I was often instructed to pass greetings to on behalf of those I met. The large attendance of gathering that took place following the death of Ewasse villagers I believe was also testament to the extensive connection Ewasse had to other local *lain*, although this is not something I ever discussed explicitly with my hosts.

66 I have never heard of this being exceeded, although I am aware that cases involving "customary" compensation that involves the exchange of pigs, or garden goods, can be done in any quantity regardless of value.

to mediating these payments than others. In some disputes, especially those concerning businesses and oil palm companies, compensation amounts can be quite large. Even when the final amount is greatly reduced from what is originally demanded, figures of both compensation and *belkol* can start off startlingly high. Just think back to Martin's dispute that opened this chapter, in which the original request was for a compensation payment of K16,000. The original amount requested is one of the ways in which disputants are able to express how great they believe the offence is, and those involving *belkol* and compensation demands tend to be the disputes perceived as most extensive by the genesant party. The fact that the final payment may be dramatically less does nothing to undermine the power of the amount stated as a means to voice the scale at which the genesant party feels aggrieved.

The fact that the village court's K1000 compensation cap was openly referred to during the high school case demonstrates nicely just how aware of court rules local residents of Biialla were. In chapter five, this idea of referring to another absent dispute forum (in this case, the village court) will be discussed further in terms of its ability to help a dispute forum define itself. For now, this is one matter that demonstrates how legal-decentralism can broaden the discussion of dispute forums. Rather than the legislative origins of the compensation cap, it is the significance of money (and other items of value) as a means to express grievances that really informs the uses of these dispute forums here. In turn, this partially dictates the limitations of the court and defines a requirement of the dispute forum that emerges to meet the needs of this case. Like in Demian's discussion of how *kastom* is so often flattened within a legal setting, here the need to understand dispute venues in terms of the multiple categories (such as money or custom) that inform their use and position in the community becomes apparent (2015a).

In the school's dispute, the village court's monetary constraints made it an unsuitable place in which to present the perceived scale of the dispute at hand. The compensation cap removes one way of expressing the scale of a grievance that may in fact be an important part of the disputing process. Allowing both sides to feel they have been able to accurately express their views is often an important part of what dispute forums in Biialla provide. Ewasse's case with HOPL also demonstrates an occasion when disputants sought to find a way to express the level of their grievance before they could feel like it was being appropriately addressed. When HOPL was insisting on dealing with disputes at a national court level, the villagers did not feel heard or fairly represented. Relocating the dispute to a

forum within the village did not see the dispute resolved through any kind of monetary means, but it allowed the villagers to voice their side through compensation demands, the very act of which went some way towards a peaceful resolution.

Although I have focussed on *belkol* and compensation here, there are many other factors that contribute to ideas of forum appropriateness in Bialla. For the moment, what the very idea of forum appropriateness means for disputes in Bialla is that the forums cannot stand as fixed, isolated venues, to be utilised when disputes arise. Instead, we can begin to understand how these forums emerge as a temporary result of specific disputes, and react to the relevant categories through which they are being considered. This means that these forums are not equipped to finalise every facet of a long term dispute within a single hearing or even within a single forum. Therefore, if one wishes to understand how these long and interconnected disputes are overseen in Bialla, it makes sense not to regard dispute forums in isolation from one another or from wider social contexts from which they arise.

A conflict may emerge in different ways over a long period of time, requiring different venues and discussions in order to deal with various aspects of the threatened relationship that the disputants are working to maintain. The variety of actors and groups in Bialla who are involved in these relationships, sometimes over many generations, are precisely what make the range of flexible disputes forums a necessity. Having established the need to see dispute forums as a more connected and ongoing iteration of relationship arrangements, this chapter leads us to the question that the rest of this thesis seeks to answer: How can dispute forums embody and sustain these connections, and what does that enable them to do?

Chapter Four

Ever in the Making: Actors and the Fluidity of Village Courts

These nonhumans, lacking souls but endowed with meaning, are even more reliable than ordinary mortals, to whom will is attributed but who lack the capacity to indicate phenomena in a reliable way.

- Latour 1993:23

Introduction

I have suggested that dispute forums in Bialla are both varied and emerge as mediums through which relationships can be maintained or rearranged. Now, in order to better understand how this can be the case, this chapter will identify the specifics of what has to happen in order for a village court session to take place in Bialla. This discussion establishes that networks play a vital role in the way that dispute mediations emerge and greatly influence how they are used. As a result of this, I will continue to elaborate on how the village courts should not be regarded as cohesive, static, legal institutions, but rather fluid places that rely on a network of actors for their temporary creation.

It is in this chapter that I am able to demonstrate the value of the village court's removal from the popular legal-centric approach to courts described in chapter two. Over the course of the discussion that follows, I will describe the actors that contribute to the formation of Bialla's village court, and what the court is able to do as a result of that, without law and legislation acting as the central focus of discussion. In other words, I will be discussing what Bialla's village court is, removed from any reference of what lawmakers ever meant it to be. In an attempt to do this and see what actually takes place in order for a village court to deal with the range of disputes that arise in Bialla, I will be examining the elements that actually contribute to a single court session. Through this process I have found cause to consider a variety of actors that contribute to the court-making process. From the insights provided in this discussion of court-making actors I am able to develop my main concept: Houghton (2017): Courting Disputes

that village courts are fluid entities, reliant on a network of court-making actors to take shape based on the requirements and judgements of the local populous. Discussion of my findings in Bialla will demonstrate how this fluidity may in fact allow the village court at Bialla to better respond to the wants and judgements expressed by the local population, and facilitate the ongoing interactivity that many relationships require. Not only that, but by removing the village court from any legal hierarchy, or from a position of a boxed focal point where we seek to find evidence of a singular legal consciousness, in later chapters I will be able to identify how the village court actually acts as part of a much larger system of dispute mediation that takes place in Bialla through a variety of forums.

My research into the village court in Bialla has led me to consider some of the well-founded discussions that others have had about the “state” (hereafter without quotation marks) as some thematic parallels can be drawn between them. Both the intangibility and various local materialisations of the state as an authority make it an interesting model for discussion of village courts. Through the consideration and adaptation of works such as Foster (2002) and Abrams (1977), in which both reject the notion of the nation state as a cohesive ideological “thing”, the processes surrounding the making of Bialla's village court can be explored. Building on these theoretical foundations the challenge is to avoid taking the existence of state institutions for granted. Succeeding in this, one is able to reconsider the process that takes place in Bialla each week and identify the way in which the court is being made through a network of actors.

It is here that my earlier discussion of those academics who have concerned themselves with actor-oriented anthropology really hits its stride, as they arm me with some useful theoretical tools with which to tackle the specifics of Bialla's village court. With the additional academic insights of the likes of Strathern (1999) and Latour (1993), this chapter is able to acknowledge the role of a wide variety of actors, beyond that of humans with subjectivity, as a motive for action and interaction. Building upon this theoretical groundwork I am able to consider how actors may differ from one another and yet ultimately unite to form a physical expression of what the village court *is*, and facilitate all that the village court *does*.

That being the case I begin this chapter with an examination of one particular case that took place in Bialla and the importance of some of the documents involved. Here it is not the content of these documents that holds focus, but the presence of documents as influential

actors in their own right that provide the basis of my discussion. I will begin by focusing on the role of one case-making actor in detail, and follow it from the conception to the conclusion of one case that took place during my fieldwork. The actor that provides a useful insight into this process is a village court summons. Summonses play a vital role in the creation of cases and the manifestation of Bialla's village court. In some instances, people and objects even fulfil similar roles as actors within the context of the court, no one thing exerting more influence over the court's creation than another.

In order to build upon my discussion of the role a summons fulfils in the making of Bialla's village court, I will move on to discuss a variety of other actors that contribute to the creation of the village court at each session. By considering how each actor contributes to the court's tangible existence we can identify not only what distinguishes the village court from other dispute forums, but also how accepting the putative dichotomy between humans and nonhumans may be unhelpful when discussing disputes and the court in Bialla. Thus far it has been easy to accept a firm division exists between the village court as an institution, the objects attached to the legal process, and the individuals who make use of this pre-formed facility in order to settle disputes. Indeed, most discussion of the village courts so far have been made possible through the acceptance of this basic premise (Banks 1998; Jessep 1992a; Evans et al. 2011). It is even upheld in the works of those dealing with village courts that do not take place in the same area each week, if they take place weekly at all.

Following this discussion of my fieldwork findings this chapter will explore the theoretical basis behind my argument in depth. This builds upon the thematic theoretical groundwork established in chapter two through the introduction of the work of Foster (2002) and Abrams (1977). Despite heralding from vastly different intellectual traditions, both Abrams' problematization of political existence, and Foster's "processes that materialize" (2002:6) are complimented by the use of Actor-Network-Theory (ANT), and when used in conjunction can all help to expand our understanding of what constitutes a case and the village court at all. Through the discussion of these theories as they are repurposed in this chapter and the in-depth description of the roles of a number of actors, I hope to challenge the preconceived notions of what a village court is. I do this in order to reveal how certain interactions and actors are facilitating the weekly creation of the village court in Bialla, and how they are responsible for a network of relationships that allow for the village court to effectively embody and speak to the needs of the community.

Fluid Existence and Case-Making Actors

This chapter engages with the premise that to not be “living” does not automatically mean not to have “life” as an actor (Ingold 2013). In order to illustrate this, this section will describe how certain documents in Biialla not only represent more than the words written upon them, but are capable of *doing* more. In chapter two I discussed how certain dualisms may not be a useful way of interpreting what we see take place in the dispute forums of Biialla, particularly in regards to the division between objects and people. Up to a point an object/person divide serves a practical purpose, and is hard to question, especially when attempting to interpret the vision of the authors of legal documents for example, or indeed when it comes to upholding human rights standards. A document has no say in what is written, and more than that, the paper it is written on not only has no opinion on the matter, but lacks the capacity to care about it. It is, after all, a piece of paper. However, what this chapter will highlight is that, when it comes to understanding the impact of village courts in specific communities an assumption of the significance of some actors, at the expense of others, ultimately constrains any efforts to fully recognise what really takes place in the village court-making process. Thus, it is only by looking at the active capacity demonstrated by a variety of actors that we can question just how the village courts work, and what exactly it is that they do.

In order to introduce how certain actors contribute to the making of the village court, and why I believe it is appropriate to think of certain things as having life as court-making actors, the following section will begin by describing the presence of summonses in the village court. By describing one dispute in which the summonses feature, I am able to demonstrate just how the engagement and involvement of actors of this kind court proceedings can ultimately be seen to contribute to the very constitution of the court as a place, and the case that is overseen as a result. Once this has been established this will allow me to introduce a number of other actors who similarly have significant roles in the court's construction, and together fully illustrate the insights we gain through this approach.

The Life of a Summons

We are sitting on the bandstand at Bialla, backs resting on the chipped white wood. Rosie sits next to me swatting the flies around her ankles with a cloth she always carries. Rain is falling, and nearby a mother rocks her baby furiously as it screams over the proceedings. Despite the noise the magistrates manage to struggle through several cases, and as I feel myself missing useful details there is one dispute that catches my full attention: that of Angelo and Lou. The court clerk stands at the front of the bandstand, a trusted green notebook in his hand, and hollers their names over the wet field. Two men make their way through the rain onto the bandstand and stand before the magistrates, ready to begin. One magistrate asks for their summonses and Angelo moves forward to hand his over. Lou makes no move, and explains he has no summons to give.

Yu bin givim no summons?

“You were not given a summons?” the magistrate asks, surprised.

It is soon established that although Lou's summons had been sent out, it had been trusted to a man on his block to pass on, and had never made it to him.⁶⁷ Having discovered this the magistrates instantly agree that the case cannot proceed until Lou has received his summons. The two men are promptly dismissed, and the court moves on to the next pair of names listed in the notebook. Despite having seen many cases turned away in the past due to one party's absence or the case being classed as outside of village court jurisdiction, for some reason my head was awash with unanswered questions about Lou and Angelo. If Lou never received his summons, then how did he know to turn up to village court that day? Acknowledging that he obviously knew he was required for the case, why then was a summons needed to explain this to him? Considering Angelo had his summons why could the magistrates not just read the case from that? What difference would the process of acquiring this summons from the man on the block make to the case proceedings? Why couldn't the magistrates just copy

⁶⁷ A block is a unit of land given over to the growth of oil palm. See chapter 3 for full measurements. Houghton (2017): *Courting Disputes*

Angelo's summons at that moment and give it to Lou to save finding the mysterious man on the oil palm block?

Unsatisfied with my own interpretation of events I began to direct these questions at Rosie who was still fly swatting next to me. She seemed confused by the nature of my queries, and to each she managed to answer with a variant on the response, “He doesn't have his summons with him. He doesn't have a case. He can come back when he does.” It seemed to me that the process had been set back by a week or perhaps more for a piece of paper that would play little to no part in the case at all once both parties have turned up on the same day.⁶⁸ To the magistrates and Rosie however, it was obvious that Lou needed to be issued with that summons for the case to exist at all, and yet through our discussion the summons was never described as necessary in order to fulfil government instituted court procedures. It was needed instead to “*mekim kes*”.⁶⁹

Having identified this, it is clear that to truly understand what happened in Lou and Angelo's dispute it is worth considering the process a summons undergoes in its entirety, and what this means for those other actors who are involved with that process. By considering what I will be referring to as the “life” of a summon – from the day a single case is associated with it, to the day it ceases to exist – we are able to identify its capacity as an actor in the creation of the case.

To start with, before anyone attends a village court hearing a dispute must be registered with one of the village court officers who can often be found in a set of small offices, a short walk from the bandstand where the village court is held. The creation of the case begins when a genesant goes in and explains their understanding of a dispute to an officer there. This explanation is entered as a pending case in the village court register (the large green notebook that was read aloud from on court days) and then the necessary summonses are created. This is done through the filling in of a pre-set form provided by the state government and distributed to Local Level Government (LLG) offices. The genesant is required to explain their dispute to the court official who writes it down almost word for word onto the summons form. The form itself is understated. A single-sided white sheet of paper, with headings and blank spaces where information is entered in pen. As the disputes

68 By now I was used to seeing many cases delayed when one party is absent from court. Having seen the frequency with which this takes place, I'll admit seeing the magistrates delay a case in which both parties have managed to attend at the same time was the root of my surprise as it appears to be half the battle.

69 “Make the case”

are recorded on paper in much the same way as they are reported (although often descriptions of disputes may be long winded and shortened for the sake of being concise on the page) many of the summonses are written in Tok Pisin rather than any of the large number of other languages used around PNG.⁷⁰ The description of the dispute being recorded on the summonses are often recounted in Tok Pisin to begin with, but in instances when this is not the case, a court official who shares the language of the genesant will complete the summonses, translating the dispute as he goes.

The names of the parties involved (as defined by the genesant) appear at the top of the page under the headings of “Complainant” and “Defendant”. As I have explained, despite their documented legal usage, these terms were not used in court to describe the disputants, and as such I have found cause to introduce more nuanced terminology to enable the decentralism of law that my discussion calls for. Following this, the statement is copied onto a second summons, and both copies are marked with an official village court secretariat stamp. The summonses also provide both parties the date and time at which they are due in court. At this point it is fair to say that the life of a summons (at least in regards to the village court) has begun.

Distinguishable now from the number of other identical forms with which these summonses were originally grouped, these two documents have become representative embodiments of a particular dispute, and as such will facilitate the continuation of the process that began when the genesant entered the village courts office. Of course the dispute already existed before the summonses were ever created. What I mean when I say it becomes the embodiment of that dispute is that through the existence of the summons, and the steps it goes through during its life, other actors are forced to consider the dispute in a new way, and act in accordance with that understanding.

Disputes can also be shaped by the categories laid out on the summons form that the genesant and courts official are required to fill in, for example naming two individuals involved, and summarising what may be a dispute that has been building for over a year into a space a third of an A4 page. As Heimer neatly summarises, “documents in particular induce selective attention, create a method for interpreting the particulars of a situation, and through the use of categories hide some facts while making others observable” (2006: 98). The most

70 On occasion summonses were also completed in English or used certain terms from Tok Ples to describe events depending on the genesant involved.

obvious example of this takes place in the naming of the two parties involved in a village court dispute. Regardless of any extended network of disputants (a subject I already touched upon in chapter three, and will be exploring in greater detail in chapter six) the summonses make two particular parties' roles in the dispute “observable” in a way that allows them to come together and deal with certain facets of their conflict. These facets are partially defined before the parties even make it to court. Through a combination of the genesant's original description of the dispute, the court official's abbreviation of events as recorded on the summons, and the categories required by the form itself all contribute to how the case takes shape once the village court is made.

This shaping of the dispute is by no means limited to PNG's village court setting. As Galanter has identified, due to the fact that disputes originate somewhere other than the court itself, they must undergo a change of one kind or another in order to be presentable in a court setting. What we see take place through the use of the summons and the definition of disputants involved is what Galanter would describe as a “reformulation” which may ultimately restrict the scope of a dispute through a condensing of time and space, or through the specification of individuals (1981: 10). But beyond causing the genesant to think about their dispute in regards to this legal reformulation, these village court summonses initiate a process – a process that ultimately will result in the creation of a “case” (hereafter without quotation marks) - a vital part of what we often think of as the thing that village courts are there to oversee. Said another way, a case is what the village courts are thought to *do*. This is interesting because cases, as they exist in the village courts, do not take place in any of the mediation forums that also play a big role in conflict resolution in the region. They are a unique part of the village court process and, as we shall see, can only take place if the summonses successfully connect with a number of required actors.

Upon completion of the dispute's registration both summonses are carefully folded and placed into envelopes. The next step is for one copy to be delivered to the tributant whose name appears on the summons itself, while the other stays in the genesant's possession. This step is important because it is where the tributant is created. It is usually the job of the genesant to pass the summons on to the correct second party, but in many instances it was made clear the delivery had been made by a third party, usually a court official or the police so the rules of delivery are by no means set in stone. I mention this in order to highlight that it is not *who* delivers the summons that creates a connection between the

genesant, the tributant and the village court. Rather, it is through the identification of an individual as the tributant by a third party, combined with their required interaction with the summons, that they become the tributant themselves. It is therefore not purely knowledge of the information written on the summons that helps bring the case into existence in a form that can be dealt with in the village court. Rather, it is through a summons' physical interaction with the correct tributant that allows for the creation of a case to continue. This is interesting because it is through this nexus of acts that the summons undergoes prior to being received by the tributant, that we can identify the importance of this stage in the case-making process.

If we consider how the summons is valued differently depending on the actors it connects with, we see how the case has been shaped by the genesant's idea of what the dispute is, but continues to be formed by the acceptance actors have of that frame that leads them to ensure the summons finds the correct tributant. Upon receiving their summons, of course the tributant remains the same person that ever they were, but what the summons process can be seen to do is make them part of a bigger network involving numerous evaluative actors who redefine them for the purposes of the case. The tributant then exists simultaneously as an autonomous individual, and, to use an idea presented by Munn, finds themselves temporarily constrained “within more encompassing relations” (1992: 18). Put more simply, the summons itself remains the same, in fact it is unchangeable once it has begun the case creating process, yet it contributes to the creation of the tributant, and provokes their next interaction with the dispute – attendance of court. The result of this process materialises when both parties are called up in court and are able to present their summonses to the magistrates who proceed to read them out, giving both the onlookers and the rest of the magistrates the context of the dispute before hearing what each party has to say.

Lou and Angelo's case presents us with an example of what happens when this case-making process is left incomplete. The fact that the magistrates cannot consider overseeing the dispute in this instance demonstrates the extent to which the completion of the summons process is necessary, not only for a hearing to take place, but for a case to exist at all within the village court setting. What the path of the summons does is bring together a number of actors who are each defined in regards to a single dispute. As a result, the summons sets the parameters of the dispute in a way that can be addressed within this specific dispute forum. In other words, it is a catalyst that facilitates bringing a case into existence in a way that is not

only embodied through the summons' own existence, but through the responses of other actors who also contribute to the forming of the case, and the construction of the village court as a whole. It is not the summonses that change during this case-making process, instead what we see happening is through different actors' interaction with each summons it is they who are forced to react, or are redefined to fit the frame of a dispute. For example, it is only upon receiving a summons that both parties will be able to share in the materialisation of the case, and Lou will become a tributant. Only then will he be able to engage with the case and access the village court. Their attendance of the court is not enough to make the case materialise. Handing over both summonses finalises the transition of the original dispute into a fully formed case and having passed them over, the magistrates become a vocalisation of everything the summonses have done up to that point. This is what the case is, this is who is involved, and from that they start the case within the frame it provides.

If the case is seen through to the end (and this is by no means guaranteed) the summonses cease to contribute to the events that follow and vanish at the end of the court session to such an extent that I never caught who removed them, or where they ended up. They are not stored by the magistrates, and not returned to the disputing parties. They cease to exist. I feel it is fair to use the phrase "cease to exist" in regards to what happens to the summonses once the magistrates have overseen a case because they cease to play a role as actors in the court. Once the magistrates have made a ruling, there is no way that the summons can embody the dispute any longer. This is due to the fact that once a ruling is made the dispute does not continue to exist in the same way that it did before the court hearing. As such, what the summonses facilitated the creation of no longer exists in that form, and will never need to come together in the same way again. As such, the continued active existence of those summonses would only serve to undermine what the village court has worked to mediate. For this reason, it is important that their lives are concluded at this point.

There is a reason that I have come to describe the conclusion of a summons' life as "ceasing to exist" rather than any other terminology that may indicate an ending. My reason for this linguistic choice is mainly driven by my understanding of the alternative ways in which a summons may be removed from dispute proceedings and as such I want to briefly touch on the difference between the conclusion of a summons' life (ceasing to exist), and what I will be referring to in following chapters as the destruction of a summons. These

events are clearly distinguishable from one another because when the life of a summons ends, its physical removal from the court goes without note and unnoticed. It ceases to be used, and is not disposed of, but is also not referred to or filed away either. It may not physically stop existing, but it does cease to feature within the village court and the case it worked to establish. A summons that sees the conclusion of a dispute just stops being part of events, and as a result it ceases to exist. “Destruction” however, is a far more notable event during which the summons is in some way intentionally ripped, crumpled or otherwise transformed openly in front of onlookers. It is literally destroyed. This act is always performed by a magistrate of the village court, and is done so in order to clearly demonstrate a change in the way a particular dispute is to be considered. The summons not only ceases to function as a court-making actor, but all networks and progress it had facilitated towards the creation of a case is actively undone. The relevance and impact of such occasions is something I will be describing in the following chapter in terms of unmaking the village court, a practice that allows for a mediation session to take place.

With such continued importance in how a summons can be used, even in its destruction, it then is not surprising that when a case is successfully settled in the village court there is no ceremony around the end of a summons' life. It is not used to symbolise the end of a case. Rather, it seemingly ceases to exist the moment the case itself is considered to cease. The case itself may have results that continue long after the conclusion of the court hearing. This might take the form of a compensation payment that can take many months (or even years) to complete. But even in these instances the dispute that led to the case's creation, and the case itself, no longer exists. The attributes needed to create the case, and the court in which it was overseen, can no longer unite in the same way. Even if the payment goes unfulfilled for long enough for the disputants to return to village court again, it would start as a new case, and disregard many elements that contributed to the previous case as it was seen before. It is this reality that allows us to acknowledge the temporary nature of each village court case, and the place that comes to constitute the village court itself.

Upon the conclusion of a case some elements of the dispute are recorded within predefined legal parameters on new documents to be stored and filed. This new document works very differently from the summons as it does not in any way contribute to the court's existence, or even that of the case which is able to be concluded without it. Instead, this document reframes the entire case (and village court too) as a bound entity from start to

finish and ultimately in the past. It bridges the gap between large legal conceptions of what the village court is and does, with the extensive local networks and relationships that come together in order to facilitate dispute mediation on a local level.

It is worth noting here that in the case of Angelo and Lou of course we do not see the successful completion of the summonses' path, and as such their lives must be extended for as long as they continue to be necessary in their capacity as case-making actors. Regardless of the different actors each summons interacts with I posit that description of their path should remain singular, rather than describing what they do as their independent paths. This is because, despite existing as two separate entities, the summonses do not work independently from one another, at least not to the point that they can bring about a successful case. Any affectivity they exert on case-making can only be demonstrated when both fulfil their role. In Angelo and Lou's case this means the one summons that was presented in court is returned to Angelo. It will uphold its role as a case-making actor until it is brought to court again in a week alongside the summons intended for Lou. The dates of these summonses are not changed, demonstrating once again that the content of these documents are not what contributes to the completion of a case. Instead, the disputants' names are re-entered into the green notebook assigned to appear at a later date, with no mention of any attempt that may have been made before.

By extending the life of these actors we are shown the important role that they fulfil in village court disputes and the creation of cases. Not only that, but we see once again the significance of these specific summonses being used to facilitate the hearing of Lou and Angelo's case that no other summons could duplicate. They have not changed physically from their existence as documents, and yet they remain seriously distinguishable from any other summonses in their role as actors in this dispute. A role that everyone acknowledged cannot be duplicated. When I asked one of the magistrates what would happen if Lou could not find his summons I was informed that the whole process would need to begin again. Angelo would be required to return to the village courts officer and restart the process from scratch. His summons would cease to be a sign that the case was in the process of being made, and only two identical new summonses would allow for their dispute to be heard. Of course restarting the entire process can be lengthy, and most people will try to avoid this at all costs, including the magistrates themselves. For that reason, extending the life of a

summons in order to ensure the case can be heard correctly is actually quite common, and does not only occur when one summons is absent from court.

Another factor that can extend the life of a summons is on those occasions when magistrates are able to immediately identify certain physical evidence or witnesses that are required in order for the full scope of the case to be formed. In these instances, the dates on the summonses are changed and returned to each disputant in order to be presented at court again in the future. This effectively resets the summons process and adds additional actors to its repeated path that fall outside of the categories of genesant or tributant but are required for the case to take place none the less. This is interesting to consider as it highlights the fact that, although prominent, a summons is not the only actor that impacts the shape of a case and the court. Many elements are required to come together in a certain way in order for cases to take place, and as such the next section will look to a number of other actors that can be identified as contributing to the results of this process.

Magistrates, Flags and Chairs: The Furnishings of Justice

By considering the influential roles of different entities such as the court summonses alongside one another, we begin to identify an increasingly elaborate network of actors that act in a combination that creates the village court in Bialla as we know it. As the summonses are only one example from a number of actors all emerging, and interacting to make the village court, it is worth considering the contribution a selection of these other actors make to the village court's creation each week. Once this has been established we will be better able to discern how this actor-network allows the court to deal with disputes. Here I will extend this discussion to consider how some of these actors differ from one another, and yet ultimately come together as a united physical expression of what the village court is, and facilitate all that the village court does. I do not intend to go into vast detail of every actor involved in what I hope I have made clear is a lengthy and complex process that starts the moment a summons is created. However, I will briefly describe what took place every week as part of the court-making process, in order to introduce the density of actors involved in

this network, before continuing to have a more extensive discussion focusing specifically on chairs and magistrates.

Physically setting up the village court was always a lengthy procedure, and quite a performance for those gathered around waiting for their cases to be seen. Nothing would take place before an appropriate number of magistrates had confirmed their attendance, at which point the bandstand was physically transformed into the courtroom.⁷¹ This was identifiable when each week a table and chairs were carefully carried out from nearby offices belonging to the village court and various other government agencies. Having positioned this furniture in the middle of the bandstand the table would be hung with WNB's blue provincial flag, held in place by items that could be gathered from the local vicinity. One week it would be a large stone, and the next week an unopened can of coke or a magistrate's mobile phone. If ever the flag was dislodged, or slipped from the table, proceedings would continue but a magistrate or court officer would ensure it was carefully repositioned. Although it was never explicitly referenced during hearings, I never saw the village court commence without it. The hanging of the provincial flag is a particularly useful actor to consider as it provides us with a good example of a “thing” that can be approached in a number of ways (Henare et al. 2007), and as such allows me to identify my own definition of what an actor in the village court really is. By comparing the role that the flag plays in Bialla's village court, to the can of coke, phone, or rock, we can see that some things contribute to what the village court physically is, and as a result of their court-making capacity, in turn influence what the village court is able to do. In contrast to this, other things may be required in court to fulfil certain roles, such as weigh down a flag, but do not act in the court-making network in the same way. Without the can of drink, the village court would still take place. Without the flag, there is no court to begin with.

The flag is an interesting entity to consider in Bialla's village court because flags are already a focal point in other studies, and as such we are immediately provided with some comparative data. Both Goddard (2005: 55) and Demian (2015c) have made mention of how national flags adorned the courts in which they conducted their research, and likewise they were a feature of every village court session I was able to witness in WNB. The presence of flags in PNG's village courts has been noted by a number of other academics as well, and the

71 That the village court requires an odd number of magistrates of three or more was one of the original parameters established in the rules laid out in 1973, and was strictly adhered to in every village court session I attended in WNB.

importance of flags in PNG more generally has been discussed in a variety of ways. This discussion most commonly arises in reference to nation-making, and as a symbol denoting local connections with the state (Goddard 2009; Foster 2002; Strathern and Stewart 2000). Usually it is the red and black national flag that holds focus in these discussions, as its use in a variety of scenarios around the country and overseas makes it an interesting emblem to consider. Strathern and Stewart make note of occasions in which the flag has actually been made use of in dispute settlements outside of officially sanctioned legal venues, introducing the idea that state emblems can be refashioned in local contexts in “pursuit of local aims” (2000: 27). These discussions tap into a really interesting conversation about how communities living in different areas across PNG are able to create and maintain their relationships with an often absent state. Certainly this is something I believe is happening in many of the processes demonstrated weekly in Bialla's village court, for example in much of the emphasis placed upon bureaucratic symbols, such as the stamp used on all court documents, and uniforms the magistrates dream of having: “What we have is still good, but it is old and there are more of us now,” one of the eldest village court magistrates explained to me one day, gesturing to his own faded blue shirt with the emblem of the village courts stitched on its pocket.

This discussion regarding the state is worth mentioning because, as I said, there are a number of ways to approach many of the things in court. In the case of the flag, it is most common for it to be interpreted as a symbol, made use of by human actors in order to demonstrate a connection to the state or demonstrate the significance of an occasion. My approach differs from this by taking things as actors, but that is not to say these other approaches are without merit, and it is worth keeping in mind as we proceed that all the actors I will be considering are capable of doing, and *being*, more than one thing. It is entirely possible that the flag in Bialla is simultaneously creating the court, and contributing to the creation of the state. However, to stretch Munn's concept, within the context of the bandstand the flag acts, and receives definition, through the “encompassing relations” that the situation provides, not reducing the flags potential to do more, but certainly overshadowing it (1992: 18). Therefore, in order to gain insight into disputes and mediation forums specifically consideration of the broader potential of the flag is not what I will be using to contribute to my assessment of its presence in Bialla. Instead, I will return to my consideration of the flag as a court-making actor.

What it is important to specify at this juncture is that in Bialla it was not the national flag of PNG that was hung from the table in the village court. It is details such as this that should encourage us to reassess the arguments that would suppose flags to promote local authority through a connection to the state at large. Unlike the national flag that hangs in the nearby district court, and even the village court secretariat offices in Kimbe, in Bialla it is the blue provincial flag of WNB that adorned the village court. Far from demonstrating a connection to the state as a whole, the role of the flag in Bialla's court is certainly doing something different. If anything it demonstrates how the village court in Bialla is regarded as a relatively local authority, divided from state powers and unifying those who make use of it. Arguably the presence of the flag allows the magistrates, and all those who utilise the village court for their disputes, “to bring into play a marker of power and claim their own special relationship to it, so that they effectively localized its power.” (Strathern and Stewart 2000: 42) The affective capacity of the provincial flag lies in an understanding that it already embodies a symbolic power, made active when it interacts with other actors at the bandstand, and as a result contributes to the authority of this localised dispute forum. What this means for the village court, and for the flag as an actor in its own right, is that once laid out on the bandstand that place is made into one of authority, and everything else that interacts with it become accepting of the fact that they are interacting with a dispute forum. Not only that, but through the flag's legitimation of this local authority there becomes an unspoken pressure on everyone involved in a case to settle it amicably in order to maintain future access to this village court in this way – isolated from, but simultaneously referencing, state influence. The implication being, only trusted and familiar magistrates are qualified to truly understand and oversee disputes there.

These concerns about unwanted state influence were made most explicit during instances when cases escalated to the point of yelling during a hearing. In order to calm disputants down the magistrates would refer to the positives of having the power to solve the problem locally, exclaiming things such as “*pawa i stap wantaim yumi yet!*” to remind disputants of this.⁷² The implication being that overseeing disputes locally is a good thing, and if the village court system was deemed to be inefficient in this role then cases would lead to more state imposed interest and presence in the region. In this way, the provincial flag's presence in Bialla's village court not only contributes to the creation of a formal court setting

72 “We still have the power here.”
Houghton (2017): *Courting Disputes*

as a place, but simultaneously demonstrates an emphasis on local power, and a certain pride in that demonstrated by the magistrates and other court officials.

What we see here is not a disregard for legislation or the power of the state. If that were the case it is more likely the flag would be abandoned all together, and so too would the stamps, uniforms and other formalities seen in the village court. Instead, we see a clear acceptance, and even harnessing of state power and influence in Bialla, but within reason, and all made use of in an effort to provide the village court with the authority required to resolve disputes. To the extent that in some instances, the flag being the best example, the state becomes a presence that is referenced as something to unite against and in this way, in its absence it too contributes to the identity of the village court – although to consider it part of the actor-network I have been discussing I believe would be somewhat of an overstatement. This is worth highlighting as it helps us identify the nuance between actors and other influences upon the village court and dispute proceedings therein, as well as the dual roles that some court-making actors play. This subtle difference also aids the division I have been making between the process of court-making, from the way in which cases are overseen themselves that I will be exploring throughout later chapters.

Where we saw the summonses work together to contribute to the creation of a case, the flag and procession with which furniture is carried to the bandstand when a village court session has been confirmed, is a more physical representation of the court's existence, and the materialisation of the authority it embodies. Confirmation of the magistrates' attendance is physically presented through the chairs that are carried to the bandstand demonstrating once again the court's reliance on these material signs in order to be made present. Although unremarkable when taken by themselves, much as we have seen with the life of summonses, these actions and objects interact and combine to create important aspects of the village court and its process.

The Story of a Chair

During a long and bumpy car journey one day, a researcher who was over in WNB to look at oil palm sustainability told me a story about their experience of conducting interviews during fieldwork. Upon arrival in PNG she had established connections with the women in a certain village, and was keen to conduct some interviews there. The women all agreed and one day she went to the village to begin her research. Following the conclusion of her first interview she simply walked over to the next house and asked the woman living there if she was ready for her interview as well. She was told by that woman, and all the women of the village that she would need to return the next day to continue her interviews. She did so, and the next afternoon after she had finished her second interview she once again attempted to move straight on to another house in order to continue. Again she was told that she would need to return the following day. This continued until one afternoon she finally realised that every day she was welcomed into the home of her interviewee and graciously offered a seat on a plastic chair. She came to realise that the same chair was being moved from house to house in preparation for her interviews. It was only when she started refusing the chair that the frequency of her interviews began to increase.

The reason I mention this now is because this is the story that always came to my mind when I watched the magistrates set up the village court. Through consideration of the chair, and the meaning it was imbued with in the village, we see not only the interviewees expression of what they believe would make my researcher friend comfortable, but the chair itself comes to embody and express a multitude of judgements, social networks and elements of regard present in the village that ultimately influenced the researcher's findings. Through her own interaction with the same object (particularly when she began to refuse it) she was able to redefine the way in which her experience of the village played out thereafter. It is stories such as this that remind us of the importance of identifying how multiple entities contribute to events, beyond the input of subjective persons, and perhaps more specific to my argument, remind us to step back from the world of documents and consider the numerous other actors the contribute to Bialla's village court proceedings.

Perhaps the reason I was so frequently reminded of this story was because each week in Bialla I sat and watched a small table and four chairs as they were carried through the sun

across the field to the bandstand from one of the nearby offices. Much like my researcher friend had experienced, during my first few visits to Bialla's village court I unwittingly managed to cause chaos as an additional chair was sought out for me. A seemingly frustrating task, so much so that to this day I remain convinced that there are only six chairs in the entirety of Bialla. I should say that I am making a distinction here between “places to sit” and “a chair”. Bialla is well endowed with “places to sit” - makeshift wooden benches are commonly seen in peoples' homes, and otherwise there is usually a stoop or the shade of a tree that provide respite from the hot sun and tired feet. “A chair” however, is much less common. Used in schools and businesses, it was rare for someone to make use of chair unless it was a special occasion, and as a result their appearance on the bandstand not only signified the event about to take place, but endowed those who sat upon them with a certain authority over proceedings. This authority was so tangible to me that for the first few weeks of my village court visits I was actively uncomfortable seated alongside the magistrates. Eventually my stubborn requests to watch proceedings from the floor like everyone else were accepted, and everything got slightly easier after that.

I was not the only one who experienced seating difficulties at court. On occasions when there were more magistrates than chairs a sort of elaborate dance would commence. Periodically throughout the morning a magistrate who did have a chair would make sure to relinquish it to whomever was left standing, and by the end of each day every magistrate would have been sitting for an equal duration. This would always take place with no discussion required by any of the magistrates, everyone knew when it was time, and I could discern no signal passed between any of them despite the fact that these swaps always took place seamlessly. If the care that went into carrying the chairs out each week was not enough to make me believe they had a significance in court procedures, the careful balance created among the magistrates' interactions with them most certainly did. Much like the provincial flag these chairs contributed to the creation of a certain place. A place which had authority, and simultaneously both shared that authority with, and received it from, other actors within it (Ingold 2009). This perhaps becomes most evident when we consider the magistrates themselves and the rulings they make within the court environment that is created.

When the village court is not in session the magistrates are still recognised in regards to their roles within it. They may be called upon to mediate smaller disputes outside of the court, or turned to as an authority in ethical matters on a regular basis. They are also

commonly referred to by their title when fulfilling these duties, or on occasion by those they pass in the street wishing them well. So what changes when the magistrates meet at the bandstand? Like the summonses, we see a change take place when the magistrates come together as agents in the court. Confirmation of how many magistrates will be in attendance on any given day is a key part of whether the village court can be made that day at all. Their attendance triggers the movements and roles of the other actors that physically create the courtroom, and once they arrive they unite in their role to bring about the existence of cases by acting as recipients of the summonses. Their united role in the court solidifies in a number of ways. Firstly, simply through linguistic means. All disputing parties refer to the magistrates as one authoritative body - “skius magestret” - rather than as a group of multiple persons or even as individuals.⁷³

The second way in which we are able to identify the magistrates' united role is when we consider the importance placed upon maintaining and even performing their equality in the village court. The chairs help us to identify their shared authority, not only in distinguishing the magistrates from everyone else in court, but through the way in which the time each magistrate spends seated and standing must be balanced in order to maintain and convey an equality between them. The magistrates interact with the chairs in a way that facilitates the sharing of their power, as well as responsibility⁷⁴, combining to create the physical make-up and contribute to how the overall proceedings take place in the village court. The existence of the magistrates and their role in the village court make the chairs active in the court's creation, while simultaneously the chairs act in a way that allows for the magistrates to unite in a shared capacity during court sessions and distinguish themselves from everyone else present. The influence of both these actors can be seen to coincide in such a way as they help to create the roles for one another, and facilitate the fulfilment of those roles as well.

Of course these entities, both chairs and magistrates alike, exist prior to and removed from the context of the village court, but in their mutual interaction with one another, and the court-making process, they become relevant actors, defined by the interactions they have

73 “Excuse me magistrate” - a common phrase used when starting to address the court during a case. This differs from if they were addressed as a group where “skius ol magestret” would be used instead - “excuse me magistrates”.

74 Here I use the term “responsibility” to indicate who would be held accountable for the outcome of any case by the disputants, and therefore, who would experience any repercussions attached to that if conflicts were to continue, or even escalate, as a result.

with one another and other actors also engaged in this process. The chairs in themselves are not able to create the village court on the bandstand but, much like as we have seen with the summonses, through interaction with a number of other court-making actors the chairs are able to contribute to the physical realisation of Bialla's village court and their absence too is able to undermine that. In this way, a chair does not merely work as a symbol of the power of the magistrate who sits on it, but instead acts as one contributor to the power held in the village court, and as such a contributor to the doings of the village court itself. What we see happening between the chairs and the magistrates is perhaps the most interesting example of this as we see how people and objects can both be treated as actors, both engaging with and influencing one another. In the case of the village court this engagement results in the temporary creation of a place in which disputes can be overseen by calling upon an intangible authority, but made both visible and possible through the relationships played out by local actors.

Acting Out: Objects, Things, People and Flexibility

So far, I have described a number of actors and the court-making process that can be identified in Bialla as a product of their combined genitive capacities. I have also briefly introduced how significant actors can feature as part of networks, and how humans and nonhumans alike interactively engage and can be defined as part of this. This stands in opposition to the more common approach taken, in which humans are portrayed first-and-foremost as cognisant beings, whose genitive capacities go beyond those of the nonhumans they interact with. This has particularly been the case in my discussion of magistrates and how they not only unite with one another, but gain definition as authorities in reference to the other actors that come together in the constitution of the village court. The approach I have taken is not an effort to undermine or deny the influence and impact that human intervention can have, or indeed to suppose that inanimate objects have any mental or emotional capacity to engage with events in the same way as living-beings do. However, what this shift in emphasis has allowed me to do, is to recognise a larger number of these court-making actors. In doing so I have been able to identify what is truly happening when the village court is

made each week, rather than reducing this event to any singular intent of a magistrate or state legislation.

In order to understand how ANT can further our understanding of the village courts it is useful to recall my discussion from chapter one, in which I described how the village court in Bialla should be relieved from its image as a boxed and perennial entity. The idea that each village court exists as a bound institution is, perhaps unsurprisingly, in keeping with the language of legislation. The very act of attempting to create legislation for the village courts requires them to exist as formal legal institutions connected to the state. Cases are counted, attendance is recorded, and statistics are produced for reports that attempt to quantify the success of village courts across the country. This remains to be the case, regardless of the significant attempts made to allow for nuance and diversity within legislation, such as the emphasis on customary law (Demian 2015a). With this being the case, my approach has to differ from that seen in much of the work that precedes it, in so far as I promote the idea that in order to recognise the roles that different actors are playing in the village court process, we must recognise that the court itself is a flexible and temporary venue. It relies on a constant process of making and remaking by a network of actors, each in transitioning relationships with one another. Before going into detail about how ANT provides a useful theoretical contribution to my discussion, it is this idea of flexibility and inconstancy of the village court that (perhaps ironically) needs to be cemented.

It is the findings of academics who question the existence of the state and nation that I have found to echo in my own research, despite conceptions of village courts existing at quite a different scale. When looking at political practice, the state is often referenced as a motivating and influencing power. Likewise, people take for granted and utilise the existence of nations to the extent that nations can have airlines, flags and events as tangible expressions of this existence (Foster 2002). However, for a long time now these concepts have been problematized by academics, and increasingly their existence as solid, cogent entities have been challenged. Despite seeming entirely removed from ANT, and coming from an academic background of sociological and historical origins, it is through Philip Abrams' (1977) work on the state I find the existence of Bialla's village court can best be broached. Abrams deftly brings to light issues surrounding how the state is treated in academia and political practice alike. He proposes that to engage with the influence of state-systems and state-ideas is relevant and even useful, but to take for granted that the state itself exists is to

engage and perpetuate a flawed myth (1977:68). Instead of a pre-existing entity through which other practices are played out, Abrams explains that the state itself only comes into being through the varying interactions between other political actors: “it starts life as an implicit construct; it is then reified...and acquires an overt symbolic identity progressively divorced from practice as an illusory account of practice.” (1977:82) This idea of fluid institutions beginning as implicit constructs is vital to the process of both the state's and village court's creation, because it is this origin that provides each with their constancy.

Identifying the court-making actors in Bialla helps to reveal the means by which conceptions of disputes, and the forums that can deal with them, are brought into being in a way that can be physically accessed by those who wish to make use of them. However, the only way this process begins to hold the power, and value in Bialla that it does, is if we recognise that prior to this materialisation of the court each week, there is an implicit, and constant understanding among actors of what exactly the village court is. As such, the fluidity of the court allows it to change and adapt in each iteration of its physical existence, yet it never ceases to exist entirely as it continues to be conceived of in the minds of Bialla's population. How people understand the village court to work, and what they believe it is there to accomplish, influence its existence when it is made tangible. Thus, through these implicit conceptions, and the moments in which they are made explicit – through speech or action – the village court is constantly being made and remade.

The sheer scale of the state, means the illusion of its existence has wildly different connotations from that of the village courts, and therefore the issue Abrams takes with the state does not speak in a direct way to the events we can see taking place in Bialla. However, if we disregard the difference in scale and instead look to the process he puts the state through in order to remove it from its rigid existence, I believe applying the same method allows for an opening up of dispute practices in PNG. This approach is best exemplified when Abrams points out the necessary distinction taken by academics in their consideration of the state, as opposed to those working with systems and practices of belief: “The task of a sociologist of religion is the explanation of religious practice (churches) and religious belief (theology): he is not called upon to debate, let alone believe in, the existence of god” (1977: 79-80). So when speaking about the village court in Bialla, I believe it is helpful to consider it not as a cohesive tangible entity, but rather as the result of numerous beliefs, places, actors, and requirements coming together.

In more recent years, ideas presented by the likes of Abrams have advanced and taken new forms in order to consider a wider number of factors that contribute to the tangible presence of these “imagined” or “invented” constructs (Anderson, 1991; Hobsbawm and Ranger, 1983). When considering PNG specifically, Robert Foster's 2002 publication, *Materializing the Nation*, provides a useful advancement. He looks into the ways in which PNG is created as a nation through a variety of different materials and medias. Agreeing with many of his predecessors, Foster introduces an interesting argument - that by looking to seemingly banal facets that constitute a nation, the process by which the nation is created can be identified, as can its uses: “paying attention to the banal aspects of nation-making demonstrates how the nation emerges – not as a particular narrative or particular imaginative construct, but as a frame of reference available for defining and communicating identities” (2002: 16). Looking at the construction of political entities as frames through which identities can be defined and communicated to others is an interesting theme – one that I found increasingly relevant to proceedings taking place in Bialla's village court. In many of the cases I will be discussing, the village court is created as a venue in which “ordinary ethics” (Lambek 2010), judgements, and relationships are expressed, or where definitions are in fact sought out in the dispute forum itself. Foster continues, “[t]hat agents invoke a national frame of reference does not mean it is in every or any context the dominant frame of reference” (2002: 16). Here we see Foster promote a shift in focus, much as I do, from the assumption that these intangible political constructs should be regarded as the central frame for actors' engagement and interactions with one another. Foster's process of destabilising the approach we readily take to both institutions and objects is fundamental to my experience of dispute mediation in Bialla. Foster argues for a shift in the central focus of conceptualising political identity – an argument that resonates with my own and other authors' attempts to reinstate documents as actors. As Navaro-Yashin summarises in her work on make-believe papers:

This is not to argue that documents, or artefacts, have a subjectivity (or that they are capable of feeling), but to suggest...that, when placed in specific social relations with persons, documents have the potentiality to discharge affective energies which are felt or experienced by persons. My argument, then, is not that documents maintain autonomous or self-contained affectivities, but that they are perceived or experienced as affectively charged phenomena when produced and transacted in

specific contexts of social relation. Documents, then, are phantasmatic objects with affective energies which are experienced as real.

- 2007: 81

As Navaro-Yashin suggests, and my discussion of the summonses in Bialla has illustrated, there is cause to look beyond how people “project their affective energies” onto documents (and a wide number of actors for that matter). An approach that takes a subjective self to be a centre to which all other things are shaped should not be considered accurate when looking at the events that take place to construct a village court. Instead, when looking at the significant actors in Bialla’s dispute forums one should be looking for those occasions in which they incite “affective energies when transacted or put to use in specific webs of social relation” (2007: 81). Removing the village court and the law as dominant frames of reference in disputes creates space to consider what these disputes are truly doing. In later chapters this reframing of disputes is what allows me to elaborate on how the village court should be considered to be one part of a larger networked mediation system available to those living in Bialla.

Conclusion

The ideas expressed by the likes of Navaro-Yashin (2007) and Foster (2002) should hold an important place in any consideration of dispute forums in PNG. Through the detailed investigation of a number of actors, such as the summonses, my assertions regarding their active contribution to the village court-making process has been presented. Examining the role of the summonses provides new insight into the complexity of disputes and a new site in which ANT can be explored. My experiences of Bialla’s village court described in this chapter, begin to demonstrate just how consideration of the flexibility of the court can provide a useful approach in order to better understand the village courts and their place in Bialla's extensive network of mediation forums.

I have suggested that there is no single actor or event that can be considered ultimately responsible for the creation of the village court in Biella. I have also highlighted the reason that identifying the contribution made by these actors is so important. That is because their influence challenges the understanding that the village court is a permanent and fixed entity. Through my consideration of literature that has scrutinised the existence and manifestations of the state, I have been able to bring together previous discussion of the likes of Foster (2002) and Abrams (1977) and illustrate the future potential of their insights within the context of more localised conceptions of power. It is in implicit conceptions that forums such as the village court find their constancy, as well as explaining elements of their flexibility. It is then in the interaction between court-making actors that the court gains material form each week. This is key to my study as it provides access to some of those conceptions that were previously implicit.

The paths of the summons, flag, chairs, and magistrates have all been identified as court-making actors. Each existing in one form removed from the court setting and yet, when successfully united, they work together to allow the village court to take place and disputes to be overseen. The capacity of actors to shape the eventual form that a case takes in court can begin even before the court materialises. This can be most keenly demonstrated in the case of the summonses which, through their very existence as forms with certain predetermined parameters (Galanter 1981; Heimer 2006), brings about the definition of the genesants and tributants that will later appear in court. This, of course, does not guarantee the completion of a case. Instead, these actors merely provide the frame within which a case can begin and those involved can be identified.

Having identified the importance of these actor-networks to the village court's very existence, and utilised some pre-existing anthropological theories in order to do so, what remains striking is the village court-making process' abiding invisibility in the eyes of the government and other legislative bodies. As a result, opinions on the uses of the village courts and events that take place in them throughout PNG are most commonly based upon information taken from the reports filled in by village court officers and deemed complete. These reports require cases to be strictly categorised, and complex disputes must be summarised in ways that adhere to fields that appear on preconceived forms. Refocusing this approach to the village courts' existence introduces some recognition of what it is that makes a dispute into a case, and attempts to better observe how that case contributes to the workings

of the village court system as a whole. By doing so, it becomes apparent that the village court in Bialla is constantly doing more than can be reported on any of the current legislative forms provided to magistrates. By acknowledging the network of actors that I have identified, we are able to recognise the village court as one part of a larger collection of dispute forums all working to cater to the needs to Bialla's growing community.

Like the chair-dance of the extra magistrate or Lou's missing summons, the significance of actors in the court often become most apparent on occasions in which they are absent, intentionally removed, or consciously dismantled. The idea of how absence can impact dispute forums is one that I will be exploring in greater detail in the next chapter. I will introduce just one of Bialla's "alternative" dispute forums, and how this forum works alongside the village court to address conflicts in the region.

Chapter Five

Unmaking a Village Court

The flag and chairs were removed, and an evident change in atmosphere occurred. The parties sat on the floor with friends clustered on either side, and rather than one of the magistrates, one of the peace officers led proceedings. The magistrates put their caps on and drank coke or started chewing buai. The disputing parties also changed. Bags and children were allowed on the bandstand with them. In village court circumstances this would have been strictly forbidden, but it seems in a mediation these actions were usual.

- Fieldnotes 13th March 2014

Introduction

Currently the village courts in PNG are most commonly recognised by those interested in the subject as part of the officially sanctioned legal system. This interpretation renders village courts as venues that are answerable to the state, defined by legislative guidelines, and regulated by PNG's government. These courts are also generally spoken of as constituting one part of a hierarchy of legal bodies. The VCLMS hold one of the lower positions within this legal hierarchy, referring cases they are unable to oversee up to the district and then national courts. This definition of official legal venues has promulgated the understanding that disputes that are mediated outside of these recognised venues are overseen in “alternative” forums. This chapter questions the relevance of this distinction. Far from standing alone as an official legal forum among numerous “alternative” dispute forums, in this chapter I will describe how the village court is just one part of a network of conflict mediation venues that are each able to see to local requirements in Biella in different ways irrespective of any legal prescriptions that may divide them.

“Alternative” (hereafter without quotation marks) dispute forums constitute a significant number of the dispute venues available in Biella. Despite the wide range of cases Houghton (2017): *Courting Disputes*

that Bialla's village court hears each week, there are also many disputes that cannot be provided for there. As in those disputes involving large companies, many disputes in Bialla involve payments of more money than the village court is able to discuss. Beyond those disputes involving businesses described in chapter three, this was also common in debt cases surrounding the harvesting of oil palm, in which payments could easily exceed the village court's legal K1000 compensation cap. In these instances, the village court is unable to make any official ruling that would possibly resolve the dispute with any finality, and disputants often seek out a more appropriate forum. Some alternative forums in Bialla can be seen to emerge almost solely in an effort to cater to this. Despite restrictions such as the compensation cap and its reputation as an official venue, the village court as a *thing* that has been *made* can also be seen to facilitate cases of this kind outside of legal remits. These occasions are most easily identifiable when the magistrates explicitly decide to oversee certain disputes not as cases, but instead as what they referred to as mediations. Therefore, this chapter begins with the description of a dispute that was overseen in a particular forum, the creation of which was facilitated by a transformation that took place in the village court.

Following a description of the unmaking process, this chapter will examine some of the other dispute forums available in the Bialla region and focus on a case study from a village committee meeting that took place in Ewasse. This discussion explores how these dispute venues can constitute part of a large dispute forum network. Somehow these venues remain linked to the village court and yet entirely removed from it and its affiliated practices. This is in spite of the physical absence of the village court and the material unmaking process that is required in the making of certain mediation forums. In order to explain how these links can be identified and recognised as a network I call again upon the idea of interactivity presented by Keane (1997), but develop it in corporation with Foster's "frame[s] of reference" in order to discuss how dispute forums can interact, even when one or other of them are physically absent. In his quotation that opened chapter three, Keane explains that people can be mutually defining based upon interactive encounters. It is through interaction between actors (not just people), I suggest, that Bialla's dispute forum network is realised and through which each forum is defined and their identities are communicated (Foster 2002: 16).

This chapter explores how a number of verbal and material interactive associations can make and sustain a dispute forum network. Through a description of a dispute that was overseen in Ewasse's committee meeting I am able to demonstrate exactly how verbal and

material interaction between actors can come to simultaneously link and distance this dispute forum from the village court, and how this allows me to identify the dispute forum network as a whole. Many of the links discussed in this chapter are either sustained in spite of, or created as a result of, absence. Although not an idea that has yet found its place in discussions of the courts in PNG, the significance of absence that I will be exploring in this chapter has not gone without notice in Melanesian anthropology. For example, in her discussion of “practical nostalgia”, Debora Battaglia concerns herself with the active potentialities of loss and what the absence of certain things can trigger or lead to, as well as conclude (1995: 77; see also 1990). Absences, Battaglia suggests, can inform present and future social relations. My work explores this idea in regards to dispute forums by asking what public instigation of absence can lead to (like when a summons is destroyed) and what verbal reference to something that is absent can mean for the capacity of a dispute forum. I discuss the significance of these absences and what they can do in terms of *genitive absence*.

A Note on Terminology

Before entering into my discussion on the importance of the unmaking of the village court, and the network of forums that work alongside the village court in its absence, it is important to briefly mention a terminological distinction that should be highlighted between the Mediations I have already described in the opening chapters of this thesis, and the mediations I will be discussing in the chapters that follow. The term “mediation” will be cropping up repeatedly throughout this chapter as a word that describes a type of dispute forum that exists outside the remit of the village court. This term will be extended to describe the process that disputes undergo (mediated) and the role that certain actors take during this process (mediators). The reason for my use of this term is that this is the word that was used in Biialla to describe many of the dispute resolution processes that existed outside of the village court. Although many of the forums had their own names that differed from this (*wanbel kot*, *stretim kot*, *komiti*) the process used to oversee disputes was often considered to be “mediating”. This term is therefore the most appropriate to use throughout my discussion of the following disputes.

In keeping with my decision to avoid using legally weighted terminology to describe the disputants themselves an important distinction should be made here. The word mediation also has a place in PNG legislation. Mediations are a legally sanctioned part of PNG's government's effort to allow for Alternative Dispute Resolution (ADR) processes.⁷⁵ Having read through what a Mediation constitutes in the government's eyes, I have identified enough disparity between the legislative definition and the events I have seen that, despite sharing the word, I have found cause to distinguish the two from one another. As a result, I will be using the term mediation throughout this chapter, but would like to emphasise that this usage is in no way linked to the legislative use of this term unless explicitly stated. In order to maintain this distinction and allow for a clear division between the two processes, when referring to Mediations as they exist in law this will always be done so in capitalised form. This rule extends to any additional descriptors stemming from the same term (Mediators, Mediating).

A Village Court No More: The Unmaking of a Dispute Forum

In some disputes the intentional deconstruction of the village court is required in order to create a more suitable forum in which a mediation can take place. These deconstructions are not planned, and they take place whenever the magistrates see fit. Having acknowledged how certain events and actor-networks contribute to making the village court, the unmaking of the court can now be revealed. This unmaking can be just as striking and the resulting forum can contribute as much to dispute proceedings as the village court itself is able to. All the actors that make the village court as a physical entity, and all legal and procedural parameters associated with that forum, need to be unmade in order for another type of dispute forum to be made use of in the same physical space. This unmaking process once again confirms the importance of the roles that these court-making actors take in the village court, whilst simultaneously demonstrating their contribution to the process of making

75 Full details of the government guidelines for a Mediation and the proper processes attached to registering as a Mediator can be found in the *Rules Relating to the Accreditation, Regulation and Conduct of Mediators* (2010).

a new, alternative, mediation forum. Through the removal of these actors from the bandstand not only is the village court unmade but they, and the village court itself, give rise to the redefinition of the place in order to provide an appropriate alternative venue. In order to fully understand the events through which the village court is unmade, and to begin to understand how alternative dispute forums are made use of, I will begin by providing a detailed description of a single case study.⁷⁶ These details will then enable me to explain how unmaking takes place in dispute forums in Biälla and what this means for the disputes held there.

The content of mediations can differ dramatically. This is important to recognise because, as we have already seen in disputes with companies, it is the wide variety of disputes arising in Biälla that makes the diversity and flexibility of dispute forums such a necessity. Despite their flexibility however, it should be acknowledged that these mediations do share one consistent commonality: the continued presence of magistrates from the village court. The magistrates are a crucial component of all mediations, contributing both to the unmaking of the village court and the progress made in the mediation that follows. Despite this connection, the magistrates, much like the bandstand, do not remain unchanged. Their roles, and even how they are addressed, shift into that of mediators who are seen as facilitators who do not make rulings. Their interactions with the space changes, and the removal of court-making actors has transformative results on the magistrates themselves.

The magistrates are the first actors that help demonstrate a key concept that will be discussed throughout this chapter: genitive absence. Although the forum undergoes the material removal of certain court-making actors, it retains a connection to the village court that came before. This connection between the two forums, and the magistrates' presence in both, is what allows the village court to shift easily out of any physical manifestation to make way for an entirely new forum. This connection between mediations and the village court is then sustained by virtue of many of the actors involved, the significance of which I will be describing as this chapter continues. Building on my discussion in chapter four, these shared actors are what allow me to demonstrate most clearly how actor-networks influence the making of different forums. But ultimately what this discussion will allow me to do is

76 My use of the term “case study” in no way involves the existence of a “case” like those seen to emerge in a village court setting. As I explained in chapter four, cases are only seen in the village court setting, and here I only use the term case study in its popular usage to describe a particular instance of analysis in order to discuss a larger principle.

illustrate how these forums emerge not only as the products of actor-networks, but as part of a dispute forum network in their own right.

For the sake of clarity, I have divided my discussion of this matter into three sections. The first purely focuses on detailing the case study itself, both in terms of dispute content and the forum's material existence. The second section begins the analysis of this case study. It considers the material aspects of the dispute forum's emergence in order to discuss why unmaking the village court is so important to its existence. The third and final section considers the emplacement of this dispute and what the specifics of the forum means for how the dispute is addressed. Seen together, the elements that contribute to how a dispute is overseen in Bialla helps to demonstrate why a mediation forum of this kind is so useful for local residents. By considering the absence of important court-making actors, one is also able to examine how a forum can exist in a network with the village court and what role actors have in creating and maintaining that network.

Case Study: Anna, Noah and the Promise

We were four cases into a village court session when the court officer called a new set of disputing parties up to the bandstand for their case to be seen. Both parties arrived before the magistrates, diligently handed over their summonses, and stood awaiting instruction. The magistrates read through the case as it had been described on both summonses. At this point the magistrates would usually ask the genesant to describe the case to them. The case would then normally progress in a fairly routine way. However, on this occasion neither party was given the opportunity to speak. Instead, one of the magistrates told the disputants that the village court would not hear this case. As this announcement was made, another of the magistrate took hold of both summonses and ripped them dramatically right down the centre. He stood holding the torn pages aloft for a moment before returning them to the table and himself to his seat. Having attended a number of court sessions now, I was intrigued to find I could not immediately identify the reason for this case's dismissal. The sense of drama that had been created through the destruction of the summonses was extremely rare. Both parties were present, and both had presented their summonses as is usually required. I found myself imagining all sorts of reasons behind this reaction. Perhaps the matter was too sensitive to be

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seen in public, or the magistrate that had ripped the summonses had some kind of personal vendetta against one of the parties involved. Perhaps these magistrates were all linked to the case in some way, and that is why they, as individuals, couldn't hear it. My assumption that these events signified something dramatic and unusual was soon disproved.

Following the summonses destruction, the magistrates simply stood and announced that the court was closed, much like it had been as the end of every court session I had witnessed since my arrival. As per usual, everyone standing up briefly bowed their heads in order to mark the occasion. Still slightly confused about the abrupt end of proceedings, I sat and watched as the provincial flag was removed from its place on the table and carefully folded. The magistrates relinquished their chairs, and a number of court officers helped to carry them back into the nearby office buildings along with the flag, table, and green court notebook. The bandstand stood vacant of all village court paraphernalia save for the magistrates themselves, and yet no one showed signs of drifting back to town like they usually would at the end of a hearing. Instead, the parties from the case that had just been dismissed returned to the stage. They sat where they would have been standing if the case had taken place. The magistrates remained on the bandstand, but far from sitting in the centre at a table they instead took up residence in spots across the floor and on the bannisters around the edge of the stage. One of the magistrates announced that they were ready to take care of this mediation, and he invited one party to begin by describing the dispute.

Having heard that a mediation was about to take place I looked once more around the bandstand. It had changed quite a lot in the short time since the village court closed. Not only were the flag and chairs removed, but an evident change in atmosphere had occurred too. The parties sat on the floor, their respective *lain* clustered on either side of the bandstand. Rather than one of the magistrates leading proceedings, it was one of the peace officer who now appeared to be orchestrating events. The magistrates had donned caps and sat drinking canned drinks. Some were even chewing *buai* – a habit that called for them to regularly spit red saliva from the edge of the bandstand and into the grass below. The disputing parties also showed none of the signs of formality usually required during village court sessions. They sat with their bags, and every so often a child would wander up onto the bandstand to get the attention of one of the tributants. In village court circumstances all of this would have been

strictly forbidden and in some cases even punishable. In the mediation, these actions were not even mentioned.⁷⁷

One of the magistrates took the time to call out to me as everyone was getting settled. He explained that because this dispute would be overseen as a mediation it meant no ruling would be made at all. Instead, the conclusion of the dispute was reliant on the two parties reaching an agreement on terms that both sides came up with together. The magistrates and court officer saw themselves merely as facilitators for this agreement. They were there to point the disputants along a certain track rather than to make any judgements of their own. The magistrate emphasised that nothing in the mediation would have any legal repercussions, and that the aim was only to create peace - not to punish. I cannot tell if this loud summary was truly for my benefit, or if it was a reminder to everyone present of what they could expect.

The genesant in this instance was a man called Noah, who looked to be in his twenties. He sat cross-legged on the bandstand across from the tributant - a woman of similar age called Anna. She had come with her mother, who sat beside her chewing *buai* and leaning back on her hands, her bare feet jutting out towards the magistrates. Noah began by describing why he wanted (“*laik*”) to have a mediation. It is perhaps worth noting here that all recognition of his original attempt to see the case in village court had already been forgotten. Noah spoke as if the mediation was what he had sought for his dispute from the very beginning. Noah claimed that Anna had promised (“*promis*”) to marry him, and he had given her money to pay for her school fees based on this belief. Months later, Anna had told Noah that she never wanted to marry him and had also refused to pay him back the school fees. When it came her time to speak, Anna claimed that she was only ever Noah's friend. She asserted that she had made him a promise of friendship, and nothing else. The discussion passed back and forth between the parties for some time until eventually the dispute boiled down to one core concern: did Anna break her promise?⁷⁸

77 In one of Kimbe's village courts, which as a rule were even stricter than Bialla's, I saw a man held in “contempt of court” and charged K50 when first he was seen to be chewing *buai*, and then his nephew ran into the courtroom to see him as the case was taking place. The combination of these events were too much for one magistrate, who threatened the next time the case was interrupted he would be charged again and asked to return next week instead.

78 This discussion was had using both the phrases “*brukim tok*” (to break your word) and “*brukim promis*” (to break a promise) as a means to describe what Anna may have done.

Having so far done little more than prevent the parties from talking over one another, it was at this point that the mediators (formerly the village court magistrates) began to guide the discussion forward. They made it clear that if Anna was found to have broken her promise of marriage to Noah, then she would need to repay him for her school fees as she would have gained that money by lying. If she never promised him anything more than friendship and he chose to give her the money anyway, she would not be required to pay. Anna's mother, who had until this point only spoken in confirmation of points Anna herself had made, began to speak passionately about her dislike for Noah. She described how Noah had tried to buy Anna's love, and that as soon as he realised his love had been rejected he had decided to try and get the money back. She also said that she would never have let Anna marry him, so he should never have assumed she could. Anna, she claimed, would never have promised to do so.

This continued in much the same fashion for some time, until one of the mediators voiced their opinion. They summarised their understanding of events and announced that as soon as Anna discovered her parents did not like Noah she should never have taken any money from him just in case it could have been confused in the future. This opinion obviously had an effect. As soon as the mediator finished talking Anna admitted that it was she who had originally phoned Noah to ask for the money, he had not offered it freely. At this point the mediators all agreed that Anna had effectively stolen the money. They stopped there and said any repayment should be agreed by the disputing parties. It should not require a court ruling. This was all the mediators said but it was enough to shape the rest of the mediation.

It was soon clear to everyone present that the mediators felt Anna should be told to pay Noah back. Upon hearing this both Anna and her mother ceased all arguments against having to pay anything at all, and instead they turned their attention to discussing how much money Anna owed. Noah claimed that Anna owed him K5000, and he provided a crumpled handful of receipts from the school Anna attended as proof of payment. These receipts were passed around the bandstand between the mediators, ending with one who took the time to add up the costs. He reported that the receipts did not add up to K5000, and Noah explained that these were only the receipts he remembered to keep. Anna's mother chimed in at this point, stating that she and Anna would only pay for an amount that could be proved (*“soim”*). She asked Noah to write down all the dates he claimed to have paid school fees. Once he had

finished, she sat and compared what he had written with her own knowledge of Anna's schooling. This was a lengthy process, during which the two sides continued to voice their dissatisfaction with one another.

Eventually, the mediators brought an end to proceedings as the two parties could not agree. I asked if that meant it would be overseen in the village court in future, and one of the mediators informed me that unless the disputants came to an agreement, the conflict would require a district court hearing. One mediator explained to me that the district court would be required because the money being discussed in Noah and Anna's mediation was well over the K1000 compensation that village courts were allowed to deal with. The general consensus was that it would be much better to reach an agreement and come back for further mediation, than to take the dispute to the district court. I asked whether the mediators thought they had helped the parties with their problem and their response was overwhelmingly positive:

Before it was not clear. Now this is about debt. Anna broke her promise and this mediation helped her say this. Noah does not have his receipts, but when he does have these receipts he will be able to get his money. Anna will have to pay this.⁷⁹

To close the mediation there was nothing as clear as the bowing that takes place in the village court. The mediators merely suggested that both parties go away and come up with an amount they thought should be paid. Then they should meet and try to reach a mutual agreement. They would be allowed to return for another mediation if they needed. Both Anna, her mother, and Noah all nodded at this suggestion and gathered their things before exiting the shade of the bandstand. At this point some of the mediators began to drift back towards the nearby offices, while others remained. They were joined on the bandstand now by numerous other people who had previously been sat on the surrounding field, or who were simply passing by on their way home from town. I was in a dispute forum no longer, just a bandstand full of people.

79 This explanation took place in a mixture of both English and Tok Pisin. For this reason, I have not included a separate Tok Pisin quotation.

What Unmaking Does

Before discussing exactly how this mediation process attempts to cater to disputes, I would like to consider how certain mediations rely on the unmaking of the active qualities of court-making actors. This is where emplacement becomes of particular use, as by looking at how one place (in this case the village court) is materially and conceptually altered to the point of becoming another place, I am provided the means to discuss how disputes are able to be dealt with differently in each. If we look once again at the actors that were so important to the materialisation of the village court in the previous chapter – a summons, a chair, a flag and a magistrate – here I will illustrate how their roles as court-making actors are intentionally interrupted. This must occur in order for the village court to be unmade and a new forum – crucially, with different capabilities – to emerge in its stead.

As the mediation forum in Noah and Anna's dispute is a product of actor-networks, one could argue that it is comparable to the court-making process described in the previous chapter. This could lead one to believe that the mediation forum is therefore also “made”. However, although the same actor-networks definitely influence the form that the mediation takes, it is through the removal of actors and the genitive absence of attributes specific to the village court that this space gains the mediating abilities required to oversee disputes. These absences are only genitive due to their pre-established connection to the village court. What this mediation forum demonstrates is how this network of actors, and the product this network produces (in this case the village court in Bialla), allows their removal to also have a genitive capacity. Their absence also makes. Therefore, one could say that the mediation forum undergoes a making process. However, the use of two terms distinguishes the two distinct processes that see the uniting and dispersing of networked actors. In order to recognise the forum's reliance on this connection to the (now absent) village court, I believe unmaking is the more appropriate term for the discussion at hand.

I will begin my analysis of unmaking by returning to the most easily identifiable influence demonstrated by any one actor in the making and unmaking process – the village court summons. As I have previously discussed, when a case is successfully concluded in the village court the summonses that worked towards its creation cease to exist or, in keeping with the terms used in my previous chapter, their lives end. What this means for their

material form is that they are artfully disappeared by magistrates. They are concealed in stacks of paper or the backs of notebooks to be disposed of later. This is done in such a way that the role of these documents in the village court ends. Put another way, as the summonses vanish, so too does the dispute – at least in its legal form.

Having already discussed the importance that summonses play in the making of a case, and the court itself, seeing these documents torn up is a striking act. This is the first physical event that works to divide a mediation from the village court that preceded it. Prior to the ripping of the summonses, every step that was required for Anna and Noah's dispute to be seen as a case in the village court took place, and yet the magistrates still put a stop to it. Unlike other instances when the magistrates sent disputants away claiming they have “no case”, what we see occur in Noah and Anna's dispute is the magistrates' initial acknowledgement of the case's existence. Through their receipt of both summonses the case comes into existence. It is distinguishable in this way from those disputes that were turned away on other occasions. At this point the importance that each actor plays in the creation of the court and the cases therein becomes apparent. It is not in the magistrates' power alone to undo the creation of the case once they have received both summonses. During my fieldwork I never saw the magistrates dismiss a case where both summonses had been provided by disputants. The case was often reframed or required other witnesses to attend before they would address it, but this is radically different from the straight dismissal of cases that occurs when summonses are not provided. Therefore, the magistrates must rely on a new process if they wish to avoid overseeing the case that has been created. They must provide the disputants with an option other than referring them to the district court. The only way to do this is to somehow alter the effects created by court-making actors. It is for this reason that, rather than simply putting the summonses aside, the magistrates publicly destroy them. With them goes any influence they had over proceedings and the village court's existence as a whole.

The reason the summonses' destruction is so striking and identifiable as part of an unmaking process is because this act takes place within a larger actor-network. Until their destruction, the summonses remain united with other court-making actors. Removal of one court-making actor in this public manner begins a process by which the village court's temporary materialisation is ended. At which point, rather than the bandstand returning to a vacant space, it allows for a new forum to form in its absence. Put simply, within the village

court context that they have helped to make, the summonses are no longer able to work in isolation from the larger actor-network. Whatever happens to them is significant to the wider context of the court and the rest of the court-making actors still present. Therefore, in order for a mediation to take place the other court-making actors must continue what the destruction of the summonses began. They must similarly cease their contribution to the village court's temporary materialisation. This unmaking may begin with the summonses' destruction, but it is continued by the removal of other significant actors that worked to stabilise the village court, such as the chairs, flag, and the magistrates themselves. The court officials and magistrates all help to remove the furnishing from the bandstand and return them to the nearby office buildings. It is not a quick process, and feels more ceremonial to watch than one might expect.

The only court-making actors that are not removed or destroyed during the village court's unmaking are the magistrates. Instead, they partake in quite a different process that helps shift the status of the bandstand from village court to mediation forum. This shift brings me back to my discussion of the importance of place. I am using emplacement as a theory to question how disputes relate to the places in which they are addressed. The shift that the bandstand undergoes provides a scenario in which this idea can be explored as many elements remain the same between two forums (for example: the disputants, the bandstand, the day, and the dispute itself) and yet enough changes occur that allow the dispute to relate to the place in which it is dealt with very differently. This demonstrates that ultimately, this change in the way the dispute can be engaged with is fundamentally altered by the place in which it is discussed.

As some of the few actors that remain present whilst these places are formed and reformed, the magistrates provide a good means to discuss the significance of this change and the impact this can have on how the dispute can be addressed. Although not quite as permanent as the destruction of the summonses, it is fair to say that the magistrates too undergo a physical and public transformation that helps to alter the state of both the village court and the mediation forum that follows. The main way this is done is through creating a clear visual and procedural division between what had just taken place in the village court and what was about to take place in the mediation. Through a combination of changes in their use of speech and action (for example their positions and language choices), the magistrates manage to distinguish further events from those of the village court, and themselves from

their official capacity within it. As a result, all magistrates become part of the unmaking process themselves.

The magistrates and court officials contribute a level of formality to each village court session. Much like the provincial flag's symbolic power is made active through its interaction with other actors in the making of the village court, so too do these formalities, when combined and upheld by the magistrates, contribute to the court's capacity to act with authority over those in attendance. This formality contributes to the image associated with the village court and in turn effects how proceedings take place. For example, the removal of hats upon entering the court. These formalities that the magistrates work to uphold in the village court become something that can be altered in order to initiate and help to physically indicate the court's unmaking. It is striking to see the straight-backed magistrates rise from their chairs, bow to indicate the closing of a court session, and take up positions slouched on the ground, mouths red with *buai* within minutes.

The removal of the chairs also contributes to the clear shift in the magistrates' roles over the proceedings that were entered into next. The visibility of these changes are of significance because it is precisely that they are witnessed that allows all the physical changes that take place to create such a powerful juxtaposition. Held in direct and immediate comparison to one another the new roles of what had been court-making actors are able to divide the two dispute forums extremely effectively.

Why Unmaking Matters

While ostensibly having commonalities (such as a shared goal to create peace between Anna and Noah, as well as the bandstand itself as a location), clear distinctions can be made between the doings of the village court and the mediation forum that follows. The change that court-making actors undergo in the village court's unmaking is a major part of this. The expression of certain judgements of those witnessing events and interacting with the forum shift accordingly as a result of these changes, making their significance even more apparent. When Noah registered the dispute with the village court, his actions expressed his understanding that the village court was an appropriate venue for the discussion to take place,

and the venue in which he was most likely to receive the repayment of school fees he felt he was owed. However, following the decision by the unmaking of the village court, Noah altered his argument in order to acknowledge the new venue in which it was being overseen. This change in tact was not a result of any instruction Noah received by the magistrates or anyone else present. Instead, his approach and judgements were all informed by the place in which he was engaged. It was as if he had planned to have his dispute mediated all along. The clear division established between the two forums enables them to do different things. For example, the mediation was able to discuss several things that the village court would have been unable to rule upon whilst still keeping within their legislative remit. Having described how this unmaking takes place, I want to focus on the influence of these legislative limitations. By considering what these limitations are seen to be, one can question just how Bialla's other mediation forums are fulfilling a necessary part of Bialla's dispute forum network.

In Anna and Noah's case, the most obvious reason for the forum change is the same that the magistrates mentioned in our discussion after the mediation had ended. The village court is legally unable to deal with disputes that may require more than K1000 compensation or debt repayment (Village Courts Act 1983). What this summary does not reveal, is why the case was not referred to the district court, and equally why it was not simply catalogued as a formal Mediation that is allowed for in village court legislation. Instead, the forum that was chosen was one that oversaw the dispute outside the gaze of any state legislation, rulings, or court setting at all. A forum where the magistrates intentionally take on roles that remove them from positions of legal authority, and instead act as facilitators to proceedings.

The key thing to take into account when attempting to understand the need for the mediation is that when the dispute was originally brought to forward, it was not a case about a debt over K1000. Instead, what the magistrates initially understood about Anna and Noah's dispute was that it was really a discussion about a broken promise – a matter that would in no way challenge the village court's compensation cap. The job of whichever forum oversaw the dispute would be to discern whether Anna had made a promise and, as part of that, make explicit ethical judgements in regards to both her speech (through recollection of what she had told Noel) and actions (what she had done that could shed light on the details of their relationship). At first glance this does not seem outside of the village court's remit. Looking back to the legislation discussed in chapter two, matters of “custom”, including matters of

marriage, are supposed to be the village courts' forte. However, in this instance two difficult matters must be considered, both of which make the village court a less than ideal venue for this ruling to take place.

Firstly, if deemed to have broken a promise of marriage the magistrates foresaw that this dispute would potentially involve a need to oversee the exchange of reasonably large sums in order to address Anna's debt. This is not something the village court would be able to do, at least not with any kind of court record or legal sanctions to support them. In isolation perhaps this would not have been enough to lead to the court's unmaking. Magistrates do sometimes oversee cases to the point of discerning what the next step should be and simply refrain from ruling on the compensation amount itself. However, in this instance there is a second factor to take into account that was enough to encourage the forum shift. If this case had been overseen as a matter of custom, the magistrates would be dealing with (and making a ruling based upon) their assessment of what constitutes a promise of marriage and what that means in Bialla. The problem for the magistrates arises when they are required to document their rulings.

Although free to describe cases as they choose on court documents, there is a certain language used in order to describe cases. Most are catalogued under certain titles and even defined as the case takes place by magistrates as “adultery”, “debt”, or “assault”. These terms have legal connotations that usually have some impact upon the compensation ruling that follows. In theory, in the case of a broken promise the magistrates are free to make a customary ruling the likes of which I described in chapter two although, as we saw in the work of Demian (2015a), this can come with its own nightmarish complexity. However, this kind of customary ruling was not something I ever saw take place in the village court. Cases that lacked a definition that was deemed sufficiently “legal” in the magistrates' eyes would often move into a mediation forum in order to be seen there – forums where no paperwork was ever required. One of Bialla's magistrates attempted to describe this distinction to me, saying “we can't write that we punished a person for breaking a promise! They are not married yet. It would not work”. He neglected to go into further details on the matter, and instead he continued to discuss the amount of debt that was also a factor in their decision to switch into a mediation forum.

The magistrates read the summonses describing Anna and Noah's case and instantly realised they would be stuck if they oversaw it in the village court. If they deemed the case to

be a matter of stealing (and therefore be able to write about it on court documentation) they would be outside their remit because of the amounts involved. If, however, they attempted to address it as a matter of custom by categorising it as a dispute over a broken promise they, as legal professionals, felt they would be undermining the position of the village court. Without mediation forums such as that which emerges through the village court's unmaking, the only alternative would be for this case to register for the lengthy and serious process of a district court hearing or not be seen to at all.

So, between the potential amount of compensation required, and the lingering question of how to rule on a broken promise, the village court seems too restrictive to those attempting to run it. The energy put into physically and categorically changing the dispute forum in order to oversee the dispute in a different way just goes to show the extent to which the capacity of a forum is linked to its physical manifestation as a place. The magistrates cannot just decide they want the bandstand to be a mediation forum all of a sudden. Its capacity to oversee the particular dispute at hand is down to the authority embodied in certain actors, and how their presence (and their removal) can be used as a frame of reference against which the capacity of the mediation forum can be established (Foster 2002). As a result, the clear distinctions made between the court and the mediation forum through the unmaking process, allow for those present to work through their dispute in a place that emerges with a mind to specifically overcome the issues at hand. In this forum we can see how the unmaking of the magistrates' positions, and their emergence as mediators, allows them to discuss large sums of money while simultaneously removing their responsibility for making any legal ruling subject to government guidelines.

Unmaking the village court does not only distance the mediators from external state authority, but also protects them from any repercussions instigated by unhappy disputants following a ruling. This fear of taking responsibility for rulings was often given by magistrates as a reason for a move into a mediation, especially when disputes involved extended clans and *lain*. This freedom from personal responsibility is something that some dispute forums are considered able to provide in a way that the village court is not. Pastor Aaron's involvement in the dispute at Bialla high school (chapter three) is evidence of this. He was able to represent the interests of the school, while simultaneously making it clear that he and his extended *lain* were in no way personally connected to the outcome, or conflict itself, going forward.

The village court magistrates on the other hand often felt more vulnerable through their perceived connection to many disputes they oversaw. Rather than stepping in to merely symbolise or represent the village court or a disputing party, magistrates are important court-making actors in their own right. They contribute to the temporary materialisation of the court, and they are simultaneously defined as part of that forum through their interaction with other court-making actors. In this way they become part of the embodiment of the forum and its authority. They are held as much responsible for the rulings made there as the court is itself. Although no magistrates were ever accused of being personally invested or biased when making decisions in the village court, even when compensation was steep or the parties' actions underwent intense scrutiny in search of an outcome, there was still a consensus among most people I spoke to in Bialla that being a magistrate was very stressful and could be dangerous. This was primarily seen to be because of the chance that a disputant would take action against a magistrate as an individual as a means to express their dissatisfaction at the conclusion of a case. This concern of "*payback*" applied mostly to the village court, but even in some of the larger mediations cautionary measures were sometimes taken. Therefore, although I saw no moves taken against the magistrates personally due to their involvement in cases, the understanding that it was possible was enough to influence how disputes were dealt with in Bialla. For example, there was sometimes a significant increase in the number of mediators called upon to help facilitate proceedings in order to further distribute responsibility despite no rulings in that forum.

Continuing to take the unmaking of magistrates as my example, what takes place when the village court is unmade is the continued effort of court-making actors to facilitate peaceful relations between Bialla's residents. By removing any formal ruling body (the magistrates) the mediations limit the chances of any escalation of conflict. This same effect is achieved when the number of mediators overseeing a dispute is increased. What these changes indicate is that the end of conflict and maintenance of peace is always paramount to the process, regardless of the forum.

So, what do these actions taken against individual accountability (*payback*) actually mean for the mediation, other than allowing the mediators to enjoy *buai* while they work? In regards to Anna and Noah's dispute, the changes that the magistrates undergo in order to become mediators, and their combined contribution to the unmaking of the village court, allow them to treat Anna's promise as a serious matter without worrying about how it could

be catalogued. Her promise therefore became worthy of lengthy discussion, only after which the mediators gained insight into how the dispute should proceed – in this instance, as a matter of debt. Although Anna and Noah provide only one example, by identifying the perceived limitations of each of the village court in this instance, the significance of the village court's unmaking, and the necessity for the mediation forum and others like it that are used in its stead, begin to become apparent.

In the Absence of Court: A Committee Meeting in Ewasse

So far I have described how the unmaking of the village court through the displacing and repurposing of court-making actors allows for the staging of mediations in the same space. These mediations can benefit those involved by considering factors that the village court is not equipped or sanctioned to work with (huge groups, oil palm, large sums of money). These venues also offer those involved a level of protection from the repercussions that a legal ruling may provoke. As a result, the mediation approach can often be seen to provide a more appropriate venue in which to cater to the specifics of a dispute.

Village court magistrates, and even the bandstand that contributes to the making of the village court, can play crucial roles in how mediations take place (and are placed). This is true both in terms of their contribution to the mediation forum's materialisation, and how proceedings themselves are conducted. In order for these mediations to take place (and indeed, emerge as a place), the village court is used as a reference point in a very tangible way through the location and actors involved in each instance. But, as evidenced in my previous chapters, there are many other dispute forums that are made use of around Bialla that at no point rely on the presence of a magistrate, are not held on the same bandstand, and do not require the same actor-network as the village court in order to emerge.

To explore the differences and links between available venues in Bialla I will describe an adultery dispute that was brought to the village committee. In disputes forums such as this there are no summonses to be destroyed, no magistrates to start chewing *buai*, and no tables

to be removed. Having emphasised the importance of these actors thus far, it would be easy to assume that their absence from other forums means that they work entirely independently from the proceedings that take place in the town's central village court. However, although these additional forums are so often categorised as alternatives to the village court's official status, my research reveals that they are instead parts contributing to a larger dispute mediation network. This network includes the village court, and also consists of a large number of dispute forums that all work in different ways to cater to the needs of the local populous. What is interesting about these forums is the way in which they work with reference to the village court, each other, and, in some cases, larger state institutions in order to oversee disputes. They do so while simultaneously remaining deeply embedded within village communities, and maintaining intimate knowledge of any individuals residing there.

By describing one such forum, the committee meeting in Ewasse, this section will demonstrate how verbal references to the village court can help define proceedings in these venues, and also allow me to explore those features that are forum specific. In many of these venues it is these specifics that make each forum appropriate for addressing the conflicts discussed there. This is done while simultaneously engaging with numerous other social networks and practices that shape local communities, some of which are only made apparent when presented during discussions of disputes. Although true of many of the dispute forums around Bialla, I have chosen to describe the committee meeting from Ewasse village, as this is perhaps the dispute forum in which every aspect that I wish to discuss is most explicit.

It would be a mistake to consider forums such as Ewasse's committee meetings, as mere products of the village court, emerging in reaction to the gaps left by the village court's limitations. Although, yes, this is definitely a need that they are able to fulfil, building them into a hierarchy in which the village court is at the pinnacle would be a mistake. Instead, the connection the mediation forum in Bialla shares with the village court demonstrates how the village court “maintains and nourishes various kinds of ordering outside its precincts” (Galanter 1981: 10). This ability to nourish (rather than produce) is also not a skill that only the village court possesses. Through reference to the village court and other forums available in Bialla, dispute forums are better able to define themselves. Verbal distinctions and recognition were ongoing in discussions of any of the dispute forums I witnessed during my fieldwork. In some cases, the village court was not the point of reference and, as I will be describing towards the end of this chapter, alternative dispute forums can be just as important

to another forum's identity. Dispute forums can act as frames of reference for one another, against which different forums are defined and characterised. These references are identifiable as a network, providing paths which actors, conceptions and disputes all traverse and take shape. Through physical and verbal reference to a “background of norms and procedures” provided by the village court I will demonstrate how Ewasse's committee meeting reveals its own identity as a dispute forum, while simultaneously distancing itself from the court and yet remaining connected to it (Galanter 1981: 6). At its core what this discussion allows me to demonstrate is that these dispute forums work *alongside* the village court, as equal parts in a network that their interactivity creates.

What maintains this equality between the venues is that, much like the village court, these venues gain much of their authority and fluidity from their origins as “implicit constructs” that can then be seen to materialise in a variety of ways (Abrams 1977: 82). As such, the use of these venues does not hinge on the existence of the village court. Rather, it emerges more from more implicit, local, shared ordinary ethics, judgements, and ideas of privilege and “power” (“*pawa*”). Ideas that then go on to gain temporary shape in the form of dispute forums. In order to expand on this concept, this section will revisit the idea of reputation in Ewasse, and the impact that a good reputation can have upon a person's use of a dispute forum. These findings will allow this chapter to demonstrate that dispute forums are not products of one another. Their roles and the way disputes are dealt with are influenced by the network these dispute forums share in. If I continue to take liberties with Keane's (1997) idea of interactivity as a means through which actors may gain definition and identity, so too does this network of dispute forums lead to connections that better define what each forum is best suited to. Despite no forum being a direct product of any other, what this chapter will show is that the way in which disputes are overseen within forums flex and alter, based upon the abilities and the practices seen in other local forums. It is this interactivity, combined with the flow of disputes and actors between forums, that constitutes the dispute forum network in Bialla.

There is cause to investigate the gap that exists between the role that dispute forums play in their specific locales and their connection with the village court. Through the remainder of this section I will describe one instance in which a forum demonstrates both a vital connection to the village court, and simultaneously handles the dispute with an awareness of more locally recognised privileges and judgements made in regards to social

interactions. What is particularly of interest in this instance, is that access to this forum is considered to be a privilege in the village where it is located. The village court is seen to be a “disinterested” venue (Gulliver 1979: 214). It lacks the personal insights and consideration that one gains (and is favoured) in disputes overseen in other forums in the village. This impartiality, highly prized in many Western dispute forums, here is exactly what devalues the village court.⁸⁰

Case Study: Hope, Ambrose, and Adultery

A conch shell is blown mid-morning and we all go and gather under the shade of mango trees on the far side of the village. People sit around on make shift benches and some bring cool boxes from which they sell fruit-flavoured ice blocks and *buai*. This is the village “committee meeting” (“*komiti bungim*”) that, barring any rain, takes place every Tuesday. Discussions here often revolve around village matters like fundraising for the school. They are intended to ensure agreements in all things among the twelve clans, whose combined lands constitute Ewasse. Village disputes are also brought to the meetings, and they are often dealt with there through public discussion and guidance provided by the committee leaders. These “committee leaders” (“*ol lida blo komiti*”) theoretically consist of twelve individuals – one from each clan – but whether all twelve clans are all represented today I cannot tell. You would not assume so to look at it, as only five men are seated on a makeshift bench together. These men, who share the responsibility of guiding the agenda, differ from one week to the next.

Not just anyone can appear as a committee leader, and despite regular rotation, there are a couple who do appear to take charge more regularly than others. Despite the pre-existing authority of these men in their respective clans, they each gain a certain air of respect during the meetings that they would not receive in their daily lives. This “respect” (“*rispekt*” or “*latilogo*” in Nakanai – the Tok Ples which was often used between clan member) is identifiable through the ability these leaders have to command the attention of those present.

80 Section 455 of the federal Judicial Code in the United States, for example, explain a number of circumstances in which a judge is expected to recuse themselves from their position of authority of a case due to bias. This same concern is also demonstrated shown towards biased jurors.

They can halt any conversations that are going on too long and silence people when they are talking over one another. During these meetings the leaders are all referred to as “*komiti*”⁸¹ by anyone who chooses to speak, rather than by their names. Before addressing the wider group, people often add a phrase to address the committee like “*skius komiti*”.⁸² This happens often, as although most meetings have vague points that the committee members wish to address, this agenda can be thrown off by input made by anyone at almost any time.

Today, a woman called Hope commands the attention of those present as she talks to the committee about her husband. Hope is married to one of Pastor Aaron's nephews, Ambrose. She is also a teacher at the village Bible school. Her position in the school, and her connection to the Zanabi family, means she is a well-known figure in the village in her own right. Now she stands in front of the committee and explains how she knows that Ambrose has committed “adultery”. Adultery is often referred to during committee meetings, and many people are under the impression that it is illegal and a prison-worthy offence.⁸³ Adultery is the word that she chooses to use to describe what happened. Beyond that she gives no details of the event itself. Despite the lack of any further detail, everyone seems to understand what must have happened without any specifics required. Hope does make it clear that this is the third time her husband has committed adultery (whatever that may entail). Upon hearing this my friends who I am sat with begin to speculate that this may be the time that Hope decides to leave Ambrose. At this point, a village widows who is sat nearby chimes in with her opinion that Hope would never leave her husband due to the fact that she has six children. It would be impractical for her to do so. Ours is not the only conversation of this sort taking place whilst Hope and the committee continue to consider her position. Everyone present is welcome to share their opinion by addressing the crowd. This extends to chatting throughout proceedings as events unfold. The entire process takes place accompanied by a steady soundtrack of murmurs and chatter.

81 “committee”

82 “excuse committee”

83 If a person fails to pay court required compensation following an adultery case in the village court, they can be imprisoned for as long as 6 months (Adultery and Enticement Act 1988: s15(18)). However, this is the same in many different categories of case, and adultery itself is not illegal in terms of PNG legislation. The illegality and harsh rulings associated with adultery were therefore something that was talked about but not something I ever witnessed. This may be a reflection of how bad adultery was perceived to be in terms of morality and behaviour, rather than an actual concern regarding the law. Jessep (1992b) provides further insights into the current use of adultery legislation in PNG. He considers the definition of adultery and the jurisdiction of the village courts. For an introduction to how adultery is treated in the South Pacific at large it is worth reading Corrin (2012).

Both Ambrose and the woman he had relations with rise from where they are seated in order to admit what they did. In other disputes overseen by the committee there has been more back and forth about how events took place, and parties deny doing anything worthy of the committee's attention. In this instance however, Ambrose seems more than happy to admit to his actions. There is no need for further questions once Ambrose has expressed this. Unlike a mediation the committee are in a position to make a ruling over disputes, and in my experience this is commonly what they choose to do. In this instance, having heard Ambrose confirm the adultery, the committee leaders easily decide to award Hope compensation. This comes to K1000, asking K500 from Ambrose and K500 from the woman with him. This also happens to be the maximum amount that can be awarded by the village court.

Seeing the approach taken by the committee during this meeting, some similarities can be identified between this venue and Bialla's village court. The committee does not answer to the Local Level Government, and it does not file any information for the decisions that they make like the village court does. However, the committee does deal with matters locally in the same capacity that the village court was created to. Sometimes they have a village court magistrate from town come and sit on the committee if they feel there is a case that needs this attention. Despite these commonalities between the two forums there are also moments during Hope's initial presentation of the dispute during which the committee leaders explicitly highlight divisions, such as by mentioning their intimate knowledge of Hope in a way that the magistrates in the village court could not claim. Although Hope's dispute illustrates how some elements of proceedings are shared by both venues, in these moments of explicit divisiveness from the village court the role the committee is able to fulfil, that the village court may not be suited to, is also made apparent. The committee are keen to allow for both sides in a dispute to have their say, and despite making rulings (unlike the mediations that take place on Bialla's bandstand) the committee shares the village court's aim to avoid punishing disputants. The committee leaders strive to create peaceful solutions. The committee would also never be responsible for overseeing large disputes between two groups, but unlike the village court that was often presented with these cases and then unmade in order to oversee them, the committee was never called upon to do so. It was well known that large disputes were not taken to committee meetings, so this issue never arose there.

It is through shared practices and conscious shared references in the two venues such as those mentioned above, that we can begin to understand the network that exists between dispute forums of this kind. Even when the venues do differ, the committee leaders often reference these differences, using an absent other in order to identify their own role and capacity. It is in this way that the village committee gains its definition as a place, associated with a certain capacity to oversee disputes in a certain way. They encourage onlookers to draw comparisons and distinctions, working alongside one another in an effort to cater to the wide array of disputes and disputants that can arise in the region, and clearly stepping away from village court practices when another process is required. The overseers of Ewasse's committee meeting encourage the village court and itself to be considered against one another. The implicit conceptions that I discussed in terms of creating the constancy of the village court in chapter four, here can be seen to provide an implicit construct once again. But this time, one that an alternative option can be framed against. These comparisons uphold a connection between the venues that allows them to work with the suitability of the other in mind.

To further explore the significance of the committee's connection with the village court, I return to an idea introduced in chapter three. Here I consider what the need is for this other dispute venue, especially considering the apparent procedural similarities it has with the village court. To begin to comprehend the role of committee meetings it is worth considering a conversation I had with Aaron about how judgements are made concerning the actions of individuals in the village, and how they “benefit” (or not) to the peace of the village. When talking one evening, Aaron explained to me that not everyone in Ewasse would be allowed to make use of the committee meetings as a mediation forum. This is because only those people who are seen to invest personally in the workings of the village on a daily basis are granted access to the village's support when needed. Investing personally in the village will ensure that you get something back in return. The first examples Aaron gives of people who may not have access to the committee mediations are those individuals who never attend committee or other village meetings apart from when they want something. He also extends this to people like Olan (see Chapter three) who do not attend any of Ewasse's four churches, although he did not distinguish between the denominations when he shares this opinion. Attendance of any church would do: “We tell them if they have a problem to go to village court. They are of no benefit to the village.”

Although some of the processes in the committee meetings that take place in Ewasse use similar processes as those you would see in the village court – for example, compensation rulings, the format in which disputants are given time to describe their take on events, and on occasion the call for witnesses and evidence – the committee leaders pride themselves on engaging with disputants on a more personal level. They attempt to reflect a person's role and contributions to the community through their treatment of the conflict and make judgements accordingly. In Hope's case this is most prominent during the dispute's ruling. As previously stated, the details of the case were not mentioned in great detail and, unlike other hearings I had seen, the leaders make no request for evidence or witnesses to back up Hope's story. In their summary of the dispute, the committee leaders tell Hope that she is known to be a “*gutpela meri*”,⁸⁴ and they reference her work in the local Bible school. They also mention her six children, and how her husband should appreciate how good she has been in her role as their mother. Following these acknowledgements, the committee leaders make their ruling.

Everyone remains seated to hear the committee draw upon their understanding of the characters of the people involved to as they rule. They begin by chastising Ambrose for “wronging” (“*rongim*”) his “good wife”. When it comes to their discussion of Ambrose's behaviour, the committee leaders seem happy to comment on the morality of what he had done. However, the committee leaders do demonstrate more restraint than I had come to expect from the adultery cases I had seen in the village court. Ambrose does not experience any kind of deep character assassination and, although the committee leaders express the opinion that his actions are wrong, they manage to make it through the whole dispute mediation without shaming him too severely. Even in Hope's emotive presentation she does not directly insult her husband. Instead, the entire dispute is described in terms of how his actions have negatively impacted herself and her children. The committee leaders also make sure to acknowledge Ambrose's usually positive contribution to both his family and the village. “We know you and what you give your family”, is all they say on the matter. They continue to address Hope's complaint by condemning the act of adultery itself. They describe it as immoral, unchristian, and increasingly popular among young men. The committee addresses everyone at this point, encouraging the young men in the village to avoid temptation and the bad influence of anyone they know who do not follow the way of the church.

84 “good woman”

It is at this point that I am reminded of the fact that I had never seen Olan attend a single village committee meeting. Although Olan was also known to have committed adultery, unlike Ambrose those who I discussed it with usually chose to emphasise Olan's lack of contribution to his family and the village at large. As a result, Olan had been ostracised by his fellow villagers. He was unable to use the committee meeting as a dispute forum at all, and was often poorly spoken of. In comparison Ambrose's treatment shows just how much a good reputation can impact upon your experience of life in the village. What this demonstrates is that access to the committee in order to settle a dispute is considered to be a privilege reserved for those who are "good" members of the community. As a result, shaming ("*sem*") does not usually take place here.⁸⁵ This is somewhat striking, as shaming or plain insulting another party during mediations and court cases is very common. The only time insults are really passed around in committee meetings is against people who are not present. In fact, the restraint shown by disputing parties towards one another during committee meetings is actively encouraged and is the first instance in which we can see the committee drawing lines between itself and the village court. When disputing parties do begin to start "shaming" one another, a committee leader is quick to step in and say something along the lines of "if you just want to stand and shout at one another you should go to the village court. This is no place for it".

The "respect" the committee encourages between parties during their mediations is also continued after disputes are settled there. Although Ambrose is known in the village as a man who has committed adultery he is not ostracised. After the dispute is concluded his relationship with his family and Hope continue as ever they were. So too does his respected position in the village and beyond.

Tied to the idea of reputation once again, one of the other privileges that comes through use of the village committee is the gift of discretion. Although witnessed by others in the village on this occasion, they are also known to oversee disputes away from the committee meetings themselves. Not only that, but even those disputes that do appear in front of the village as a whole are seen as more personal and private than those that go through the village court. In keeping with Aaron's description of the committee meeting as a privilege as far as dispute forums go, on another occasion he also described the village court as a venue

85 I use the term "shaming" here to mean an act (verbal or physical) that may damage or challenge the "reputation" of another person.

people use when they do not have a secure and trusted forum to make use of instead. In this way, not only is the committee meeting a privilege in terms of privacy, but it is also an indication of belonging. This was mainly discussed in regard to the oil palm settlements nearby where the idea of belonging was often a concern Aaron expressed for those living there. Workers come from all over PNG and move into settlement houses that are provided by HOPL. These settlements consist of large numbers of breeze-block residences, and perhaps unsurprisingly, disputes arise on these shared plots of land like any of the other villages in the region. As a result, there are also dispute mediation forums in the settlements, but Aaron indicates that the large number of settlement residents we see in the village court is due to the lack of knowledge overseers in the settlements have of the wide variety of residents. Not only that, but without land claims or a clear method, almost anyone can become an overseer of disputes, unlike the clan system that designates authority in Ewasse. “In the settlements [overseers] can be anyone and do not represent everyone”, Aaron told me one afternoon. Although further research into the workings of dispute forums on the settlements is required before we can fully understand the forums available there, Aaron's opinion does help to illustrate that far from being seen as a higher court, the village court is seen as appropriate in some circumstances, but also a place for people who do not have the means to solve a dispute elsewhere. The best place, it seems, is among people who know you and are seen to have your best interests, and the interests of the community that you are directly part of, in mind.

Ewasse's committee meetings provide an example of how dispute forums can remain flexible. They are specifically geared to engage with the relationships shared and being maintained at an extremely local level. In the case of Ambrose, this is so much so that any knowledge of the dispute does not pass beyond the village boundary. Even within the village itself, despite a compensation ruling made to condemn his adultery, feelings towards him remain overwhelmingly positive thanks to his wider reputation. Beyond this, what can be seen taking place in Ewasse is not merely evidence of the flexibility of dispute forums, but demonstrates their connectivity with others in the region as well. Despite its absence from Ambrose's case, the village court remains a “frame of reference” through which the committee meeting's own identity can be defined and explained, without being subjugated by it (Foster 2002). It is through these references that we can identify the network that these dispute forums all share in, and this is by no means exclusive between the village court and other forums that exist alongside it. Much as Aaron demonstrated through his description of

the settlement forums, any dispute forum can provide all, or part of, this frame of reference through which the others may be considered or emerge as counter to. In the case of Ewasse's village committee, both the village court and the settlement dispute forum provide similar frames that allow Aaron to highlight the personal nature of Ewasse's committee meeting and the privilege attached to its usage by local residents.

Conclusion

The commonalities between the village court and other forums are significant in terms of the authority and network they share due to this. However, it is the distinctions made between these venues and how different actors are involved in creating that distinction that can be used to reveal just how important these other forums are, and why no venue should be considered entirely in isolation if we wish to discover what it is they truly do. It is through the discussion of forums above that we can begin to see not only court-making actors defining one another interactively, but entire dispute forums as well (Keane 1997). Despite the differences in the ways that dispute forums in Bialla materialise, and the events that take place within them, these forums are all able to emerge and act in relation to one another. This may be like in the case of Bialla's mediation forum, which comes into being through the unmaking of the village court. This forum relies on the absence of court-making actors, and the existence of the village court that preceded that absence, to exist. As a result, Bialla's mediation forum is able to oversee disputes outside of any strict legal remit, and still make use of similar process that are used in the village court setting with many of the same court officials.

By acknowledging the doings of this venue we are able to see not only where the village court magistrates feel unable to oversee disputes, but also how they go about overcoming limitations in order to try and provide disputants with insights that they can make use of moving forward. This process also demonstrates the type of disputes that go unreported by the village court magistrates. This reveals some of the limitations of the data collection regarding village courts that the provincial and state governments both rely on for

gauging the workings of the courts across PNG. This lack of data will be even more dramatic in the case of other dispute forums such as the committee in Ewasse.

Despite existing within a relatively small community and relying on personal relationships with local residents in order to maintain authority, the committee is still working in reference to the village court. Decisions are made with village court rulings in mind, and explicit references are made to the village court in order to remind those present of the different treatment that the committee can provide. Likewise, the references forums make to one another inform a local understanding that these venues exist on a shared playing field, undermining any division between official and alternative sites.

The village court also provides a procedural background with which (and in some instances against which) the committee meeting is able to define its own identity and remit as a dispute forum (Galanter 1981). By explicitly defining and acting upon differences between their own and other dispute forums as places, committee leaders are able to create the desired image and remit of their own dispute mediations. They do this while simultaneously upholding several similarities between the venues. In combination these attributes create a unifying effect between forums. They act, not as independent venues in which disputes are voiced, but as two different parts of one dispute forum network that is available in the area. This is particularly apparent in the emergence of Bialla's mediation forum due to the unmaking process and the physical actors involved in those instances. However, through verbal references and recognisably similar processes, the committee meetings in Ewasse (and other forums like it) also demonstrate a connection to the village court. This connection does not give the village court a position of authority in a hierarchy of dispute forums. Rather, it establishes each forum on an equal footing in an expansive network of forums that are all working for the same goal, and each with the ability to keep different local requirements and relationships in mind.

Chapter Six

What's the Use? – Explicating Ethics, and the Art of Pleasing No One in Bialla's Village Court

I just left it. The way of the young is to fight. I usually say to her “It's the way of the young to fight, to bleed. You two will understand the way of marriage.” I told her, “You must go back [to your husband], this is a mistake.”

- Nellie's mother describing advice she gave her daughter

Fieldnotes 7 August 2014

Introduction

This chapter revolves around those disputes that are overseen in the village court, but that are concluded without any ruling made to which disputants must abide. By looking at the content of cases of this kind I am able to demonstrate how the flexibility of the village court impacts upon the disputes brought there. Not only that, but by exploring those disputes that are not concluded with any legally documented court ruling I am also able to explain why it is that these instances should not be considered failings of the village court. Instead, it is in these examples that the peace-making efforts pursued by the village court can truly be recognised.

The last two chapters have heavily focussed on the making and unmaking of dispute forums, both through material and verbal means. Identification of these practices have so far allowed me to identify the existence of multiple dispute forums in Bialla, and their emergence within a network that relies upon the flexibility of these venues for its existence. In order to accurately reveal the importance and variety of certain court-making actors involved in these processes, thus far consideration of the actions, insights and foresight (judgement) of human beings, along with any objectives said beings, have taken a back seat in my discussion. Focusing on a wide range of actors that are united (or dispersed) in the creation of the dispute forums as places has allowed me to question what constitutes a dispute

forum in Bialla, and identify certain forums that were previously overlooked or subjugated within a legal hierarchy. However, it would be a shame to end my discussion without a brief consideration of how my findings can integrate into a broader consideration of the everyday lives of the residents of Ewasse and Bialla. By dwelling on particular features of human life and the “ordinary ethics” (Lambek 2010) that I will be exploring as an intrinsic part of that, I am able to highlight some of the potential judgements, discussions and actions that lead to disputes and how they are ultimately dealt with in each dispute forum in the region. I will be turning to the works of the likes of Robbins (2015; 2016), Laidlaw (2010), and Lambek (2010a; 2010b) as a means of informing my discussion and using some of their insights in order to integrate a discussion of ethics, with my own actor-oriented approach to the dispute forums of PNG.

A key reason for placing temporary emphasis on disputes as occurrences that are informed by embedded ethics in the everyday lives of human beings is that, as I have suggested previously, disputes exist prior to their appearance in dispute forums. Their transition into the explicit discussions eventually seen in Bialla’s dispute forums ultimately takes place because, unlike the summons, a human being has the capacity to have an emotional stake in a dispute and its outcomes. To deny the human capacity to “stand back from the flow of [our] lives” (Keane 2010: 69) and consciously reflect on previously tacit or habitual judgements and the categories that inform them, would be somewhat reductive. So far I have only discussed this in terms of judgements and reputation in the village and how this might influence how a dispute is overseen (see chapter two). But now I turn to the topic of ordinary ethics, and Robbin’s concept of “transcendence” to provide further context for this approach.

In this chapter I will be exploring ordinary ethics as a means to discuss how speech and actions seen in the village court can be identified as the result of inherently ethical judgements and criteria. I also explore how, “standing back” from these everyday ethics and reflection upon actions and relationships in the explicit way demanded by dispute forums, is not removed from ordinary ethics, but in fact provides Bialla’s residents with a different way to contribute to our comprehension of engagement with ethics in a broader sense. As Robbins explains in his response to Lambek’s edited volume on ordinary ethics, “standing back from or ‘leaping out’ of the everyday can...informs [sic] their everyday ethics at least as much as it is grounded in them”. (Robbins 2016: 771). He discusses this idea in terms of values and

rituals in his article *Ritual, Value and Example* (2015). The way that certain performance events (in his case, rituals, in my case, dispute hearings) “slow down” a flux of values that while embedded in our daily lives remain unnoticed, is one way that values can be expressed and shared amongst a community. This demonstration of examples allows people to reflect upon their own ethical position (in Robbins’ work, “values”) which in turn will inform their judgements, choices, and actions, moving forward. Acknowledging Robbins’ discussion on how much of what Lambek describes as “ordinary” is also present in performative and “transcendent” events, is a good reminder that these moments in which ethical judgements are made explicit is as much part of what informs shared ordinary ethics as those events that take place in the everyday. To be ordinary therefore should not always mean to be tacit.

In terms of my research, this emphasis on ethics, action, speech and judgements that occupy the attention of writers such as Lambek (2010) allows me to ask where disputes might come from, and shifts the focus of my work temporarily towards a primarily human engagement with dispute forums. What I mean by this is that humans will now be discussed in regard to their judgements, reflective capacity upon choices and actions, and the everyday ethics that informs them/this contributes to. The village court magistrates, for example, have already appeared in previous chapters as key actors that have contributed to the court-making/unmaking process alongside many others. Apart from their own fears of repercussion for certain rulings, any discussion of their intentions, judgements, and influence within the court (beyond their role as court-making actors) has thus far been held back. Therefore, having now fully established what shape dispute forums take in Biialla and how they exist as flexible entities, this chapter takes this grounding in what a village court is, and looks further into how certain human interventions influence the uses of that place.

Through detailed consideration of the analytical potential of ordinary ethics, I will ask how we can hope to identify the (often implicit, unconscious, or fluid) motivations that drive disputants to court in the first place. As one cannot hope to truly understand the conscious and unconscious experiences and considerations of disputes and relationships that take place in the minds of the community members I have worked with, instead my discussion explores the development and experience of disputes through the speech and actions of the people I worked with. In order to discuss the explicit and conscious consideration given to certain relationships and behaviours in Ewasse I will be referring to conversations I had. This chapter begins to consider how certain interpretations of disputes may be shared between

members of a community, even on an unconscious or implicit level that goes on to inform certain actions.

Once I have established some of the key features of a study of ordinary ethics and how this relates to my own field of study, I move on to introduce a second aspect of my discussion in this chapter. In previous chapters I have looked a little at how different relationships can be seen to impact upon the use of different dispute forums. What I have not explored so far is the reason that many of these disputes arise and find their way to dispute forums in the first place. Although ordinary ethics goes some way to introducing how intrinsic ethics are to daily life, and hence why they may inform disputes we later see emerge in court, they cannot help me describe disputants' experiences and conceptions of their own relationships, nor does it provide a means to gain an analytical grasp on how ethics emerge through expression in dispute forums specifically. Therefore, as a means to limit my discussion from trying to encompass the many disputes and forums available in Bialla, I focus on one turn of phrase that was used both in and outside of the dispute forum context as a means to discuss events, relationships and actions as interpreted by onlookers and those involved. This phrase is "*pasin marit*". I will be describing the use and meaning of this term at greater length in the following sections, but for the moment it is a phrase that can be roughly translated as "the way of marriage". I found *pasin marit* was often employed in Bialla as a means to explicitly describe certain types of action associated with marriage and was often called upon in dispute hearings as a means to identify actions that threatened the relationships engaged in a marriage, such as the act of adultery. In order to better understand the content of the disputes that follow I will begin by explaining how I have come to recognise *pasin marit* as a phrase used in Bialla to describe where certain judgements (and sometimes ultimately conflicts) come from, and why I believe this term is of such significance when it comes to the disputes that are eventually overseen in the village court. I introduce how certain actions and events in Ewasse are discussed in regards to *pasin marit* through a story that was told to me about things a woman has to come to terms with when she gets married. I go on to develop this idea further by describing how *pasin marit* is often specifically referred to when describing the origins of certain disputes.

Focusing on those disputes and everyday occasions that are explicitly associated with *pasin marit* creates an immediate point of comparison between a range of cases, which allows me to better examine how the village court magistrates proceed in these certain cases despite what the case is ultimately defined as on paper. Through identification of *pasin marit*

as a means to discuss relationships and actions associated with that in Bialla I intend to better represent the voices of those disputants who used the term themselves in the context of the village court, and in numerous context in Ewasse. This term, used in conjunction with concepts of judgement, speech, and action, also enables me to have this discussion without relying on some heavily weighted and arguably more problematic terminology such as morality, expectations, and behaviour. Ultimately, this emphasis on ordinary ethics and *pasin marit* in combination enables me to begin to present a little of the ‘why’ behind people’s use of the dispute forums in Bialla. By looking at how people talk about each other, and the disputes that are seen in villages such as Ewasse, I can begin to map out what it might be that the village court is sought out to do, why flexibility is so integral to its achievement of this.

But asking why people take their disputes to the village court does not wholly clarify what the village court is able to do, nor what the magistrates’ (in their capacity as human beings themselves, not merely court-making actors) influence during proceedings means for how disputes are seen. Therefore, having contrasted some case studies in which *pasin marit* is used as a means to justify disputes, I will go on to ask what happens when magistrates cannot satisfy disputants’ original concerns and consider why certain conclusions are reached. Can magistrates really expect lasting peace if no one gets what they came for? Armed with our new understanding of how Bialla's dispute forums come into being and work as parts of a larger network, I will attempt to address these questions regarding the disputes that make it into the village court, and introduce the potential impact upon those connected to their outcomes.

By looking at how the residents of Ewasse are making use of the dispute forums available to them, and the kinds of cases that are emerging, one can begin to understand how people are envisioning their lives through their relationships. The importance of relationships is by no means only made apparent in dispute forums. In many of my conversations with the residents of Ewasse, people would identify themselves to me in regard to their relationships with others. This would occur most commonly when meeting for the first time. After introducing myself I would frequently be presented with information such as “I'm Oliver's mother, he works for Hargy [HOPL] driving their trucks”. This personal context would be offered regardless of whether I had any idea who Oliver was or not, indicating not only the importance of the relationship those two share, but also, in this scenario, the importance of the family's connection to HOPL and Oliver's job. In the final section of this chapter, I will identify how descriptions of this kind are of particular importance in dispute forums. I will

argue that they can inform the magistrates' understanding about the *pasin* (way of being) that is considered acceptable in the relationships presented to them. This explicit description of relationships was therefore commonly presented to the magistrates in the village court, and if it was not the magistrates would often ask for it.

By focusing on the magistrates' attempts to define relationships (in my work this revolves around relationships in marriages) in two specific cases that revolve around disputants' references to *pasin marit* this chapter identifies how many disputes arise when *pasin marit* is challenged or left unfulfilled. My research suggests that judgements, often made explicit as a response to a person's perceived disregard for *pasin marit*, can provide the spark that initiates some of the disputes overseen in Bialla's dispute forums. This can be seen in the language used and actions taken by those involved, and in turn informs the decisions magistrates make in the village court. I develop this discussion by considering how the village court provides a place in which people seek insight and definitions of their relationships that were previously unclear or have been challenged.

There is much in the capacity and practices of Bialla's dispute forums that explains why so many emerge regularly to meet the needs of local disputants. Acknowledging how these forums remain so flexible has allowed me to examine why perhaps they are so hard to catalogue in any strict legal manner, and how this facet of their existence makes their use so appealing to local residents. Having said that, it is easy at this point to start hedging the realms of a structural functionalist approach – all parts of the dispute network, working together to create a functioning whole. However, as I touched upon in the previous chapter, not everyone believes village courts are the best way to solve disputes. Certainly in Ewasse's committee meetings the court system is presented as flawed, impersonal, and unable to settle disputes in the long term. With that in mind, this final chapter will once again discuss the disputes of Bialla, but on this occasion it is those cases that are not concluded, and the difficult tasks that magistrates are faced with, that will provide the focus of discussion.

Through examination of two specific cases, I will introduce some of the practices used to oversee disputes in the village court. This will allow me to reflect upon the role that the magistrates play in these cases, and what their decisions and understanding of each case can tell us about what the village court is being used to achieve. This research also allows me to ask what the court process does (if anything) when concepts of *pasin marit* and the relationships associated with that are evoked as a means to describe disputes, and yet no court

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ruling is made. By looking at the way in which magistrates choose to deal with these disputes I am able to identify not only how these disputes can end up without rulings that anyone was seeking, but what these rulings (or lack thereof) mean for the disputants going forward. What is it that magistrates actually *do* in these instances? I will then continue by looking at the significance that those who are involved in disputes have on the outcome and how the case is handled. In order to fully comprehend what they are dealing with, I first want to establish the place of ordinary ethics in my discussion, before moving on to present why I have come to identify *pasin marit* as a meaningful category with which to discuss some of the judgements and choices made in Ewasse.

Freedom, Judgement, Speech, and Action: Where Disputes Come from and How We Come to See Them

In seeking to understand the disputes addressed in venues such as the village court a researcher is faced with a challenging question: What is it that informs a person's idea of what events warrant conflict in the first place? To look at court documentation and see that a dispute was recorded as one regarding adultery is one thing, but it is another thing to consider what a person's idea of adultery is, why is it so important, and how that is shared within a community or made communicable in a way that a courtroom full of people can also understand, even to the point that they would agree with it. It is all these elements that have led me to utilise a discussion of ordinary ethics throughout this chapter.

The difficulty that lies behind questions such as that which I have posed above stems from the fact that knowing what motivates people, what informs their perceptions and reactions to the world, and their interpretations of events and relationships is near impossible to do. We cannot, after all, ever hope to see the inner workings of people's minds. Instead, we can only hope to bear witness to a given interpretation of events through people's positioning of themselves through action and speech. How do people project their ideas and intended outcomes into an event or conversation? How do they relay this information to those around them, and share in certain pieces of knowledge and views of the world within a wider

community? How can we accurately represent the significance and frequency of those occasions when people are not consciously engaged with the ethical aspects of their actions and their outcomes? It is these, more locatable questions, that ordinary ethics has found a means to address, and is therefore a valuable approach for anyone seeking to understand how relationships, as they are experienced by those involved in them, can be taken to court for examination.

Before I begin this discussion I should clarify that I will mainly be exploring this topic with reference to ethics. However, on occasion I will also make use of the word “morality”. Although morality is a topic that has been associated with moral imperialism and the creation of a spectrum of behaviour that swings between “good” and “bad” or “moral” and “immoral” (Beldo 2014: 263) as concepts that are hard to utilise in a cross-cultural context, following the precedent set by Lambek (2010a: 8) I use the terms morality and ethics interchangeably. This is particularly in those cases when citing and exploring the works of other authors who are relevant and have demonstrated a preference for one term of the other when describing concepts that I believe overlap between terms and therefore defy strict categorisation.

In keeping with the concept of “judgements” that has been utilised throughout this thesis, my approach to ordinary ethics also stems from the work of Michael Lambek and a number of contributors to his edited volume *Ordinary Ethics: Anthropology, Language, and Action* (2010). In his introduction, Lambek explains that he understands humans to be intrinsically ethical to the extent that ethics can be identified in both speech and action. His emphasis on the “ordinary” aspects of ethics allows Lambek to explore how this subject can be discussed in terms of the relatively tacit ethics that inform a person’s everyday life. Ordinary ethics, he explains, are those that are “grounded in agreement rather than rule, in practice rather than knowledge or belief, and happening without calling undue attention to itself.” (2010: 2). What ordinary ethics, as a category of investigation, allows Lambek (and now myself) to do is acknowledge and maintain the uncertainty, polyvalence, or ambivalence of selfhood, social encounters, and action (ibid: 7). This means my work does not attempt to define ethics as a definitive category or realm of human thought. Instead, I discuss the speech and actions of residents in Biialla (specifically surrounding the perceptions and experiences of conflict) in terms of their “ethical quality” that in turn I relate to the uses and outcomes of local dispute forums.

At the heart of my approach lies two fundamental assertions. Firstly, I agree with Laidlaw (2010) and Lambek (2010a) when they argue that the ethical is “pervasive” and “intrinsic” to human life. As a result, the ethical cannot be treated as a compartment of social life that exists as a “distinct realm of human thought” (Lambek 2010a: 11). Instead, it can be discussed in terms of the ethical quality that can be identified in human action and practice. It is this idea that the ethical domain can be discussed as a feature or “modular component” of “being in the world” (ibid: 10) that leads me to the second assertion of my approach - ethics should not be presented as either conjured from deep within a being and always apparent to the individual who holds them, nor should they be presented as an imposition of external institutions and adhered to only as a consequence of that. This means we cannot identify ethics as rules one must adhere to, nor do they grow as a natural component of a self with no exterior influence or engagement. Rather, my work continues down the path towards an uncertain domain of ordinary ethics that Lambek (2010b) describes, in which ethics are intrinsic to action. By looking at two distinct forms of action (specific act/performance and ongoing judgement/practice) ethics is shown to be a function of each. Lambek explains:

Criteria for practical judgement are established and acknowledged in performative acts, while acts emerge from the stream of practice. Performance draws on previously established criteria, or felicity conditions, in order to produce its effects. These effects can be understood as committing performers to one particular alternative or set of alternatives out of many, and these commitments in turn inform subsequent evaluations of practice, and thus practical judgement itself, but do not determine practice.

- 2010b: 39

What Lambek introduces here is that ethics are tied to practical judgement that can be informed by what he designates as “performance acts”. Pertinent to the content of my own discussion, a wedding is Lambek’s chosen example of a performance act. It draws on “previously established criteria” as a means to be understood and in order to establish the desired effects. Two people, at the end of the ceremony, become spouses. That does nothing to diminish the capacity of those individuals from continuing their lives in any way they wish

to after the performance act is over. However, what the act of marriage does is resonate in people's understanding so that certain acts the couple undertake in the future are defined by their act of union – “adultery” would be one such example of this. That shift that takes place in people's judgements of the spouses following their wedding ceremony can be identified as the effects of the performance.

In order for Lambek's interpretation to hold weight one needs to accept his assertion that ethics entails judgement (evaluation). These judgements can be prospective (evaluating what to do or how to live), immediate (doing the right thing, jumping in) and retrospective (acknowledging what has already been done for what it was and is) (Lambek 2010b: 43). Judgement is used both in regards to other, and thus has highly social aspects, and in regards to oneself, tied to freedom and self-fashioning as well as numerous other matters of care, responsibility and insight (ibid: 43). Judgement is what I will be discussing when people describe *pasin marit*, especially in the context of dispute forums where they are using their descriptions to make a point about their understanding of a relationship and identification of when people stray outside of that. But before one is able to make these judgements it is important to ask what informs them. Lambek argues that in order to exercise judgement, there must be “criteria” (ibid: 43). He presents the idea that criteria are ever-present and always pre-existing. They stem from both mind and experience and are instantiated through speech and action. It is this that makes ethics intrinsic as criteria are already in place and because speaking “entails and generates criteria and because there are always places where disagreement over criteria or their absence is troubling” (ibid: 43). This means that ethics are not fixed, may differ between people, but also can be shared in a sense that they are recognisable to more than just individuals. What this means is that criteria provides that which informs a person how to conduct oneself in all things. This not only makes criteria a fundamental part of everyday life, but also can be found at the heart of those moments of disagreement and conflict. It is this that makes judgement, criteria, and ordinary ethics, such a useful foundation upon which to build my own discussion of disputes and the actions and speech that surround them.

Another reason that Lambek's approach to ordinary ethics is a useful starting point for my own study, is that he makes clear that to be ethical does not automatically determine an obvious unethical counterpart (ibid: 9). This means we avoid any troublesome discussion that relies on founding dichotomies of what is “good/bad” or “right/wrong” when in so many

instances those categories cannot be fixed or do not definitively exist at all. Much like my earlier discussion of a need to step away from the use of legislation as a means to define or consider the village courts, this same argument can be applied to my choice to use ordinary ethics and focus on the embeddedness of disputes in the everyday in Bialla, over an approach that worked to identify disputes in relation to rules and obligations (“morality”) in the Durkheimian tradition (see Durkheim 1903). Laidlaw similarly encourages this distinction when developing an approach to ethics, as he argues that obligations place emphasis on social-constraints as a defining feature of social life (2002: 317). This comes at the expense of categories he believes more applicable, such as creativity and freedom.

Rather than passing any judgement on “good” or “bad” attitudes or practices, for me, reference to ordinary ethics in Bialla is merely a means by which I am able to identify the specific social tensions that in turn provide the object of my study (Fassin 2012: 3). In this case, the social tension I refer to is revealed through emphasis placed upon *pasin marit* by those I spoke to when discussing acts they identified as adulterous. The reason adultery is a good subject with which to begin to discuss how dispute forums are being used by local residents, is because it is often quite easy to identify when it is explicitly identified by Bialla's residents. Adultery is also often juxtaposed with residents' conceptions of what constitutes *pasin marit* and the fulfilment of certain responsibilities that are encompassed by that. In my research then, people's judgements that lead them to identify adultery constitutes one feature of the “ordinary ethics” (Lambek 2010) that can be seen to influence actions and disputes in Bialla.

In order to better illustrate how ordinary ethics can be seen as a feature of the judgements made and actions taken in Ewasse, and how one might hope to identify them, I begin by recalling a conversation I had with two unmarried women in Ewasse on a wet afternoon.

It has been raining all day. Myself and Rosie, one of the sisters from the village's Bible school, have been sat inside drinking tea waiting for it to stop. Although I never get her age precisely, Rosie looks to be about thirty and, unlike other women in the village her age, she never married as she went into the church school to become a sister. Considering her work takes place in and around the village and she has no household of her own to run, I have found she and I spend a lot of time together. We seem to have a mutual fascination with learning as much from the other person as possible. Out of all the conversations I have in the village those with Rosie are the most candid.

Today Rosie and myself are joined by my youngest sister in the village, Haddasah, who comes in from the rain and throws herself across the foot of the mattress we have been sitting on. She lies there dripping, and explains she has no intention of getting up again until dinner. With that decided, I refill our mugs and as if all of us were Haddasah's age (16) we begin to gossip about boys. Much of Haddasah's understanding of the world I grew up in comes from American films about high schools that she and my other sister, Rachael, watch at weekends on an old laptop. Her image of England revolves mainly around what I can tell her, and the film *St Trinian's* (2007).

After clarifying with me that I find it normal to have male friends of no relation to me, both Rosie and Haddasah work hard to explain that you cannot go and spend time alone with a man in WNB. Haddasah explains that you can meet boys in school and church without it being a problem, and she proudly describes how she joins boys in sports and often beats them too. After establishing that there is no doubt in Haddasah's mind that she will grow up and have a family of her own one day, I begin to ask prying questions: “What happens when you leave school? How will you meet someone without everyone talking [about you]?” I get no real answer to these questions. Rosie tells me that it is hard because if a man comes to visit you who is not related to you in some way, especially if he goes to another province to do so, the woman's parents will expect bride-price.⁸⁶ This act is as good as a proposal.

86 Bride-price (sometimes known as bridewealth) is an amount of goods or currency given by a groom (and his *lain*) to his bride's family. This not only indicates the ties of their marriage, but binds the two families in kinship, and certain social obligations that come with that.

I want to interject in the story here in order to point out how Rosie's example goes some way to illustrating two points this chapter will be exploring. Firstly, Rosie's judgement of certain actions as indicators of a relationship and the formal recognition of that which should follow (in this case a man visiting a woman in a different province judged as the signal that prompts the formal acknowledgment of the relationship involving extended families and a bride-price exchange) demonstrates how ethics are pervasive in the way people interpret and speak about their social-world. In this hypothetical scenario, the man's act that Rosie describes supposes not only that the visited woman's family would be able to interpret the act as one tied to a proposal of marriage, but it also is presented to me as information that informs the actions and judgements of Rosie and Haddasah on a daily basis as well. Knowing that the kind of act she has described send certain messages to others in the community, Rosie would not engage in any act of that kind, and similarly is confident that her interpretation of these actions would be widely shared despite not being imposed by any authority. Here is just one way in which the ethical domain of everyday life in Ewasse is brought into focus.

The second point that Rosie's hypothetical allows me to introduce is why marital relationships in Bialla are not always clear cut, and why matter surrounding marriage appear as a matter of dispute so frequently. Rosie makes her point in regards to the way a *lain* (in this case the woman's parents) would judge (consciously or unconsciously) the action of a man visiting. The criteria informing those judgements are already in place, so it is the man's actions that set in motion the *lain*'s engagement with those criteria in the forming of their judgements. In this case this comes in the form of requiring the bride-price payment associate with a marriage. It is in this development that we can begin to see where a conflict may arise. Bride-price payments create a form of "contractual ties" and bond between *lain* (Eriksen 2010: 118). However, the anticipation of completion of a bride-price payment can be quite hazardous in terms of developing conflict between said *lain*. Like my earlier discussion of West's work with a community in the Highlands and their interaction with certain conservation groups, the emphasis on reciprocity and the interpretation of a relationships can lead to misunderstandings when both sides have not entered into the relationship on the same terms (2006). So what we see in Rosie's suggested scenario is a similar potential for conflict as one *lain* expects a demonstration of a continued relationship (in the form of bride-price payment), which the other may not agree to or perhaps not even know about. Who is to say the man who visits the woman in another province has informed his family of his movements

at all. It is then perhaps not surprising that conflicts can develop, and equally that the definition of the relationships involved cannot always be agreed upon by disputants. At what point is one *lain* obliged to pay bride-price to another? It is this that makes those disputes surrounding marriage of such interest when attempting to describe the uses of the village court.

On top of questions such as that posed above (one which I will discuss in the examples that follow, but will by no means attempt to provide a definitive answer to), a conflict of this kind may arise regardless of any personal interpretation of the relationship that the couple themselves may have. This means in many instances marital disputes are not necessarily represented by the married couple themselves, but instead another member of their *lain* who is invested in their relationship. As such, magistrates need to decipher different circumstances, periods of time, and conversations in order to interpret a relationship and guide any decision that follows.

Returning now to my bedroom in Ewasse, my conversation with Rosie and Haddasah continues. “I bet people break the rules though”, I posit, imagining it would not be too difficult to wander away from the village to spend time with a man if a woman put her mind to it. Haddasah immediately confirms my suspicions. “Oh yes! Girls sneak out to spend time with boys, and when they get caught their parents beat them and on occasion will shave off their hair!” The very idea of this makes both Rosie and Haddasah break out into peals of laughter as they nod knowingly at one another.⁸⁷ Haddasah goes on to describe how brothers will get involved when their sister misbehaves. She would consider it to be not only fair, but it would be the proper way for a brother to act (“*pasin blong brata*”) for them to chase the boy away and beat him and their sister for what they had done. Rosie shows her agreement with Haddasah’s description through nods and interjections of “*tru*” (“it’s true”).

What this story provides is an example of how previously implicit judgements that can be considered (even if not consciously) ethical, can be made apparent through discussion, described in terms of hypothetical actions and their effects, and used as a means to justify decisions and choices moving forward. In Haddasah’s case, the decision not to secretly meet with boys, and also not to intervene when a girl in the village is being beaten by her brother.

87 This is also the approach taken for those who get head lice (quite common especially among school-goers) yet somehow everyone can tell which instances are punishment and which are lice related without needing explanation.

In this way, a single hypothetical act can be used to highlight the ordinary ethics informing her judgements. Not only that, but Rosie's agreement with and shared knowledge of what Haddasah describes shows how these judgements exist as a shared understanding informing choices made in that community. Even if Rosie had not agreed with Hadassah's interpretation, the discussion would have seen her justify her disagreement or allow her to consider her actions in terms of this new knowledge in the future, positioning herself (consciously or not) in response to the ethical understanding that Hadassah presented her with.

Pasin Marit: A Way of Being Married and the Means to Express it

One cannot describe the world as it appears to people without describing the character of people's being which makes the world what it is.

- Strathern 2001: 3

My use of *pasin marit* as a terminological means to discuss sociality and disputes in Melanesia is new but, as will become apparent as my discussion continues, many of the ideas this term can be seen to encapsulate are long established within ethnography of the region. Burrige's use of the term "expectations", for example, describes an intrinsic part of relations and exchange in which expectations are expressions of "ought to be" relationships. This, Burrige argues plays a crucial part in the "behaviour" of residents in the region of Madang (PNG) where he conducted his research (1957: 769). By focussing on expectations in this way, Burrige is able to explore facets of relationships that are perhaps not always visible through practice, and exist mostly within the minds of residents and are expressed most commonly when challenged. It is in this emphasis on tensions that Burrige and I find our common ground of interest, however, I have chosen to steer away from the language of expectation and behaviour that Burrige favours. This is mainly because I am keen to preserve more of a sense of the unpredictability, and often unconscious or even accidental elements that can contribute to and ultimately shape judgements, interactions and their outcomes when it comes to everyday village life. The predictability and neatness of a social

explanation that revolves around expectations and the behaviour stemming from that (or interpreted through the expectations of another) obfuscates uncertainty. Laidlaw (2010) expands this line of reasoning in a different direction when he argues against the likes of Ortner (2006) who's use of "practice theory" distinguishes agency from routine practice through an assumption of individual intent. As Lambek proposes, a domain of uncertainty is where ethics should be seen to live, and it is with that in mind that I continue my discussion and have sought terminology from my fieldsite that accurately depicts those moments when residents were referring to one another and the ethical realm in which tensions and interactions were being identified, and yet does not assume individual efficacy or extraction out of the everyday in order to do so.

Through examination of the kinds of occasions that would provoke members of Ewasse's community to consciously explain their interpretation of events to me (such as my conversation with Hadassah and Rosie above) I am able to define some of the kinds of events that may lead to disputes and some "ethical dimensions...of selfhood, social encounters and action" (Lambek 2010a: 7). The identification of *pasin marit* is therefore of particular importance to my research, because this term was often used to make explicit disputants' reasoning behind certain tensions that eventually resulted in forum-based disputes as well as being a term that was used to discuss everyday occurrences. It is a phrase that can be used to reflect upon how something should or can be done. A way of doing, or being. It was a phrase I often heard used in a way that assumed a certain shared knowledge between the speaker and the listener without being fixed or ascribing any details in itself. This makes it a perfect phrase for discussing the specific cases and details that I will be exploring in this chapter, without relying on an overarching understanding of any fixed "morality", "rules", or "expectations" of the individuals or communities involved.

My use of the phrase *pasin marit* is a product of how I heard people justify their interpretation of other people's actions within defined social contexts, and describe the causes of conflicts in dispute forums. This serves me well in the specific context in which my research took place and with the discussion I am about to have, but I confess it is perhaps not a term that immediately serves a broader purpose beyond this context. This is especially seeing as I know the term is used differently in other parts of PNG. A more thorough terminological discussion may be required in the future, but for the moment it proves a useful vehicle for my discussion within the context of this final chapter, and as a means to engage

with ordinary ethics in the context of a dispute forum in WNB. Ultimately, much like those details that can impact upon a person's reputation in Ewasse, what this section will reveal is that *pasin marit* is a phrase that can facilitate the explication of tensions and the production of conflicts in Bialla, and as such can help contribute to a variety of definitions and outcomes in dispute forums.

To further develop this discussion in this section I want to focus on descriptions of *pasin marit* as a means to express judgement and practice in the village. Specifically, I have chosen to focus on how *pasin marit* is used as a means to identify and communicate what I will be calling "dispute triggers". A term that can be loosely translated as "the way of marriage", I have chosen to use *pasin marit* as a means to refine the scope of my discussion. The emphasis I place on marriage and the use of this term during disputes seen in the village court is taken over the myriad of alternative relationships that could be emphasised instead ("*pasin raskol*" or "the way of the rascal"/ "rascal behaviour"⁸⁸) for example was more often referred to in Kimbe's village courts than in Bialla). By focusing on discussions surrounding *pasin marit* I am able to recall certain actions and practices that were recurring identifiers in the conversations I had during my fieldwork. People often had certain ideas of what their household would be like when they got married, and yet these ideas would not be described explicitly until they were discussed in terms of *pasin marit* and particularly in the context of conflict. For example, no one ever stated outright that they wanted their wives or husbands to cook food for them every evening. But I saw plenty of fights break out after dark when food was not made in various houses in the village.

By looking at ordinary ethics and those occasions in which the ideas surrounding *pasin marit* were expressed, I can begin to distinguish between those that develop into disputes overseen in a forum, and those that do not develop further. This distinction is useful because it allows me to consider what it is people hope to gain from going to a dispute forum, and how disputes can escalate to the point that they require one. To begin, it is through recollection of a conversation I had in Ewasse with Joan, the mother of my host family, that I am best able to present a number of ways the word *pasin* can be applied in conversation, and how *pasin marit* can be used in particular. A broader recognition of the uses of this phrase

⁸⁸ *Raskol* is a term used to describe certain kinds of criminals and gangs. These are most prominently recognised in cities such as Port Moresby and are often associated with a generation of alienated youth (See Sykes 1999).

will allow me to elaborate further on its significance in my discussion of the dispute case studies that are to follow.

My real comprehension of what *pasin marit* means began one afternoon when I mentioned to the number of marital disputes I had seen in the village court to Joan. She said she was not at all surprised as she knows that people go into marriages with certain preconceptions that a couple must work through together to overcome. In order to illustrate her point, Joan went on to tell me a story in which she found herself surprised that she and her husband had different ideas of how their marriage would be when they moved to his village.

Originally from Oro province, Joan met Aaron at a church meeting in Port Moresby. Back then, Joan was officially based in the Philippines doing missionary work. She had only known Aaron two months when he asked her to marry him. He was a teacher and she couldn't decide if she could marry someone who might not be committed to missionary life with her. She also feared a future that might involve moving any children they had around the world with them. The next time she saw Aaron, he had enrolled in missionary training in the capital, and seeing his commitment to life with her she decided they could marry. They began their life together in the Philippines, where their four children were born. After ten years away (some of this time in Port Moresby and the rest in the Philippines) Joan and Aaron agreed they should return to Aaron's village, Ewasse.

Joan told me that “*pawa na position*”⁸⁹ within the village, and the “*wok*”⁹⁰ that people had there, were important to learn upon her arrival in Ewasse. Having lived in the capital and in another country for so long she felt she knew little about how things worked there. “Falling in love is different from really living with a person”, she told me one afternoon as we sat peeling taro in the *haus kuk*.⁹¹ She went on to explain that “mothers cannot talk to their daughters about personal things like sex”. She said this had also been the case when it came to her marriage to Aaron. Her mother had never told her anything about marriage or what life in another province would be like. This meant she had been surprised to find she had married a man from a matrilineal line, and she needed to work to get him to lead her.

89 “Power and position”

90 The term *wok* is directly translated as “work”. Depending on context this can refer to formal employment, or jobs that different members of a household were expected to fulfil such as garden work.

91 A small roofed area in front of our house, providing our family with an outdoor kitchen.

Joan explained to me that “*pasin Oro*” meant growing up in a patrilineal environment and was influenced by her education of the Bible in missionary school. This, she explained, meant she had always been confident about the roles that men and women should fulfil when sharing a marriage and a home. Joan is a well-educated and outspoken member of the village, but she always presented Aaron, who is quiet by comparison, as the real head of the family: “I can make decisions, but I should not have to”.

Despite having already been married for ten years, moving to Aaron's province meant Joan was required to learn a whole new social dynamic and “*narapla pasin marit*”⁹² with her husband and his extended family. To illustrate her point, she told me a story about when she first moved to Ewasse and how different it was from her home in Oro:

I needed to buy some soap one day, so I asked Aaron to walk to town with me. He said his sisters were going and so I should go with them, so I did. A week later I needed to go again and asked him to walk with me. He said his niece was going and to go with her, so I did. A week later I needed it again, and when I asked and he told me to go to another female relative I asked him 'what is this? You don't want to walk with me ever?'. He told me that men don't do that here. You will never see men walking with their wives in town. But I was mad, so I made him admit that it is his culture. He told me to talk to his mother about it, and I asked 'am I married to your mother, or to you?'. He said I should go with his niece because women are respected to get things here but not where I am from. My father was an important man, and he taught me to work a certain way. I taught Aaron how I expect him to be, and to stop these silly ideas they have here. Plus, the Bible says man is the head of a house so when I told him that how could he argue!

It is through employment of stories like this, and Joan’s comparison that she draws between the *pasin* of Oro and of marriage in Ewasse that people's “tacit cultural logics and values” can be made more explicit (Wardlow 2006: 86). Especially seeing as Joan's story is not the only one of its kind in Ewasse. As such, I am able to reflect a little more broadly on what her story

92 “Another way of marriage”
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can tell us about *pasin marit* in Ewasse at large. Married women often expressed their concerns about how men and women were seen to act once married. Joan was also not the only person to place culture or custom in opposition with her evangelical church's teachings (Christian Revivalist Crusade), or contemporary social mores. Far from the emphasis placed upon the continuation of customary practices in documents such as PNG's Constitution, and the Village Courts Act, in the village custom was often explicitly described as a form of unavoidable burden or a fixed way of life that caused disputes: "Custom makes Papua New Guinean's lose", Aaron told me one day. As we shall see in the disputes that follow, both religion and custom inform much of the language through which *pasin* is discussed.

From what I saw whilst living in their home there was one main reason that Aaron and Joan's misunderstanding about their marital dynamic did not develop into a dispute. That was ultimately because they agreed. Despite Joan conceding to walk to town alone from then on, it turned out that Aaron shared Joan's understanding of the recognised dynamics between men and women in Bialla town. His opinion was similarly informed by the teachings of his church (also CRC), yet he acted in accordance with more commonly seen forms of gendered social interactions that led him to act counter to that. Although he did not refer to his experiences with Joan directly, when looking at passers-by from the window of his Land Cruiser one day Aaron pointed out that I would never see couples walking together as man and wife "because it is not customary". Men cannot sit with women because they will get a name for themselves as either a "sissy" or a "womaniser". He described contemporary PNG as "a new world", reliant on people changing their current attitudes and practices in order to "move forward".

Despite expressing his own understanding of what is needed for PNG's "progress", and his agreement with Joan that the Bible speaks of a certain dynamic that married couples should strive for, he still refuses to walk with her in town. There is a reason that he usually waits in the car. In this case, both he and Joan concede that the customary practices that Aaron is so quick to dismiss are still important to live by if one is concerned about their reputation and, to take it one step further, their gendered identities. I say this because by choosing to act in a manner that both Joan and Aaron believe is best suited to public outings in Bialla, not only do we see the couple avoid a dispute, but both Aaron and Joan also maintain the gendered identities that partially informed their judgements regarding how they should act within their marriage. Despite having quite a different understanding of *pasin*

marit in Oro province, in order to be a wife (as opposed to a husband) in Ewasse, Joan was willing to act in a certain manner and socialise in a certain way. Likewise, by deviating from what is associated with what it is to be male, Aaron would be under threat of descriptors that would define him as instantly more feminine. Having judged this as a potential outcome of his actions, Aaron chooses to act in the manner he described to Joan. In this sense we see how ethics concerning the interpretation of actions are not only flavouring the judgements informing practice and decisions both in disputes and everyday life, but also the very identities of the people involved in them. It is this understanding then that guides certain actions going forward. What this realisation helps to clarify in terms of the case studies that follow is that it is in those instances where disputants cannot agree on appropriate action moving forward then relationships and identities become a matter of debate. It is in this uncertainty (and call for temporary clarity) that dispute forums find their use.

Joan and Aaron's story provides a grounding in how the term *pasin marit* will be used throughout this chapter. Their descriptions of their own relationship and how that has involved interaction with other people in Bialla, begins to illustrate some of the social factors (such as custom and religion) that may influence marital conflicts and indicate how they might lead to disputes in the village court. Their different views also illustrate just one of the reasons that overseers cannot rely on terminology and interpretations that render either party “right” or “wrong”. *Pasin Oro*, for example, isn’t “wrong” it’s just not *pasin West* (the term commonly used to describe or identify as someone living the way of WNB). Instead, it becomes the overseers’ job to find an agreeable middle path. What my work will come to show is that it is this kind of nuance that can lead magistrates to make rulings that may appear not to cater to the *pasin marit* described by either party. Despite this, I will argue that it would be inaccurate to consider this to be a failing of the dispute forums in Bialla. The magistrates’ willingness to make rulings that do not address the disputes as it was originally explicitly described by disputants is also a good reminder not to think of *pasin marit* as an imposition, rule, or regulation that cannot be bent, adapted, or ignored depending on the specific context in which it is employed. It is more appropriate in these instances to consider what rulings that do not address the original definitions of a dispute in court means for the disputants going forward.

Having seen how *pasin marit* can provide a term with which to discuss relationships and intrinsic ethics in a marriage, in the next section I will explore *pasin marit* as a potential

dispute trigger and how this emerges within the village court. This discussion once again acknowledges the importance of *lain* in regard to disputes, as in the case studies that follow it will become apparent that *pasin marit* is not only a matter concerning married couples. Instead, ideas of *pasin marit* and anecdotal evidence of its existence (or absence) from events are often presented to the court by other members of a *lain* who are invested in the relationship in question.

Relationships in the Village Court: Whose Case is it Anyway?

It goes without saying that conflicts and disputes that are presented within the courts always originate elsewhere. The foundations of conflicts lie in not only another physical space, but also it is more than likely that a reasonable period of time has passed since the dispute began as well. I say this because it is unlikely that anyone would immediately lodge their dispute with the village court after a conflict had taken place, and it is even less likely that the village court would be able to oversee the dispute in the same week, let alone the same month, that it had been filed.

The village court process is also built with a delay in mind. If disputants came to court claiming they had already made use of one of Bialla's other dispute forums prior to their appearance, they always gained approval from the magistrates for “doing it right”. Once again the village court is engaged in the dispute forum network, openly referencing the other venues and the outcomes disputants may have sought or received in them. Far from being seen as in any way inferior or unofficial, the magistrates use stories told about why other forums did not conclude the dispute to inform how they treat the case themselves. It is in moments such as this, that the influence the dispute forum network has in shaping village court proceedings becomes apparent. I mention this in order to illustrate that what takes place in village court hearings are not disputes themselves. As I have already suggested, in terms of the creation of a summons conflicts are framed through the conceptions of the *genesant*, and through the medium of the summons document itself. But beyond these parameters, what this chapter has worked to highlight is how expectations too can contribute to how disputes and

their resolutions take shape. This means that thanks to the flexibility of the village court, a case is an event that is able to react and respond to the differing perceptions and interpretations of ethical judgements by the disputants and those connected to them.

In the majority of cases there is no way of knowing the actual events that initiated the dispute, or indeed escalated it to the point that a dispute forum was required. However, one is often presented verbally with what the parties believe to have happened, and a sort of concentrated explanation or expression of what matters in different scenarios and why. In this way, we see elements of the tacit ordinary ethics that are usually “submerge[d] into habit or habitus” (Lambek 2010a: 28), recalled to the consciousness of disputants through performance and events. As a result, one can begin to see how looking at the cause of disputes in the court setting, as they are presented by the disputants, can help to identify the types of tensions that are conceived within a marriage, and also what disputants believe the village court can do. With this in mind, I will describe a fairly typical case that arose during my fieldwork. From this I can begin to discuss many of the ideas that emerged as central to the motivations behind the use of the village court system, as well as identify the emerging needs of many who require definition of their relationships in the peri-urban environment that Bialla provides.

Case Study: William, Louise, and Louise's Mother

Five people stand facing the magistrates on Bialla's bandstand that plays host to the village court twice a week. They stand as two pairs, each comprising of a man and a woman. On one side, the pair are accompanied by an additional older woman. A peace officer, blue-shirted and straight-faced, stands between the two parties with his hands clasped together. This formality is often observed, especially when it comes to cases about adultery. “They must stand apart so they cannot fight”, a magistrate had explained to me on one of my court visits weeks before.

The genesant, William, stands with his first wife to his right. It is after this connection has been clarified that I realise the man and woman on the other side of the peace officer is William's second wife, Louise, and her new husband, Thomas. At this point during my

fieldwork I had already come to realise that despite the fact that the magistrates often express a disapproval of polygamy, they did not like allowing this to affect their understanding of what constitutes a marriage.⁹³ Regardless of number of wives, if the magistrates establish the existence of a marriage they wish to see it maintained, something that this case really exemplifies.

The two men share little in the way of appearance. William is ageing, with wisps of grey hair in his beard, and coarse hands that he rubs together periodically as if to relieve a pain in his fingers. Thomas on the other hand looks younger, as does Louise who stands beside him. It turns out the older woman standing with the young couple is Louise's mother. The case begins when one of the five magistrates seated on the bandstand reads out the central issues as identified by William on the summons. Following this summary, the magistrates allow the parties involved to state their opinions in turn, before continuing by asking questions.

This case revolves around William's complaint that Louise left him for another man, Thomas. William tells the magistrates that he wants to be repaid the bride-price that he paid to Louise's family when they married. William explains that Louise ran from their marriage to her mother's house, who supported her daughter's decision, and has since allowed Louise to stay in this new relationship with Thomas. Jumping in to defend herself, Louise's mother argues that William never paid the total bride-price that was agreed upon when they first began their relationship. It is because of this that she believes it is alright for her daughter to have left William, as their marriage was never official.

After a long while, and a discussion amongst themselves, the magistrates address both parties about the matter. Much of the confusion of this case revolved around both parties attempting to establish the validity of William and Louise's marriage to begin with. In order to better understand the nature of the relationship, the magistrates ask a series of questions: How much bride-price had been paid? How long ago? Have they had any children since? Did they ask for the rest of the bride-price before the second wife ran away? These questions are

93 When I asked about their dislike for polygamy, the magistrates all referred to God and the Christian Bible as means to explain the origins of their position. However, as there is a huge range of Christian denominations and Bible publications in circulation in Biella I cannot comment further on the specifics of how their interpretation of polygamy has been informed by this, or even if they all share in the same understanding of why it is not something they approve of.

posed to each party in order to better understand the relationship the couple had before Thomas was involved at all.

Louise's mother explains that they worked hard to make things right. They had been to the police twice in an attempt to mediate, but William didn't appear when required. Her family had been waiting for the rest of the bride-price for three years before allowing Louise to move on. Despite demonstrating that her concern about the bride-price payment has been long standing (although the magistrates do point out she has no evidence of these police reports), this does not win her much favour in the court. It soon becomes clear that the magistrates consider the actions of Louise's mother to be the most out of order of those present. They spend a long while chastising her for not attempting to uphold the agreement made when her daughter married William. "This is not the way of marriage (*pasin marit*)", they inform her. "He paid half, so your daughter is his wife".

In order to fully understand why this case plays out in the way it does, one first needs to explore the three ways that bride-price is recognised as a feature of *pasin marit* and holds a pivotal position in this case. Firstly, this is because it is what William wants returned, and as such it is a reflection of what he believes the village court can do. Secondly, by understanding the relationships that bride-price exchanges uphold it becomes apparent why Louise's mother's presence is so important. Lastly, bride-price is what each party, magistrates included, are discussing in order to determine whether the couple are married and as such, how Louise's actions will be judged⁹⁴ is contingent on her marital status. Her actions are not considered as "right" or "wrong" on any independent scale removed from the context of a shared understanding of *pasin marit*. The existence of this exchange is being used as evidence for the existence of relationships and the expectations attached to them. As I continue to discuss William and Louise's case, it is these three ideas surrounding bride-price that I will be exploring.

This case in Bialla is by no means an outlier in terms of how the fundamentals of bride-price (or bridewealth) exchange is discussed and interpreted in many parts of Melanesia at large.⁹⁵ Traditionally bride-price has been regarded as an exchange that established

94 Here I use the term "judged" as an extension of Lambek's discussion of "judgement" used in regards to ethics. This is as opposed to any kind of legal use of the term as in the sense that a magistrate can pass judgement in a court case.

95 The term bridewealth is used to describe a marriage related exchange that is embedded in a larger system of reciprocity, that joins two families in enduring relationships (Wardlow 2006). Recent use of the term bride-

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“relations of equivalence between parties to a marriage” (Filer 1985: 171). What this means is that the groom's *lain* often jointly contribute to an exchange sum (not necessarily cash) that is given in the form of bride-price to his wife's *lain*. In exchange the groom receives a wife, and both sides of this exchange cement their marriage. New relationships are forged as a result, that sees the two *lain* committed to each other for the foreseeable future.

The reason that these relationships are able to form in the way they do is through the movement of the bride from her natal family into that of her husband.⁹⁶ No longer a resource to her natal family, through this exchange the bride acts as a “road” between the two *lain* who are brought into permanent relation through the bride's ability to embody reproductive, labour, and relational capacities (Wardlow 2006: 95; see also Strathern 1972). It is in the establishing of these relationships that much of a bride's experience and identity can be played out through what Wardlow describes as the “logic of bridewealth” (2006: 89). She sees bridewealth (what I have been calling bride-price thus far) as a discourse through which a bride's decisions and consequences are framed and it is this that we see feature in the village court where *pasin marit* is concerned. This idea is exemplified in William and Louise's case through the fact that bride-price provides the measure against which Louise's actions are discussed. Even Louise and her mother, although arguing that the couple were not married, use the unpaid bride-price as evidence of this and as such Louise's decision to leave William is not a deviance. In Louise and William's case we can see how this “logic of bridewealth”

price has been introduced in an attempt to differ from bridewealth. This terminological transition has been made by some in an attempt to account for the increasing presence of capitalist social relations. Zimmer-Tamakoshi has described how these capitalist social relations lead to a bride's loss of their capacity to embody and uphold reciprocal relationships. Instead, they are reduced to the position of commodities “for sale to the highest bidder” (1993: 87). This shift is crucial to those discussions concerned with gender relations, female autonomy, and human rights. As such there are many who use this term in order to acknowledge the negative impact of a cash economy in certain parts of the country. However, this “increasingly legitimate idiom” (Jolly 2002: 132) does not necessarily have to stand apart from all that bridewealth is seen to be. Use of cash to make bride-price payments (which was every time in my experience) means I cannot discuss this subject without acknowledging the capitalist system and relevance of the cash economy, that has provided those things present in the exchanges that took place during my fieldwork. But it is not my intention to use this term in order to illustrate the lack of reciprocity and relationships traditionally associated with bridewealth. For my part, to ignore the use of cash in these exchanges would be to ignore an ever more prescient part of what it means to engage in Biialla's reciprocal exchanges. So too would it involve ignoring my research participants' own use of the term. My terminological choice goes a little way to recognise the cash content of these exchanges and the ethnographic details of the disputes I saw go some way to stave off any idea of women in Biialla being treated as commodities, removed from their wider relational capacities. It is not the content of the transactions but the nature of the relationships established through them that draw my focus and allow me to defend it (Wardlow 2006; Strathern 1996).

96 Even in the matrilineal system I was living in this appeared to be the case. Although many people told me stories about husbands moving in with their wives in order to maintain her rights to land, this was not something I saw first-hand.

does not only inform the decisions and consequences for the bride, but for her mother and (as in the case study that is to follow) for the husband as well. To make use of an explanation Wardlow gives of a similar case, despite not agreeing with William about the status of his marriage to her daughter, Louise's mother's "idiosyncratic and expedient logic was still informed by the calculus of [bride-price]" (2006: 89-90). To William on the other hand, bride-price informs not only his recognition of their marriage, but also his judgement of Louise's actions within that marriage.

The emphasis that is placed upon bride-price by both the genesant and tributants reveals the relationships it is seen to forge and sustain. In his request we see William identify an action his wife has taken that he believes is an expression of her disregard for what constitutes a marriage, and feels has damaged the relationships associated with it as a result. By moving in with another man she has openly defied what William understood their marriage to be, and as such the bride-price is no longer upholding the relationship between their two *lain*, but instead has transformed into a debt that Louise's *lain* owes him. This is only what William thinks, and it does not mean he will get what he wants or that the magistrates will agree with the ethical judgements William makes of Louise's actions. What it implies though is that upon the return of the bride-price the relationship will be undone, and with it the commitment between the two *lain*.

Having identified the position of both disputing parties, I turn my attention to the magistrates who may still be focusing on bride-price, but are using it to frame the dispute in quite a different direction. Yes, they are using it to establish whether the couple are married, but beyond that they do not seek to discuss it in terms of debt and the unmaking of a marriage. Instead, they focus on the actions taken by Louise's mother. As the magistrates understand it, despite Louise being the one who decided to leave William, her mother should have sent her back to him while they sorted it out, and as such should be considered as much a disputant in this case as Louise is. When Louise's mother took the first portion of the bride-price payment, she entered into an agreement with William, and she acknowledged her daughter's marriage to him. As the recipient of this payment, although it was only partially fulfilled, she was intrinsically connected to William and Louise's relationship, and the magistrates consider her to be invested in its success.

The significance that the magistrates' place upon the decisions and action taken (or lack thereof) by Louise's mother is just one way that the effects of a bride-price exchange can

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be seen in court. That the cause of the dispute is not wholly associated with Louise, and similarly the magistrates' decision to ignore her new partner entirely, very clearly demonstrates the parameters of the relationships associated with this marriage. Far from being discussed in terms of any quantitative value (in fact the amount of bride-price paid and owed was never actually discussed in numerical terms during the court session at all), bride-price acts as the "social glue" that bonds the two *lain* together (Gillison 1993). In this way the bride-price payment has far more in common with the ideas of reciprocity and relationships that informed the disputes discussed in chapter three. Bride-price is a way that two *lain* literally invest in a relationship, both sides parting with, and receiving, physical expressions of its existence (Mauss 1925; Siegel 2013). For the magistrates in this case it is not Louise's act of leaving William that offends, but Louise's mother's lack of recognition of the relationship she herself entered into when she received the first instalment of William's bride-price payment. As the recipient of said exchange, Louise's mother is in some ways as important to the upholding of *pasin marit* in the relationship as Louise herself.

It is worth mentioning here that not all marriages in Biialla must involve a bride-price payment. Children and co-residency can also contribute to the acceptance of a couple's marital status. So in this case I am not trying to argue that bride-price is crucial for the marriage to exist, but rather that once bride-price is exchanged or promised it engages certain criteria for judgement between *lain*, forges countless relationships, and as a result of this, shapes the treatment of those relationships in a dispute forum setting.

Having established Louise's mother's commitment to William through the acceptance of the partial bride-price, it does not take much more for the magistrate's to confirm the existence of the couple's marriage. In order to do this, the magistrates refer to the length of time the couple spent living together as evidence for the kind of relationship they had. Three years is a long time even without the bride-price payment. The magistrates inform me that sharing a residence for that long would make it a "de facto marriage". They use the Latin phrase here to describe times when a marriage does not involve bride-price but is a marriage in all other ways for those involved, and therefore must be treated as such by the village court.

The magistrates summarise their view of the case by highlighting the actions that have threatened the security of Louise and William's marriage. They argue that being unhappy and

only having half a bride-price is not enough of an excuse to leave your husband. It certainly does not free anyone from their marriage to the extent that they can live with another partner.

Planti ol mama i no gat gutpela lo marit.

“Lots of women don't have happy marriages”, the magistrates explain.

They say this in order to indicate that despite not being happy at home, certain practices are common features of marriage, and depending on how one responds to them may cause tension. Running to your mother, for example, is only an appropriate means of dealing with dissatisfaction with your spouse if your mother sends you back again or allows your partner to come and collect you. In this case, this is where Louise's mother can be seen to cause such a problem for the magistrates. An alternative outcome to a similar scenario that provides an example of a mother's acceptable response will be shown in the next case study. For now, considering much of the case has revolved around the idea of bride-price and the possibility of its repayment, it is interesting that at this point the magistrates choose to reframe the case into one concerned with adultery. As the genesant of the case William had framed it entirely in terms of debt due to his wife's need to return his original bride-price payment. This request would end their marriage and allow Louise to continue her marriage to Thomas. He was not requesting that she return to his home. The magistrates however, seem keen to resolve the marriage and unwilling to consider divorcing the couple. As a result, what happens next sees the case step away from what the disputants had come to the court wanting. Instead, it shifts in a different direction, in a move that shows what it is the village court really does.

Having acknowledged the existence of the marriage, any hope the disputants had of easily walking away from their union ends. Instead, the magistrates make it clear that because the marriage exists, what William was asking for was not the repayment of a debt. He was asking for a divorce. This idea was short lived in the village court, and the magistrates are quick to explain that the pair must go to the district court if they want a divorce:

Mipela noken brukim marit.

“We cannot divorce you”, they inform the pair.

This is not the first time I heard the magistrates claim they could not end a marriage. In fact, on occasion they had even openly griped that this was one of the limitations of the village court's jurisdiction. Like land cases and criminal cases, the magistrates claimed people wanting divorces needed to go to a higher court, regardless of whether or not the marriage was de facto or statutory.⁹⁷

Considering the number of times I witnessed the magistrates in Bialla refusing to oversee divorces, I was keen to discover the extent to which the village courts are empowered to tackle marital disputes in village court legislation. Not covered in either the Village Courts Act (1989), the Marriage Act (1963), or the Adultery and Enticement Act (1988), it was not until reading through the Magistrate's Manual (2010) that divorce was addressed directly. In the manual it is made (relatively) clear that when it comes to statutory marriage neither the village nor the district courts can play any role in a marriage's dissolution. However, when it comes to customary marriage there is no need for a court to be involved at all for a divorce to take place. A couple need only fulfil the customary requirements of their own community to end a marriage. The only involvement a village court may have in this kind of marital dissolution is when couples wish to have proof of the end of their marriage. On these occasions a village court can issue proof of the customary divorce, that can then be confirmed by a district court if required (Magistrate's Manual 2010: 16.6.1).

It is interesting to consider how the village court magistrates are in a position to help end any marriage that had been identified as customary if they so choose. Established based upon a bride-price payment, Louise and William's marriage would most certainly fall into the category of customary marriage. Statutory marriages, as defined by the Marriage Act (1963), require two witnesses, the completion of a marriage certificate, and to be overseen by certain recognised officials. The act also specifies that the two parties must both be over the age of 21 and state that they are free to marry. I did not know of a single person in Ewasse who had

97 None of the cases I witnessed ever involved a marriage that was established to be statutory.

been through this process, and yet a significant proportion of the village's residents were married.

I refer to these legislative guidelines because once again these circumstances show how adherence to state laws is not what motivates the decisions made by village court officials. Instead, the magistrates and other actors that unite in the making of the village court invoke the idea of law through the use of legal language (e.g. “de facto”) as a means of creating and describing the rules they believe apply to the case at hand (Demian 2003; Jessep 1992c). The magistrates establish the existence of Louise and William's marriage, and define it in legal terms as “de facto” in order to remove it from a statutory category. However, when then confronted with issues of divorce, the magistrates choose not to inform Louise and William that the process is in their own hands and can be dealt with in their own community. Instead, the magistrates always spoke about the marriage in reference to a divorce process that takes place in the district court alone, as would be required if their marriage were statutory.

What this avoidance of divorce proceedings helps to illustrate is the process magistrates go through when faced with cases they deem to be out of their jurisdiction. Much like the case seen in chapter five where the court was unmade in order to allow the magistrates to oversee a dispute, in this instance rather than reshaping the venue, the case is reframed in order to fit with the process the magistrates intend to apply. Once Louise and William's marital status had been confirmed, it makes Louise's actions adulterous. What this definition means is that until they are divorced Louise is continuing to commit adultery, and unless she stops the case could return to the court several times if William wished it to. This understanding effectively means that Louise is required to return to William's home until a divorce is arranged. A process that can take a lot of time and money to make happen in the back-logged district court up the road from the bandstand where we currently sit. What this goes to show is that similarly to those instances where the village court is unmade in order for a mediation to take place, in cases concerning divorce the magistrates appear not to want responsibility for any ruling they make.

Like many of the case studies presented so far in this thesis, this case continues to demonstrate that extended family ties and relationships are connected and expressed in dispute forums. In the same way that Louise's mother is partially responsible for the original conflict, so too would the rest of her *lain* be invested in the outcome of the case – all

connected to the actions and outcomes of Louise herself. Like the case of Bialla High School and the PMV crash, a large number of people were united through familial and land-based relationships, which resulted in a huge group of people who were invested in the outcome of that dispute. Knowing this, it comes as no surprise that there is serious concern among the village court magistrates that conflicts can escalate easily when mishandled, and divorces are particularly sensitive.⁹⁸ In fact, this was one of the very first discussions raised by Kimbe's village court secretary at the very start of my fieldwork:

On dissolving marriage, I really need to also make myself clear on that because sometimes it's confusing. Marriages are not dissolved by village courts, they must be dealt with by the courts even if it's a customary marriage...marriage issues are very sensitive issues, sometimes [they] can lead to fights so village courts have to be very careful how they deal with dissolving marriages. Both parties for the bride and groom are there to deal with it customarily if it is to be settled in a village court: village courts become mediators.

- WNB Provincial Village Court Secretary in Kimbe
Fieldnotes 25 November 2013

There are many reasons for this, but if I were to briefly introduce and simplify one, it would be the relatively large sums exchanged during bride-price payments. These amounts often well exceed the remit of what the village court usually deals with in the first place, but unlike the cases I have already explored, the magistrates do not entertain the idea of overseeing this dispute as a mediation. The court remains, and instead the case is dealt with as adultery and the marriage is left intact.

98 I never saw a dispute escalate in a way that the magistrates (and everyone) seemed so sensitive about, nor did I ever see two large groups physically fight in Bialla. However, I did see the effects of an unmediated dispute on a visit to Kimbe. On this occasion, an aggrieved *lain* started brawling in town in response to the sickness of a policeman. Four years earlier, this policeman had been shot by another *lain* for hitting a child with his car. The policeman had recovered but the same incident was blamed for his recent sickness and hospitalisation. The brawl damaged a lot of the shops and markets in town. This was partly due to the dispute's escalation into less focused looting and rioting. Once the rioting had ended everyone knew that the *lain* linked to the child would respond in kind at some point in the future. "They'll never talk. It will never end," a security guard from the bank I was sheltered in explained to me.

Knowing that unmaking the court is an option that the magistrates choose not to take, it becomes apparent that divorce is not simply a matter that magistrates feel fall outside of their legal remit. Instead, their choice not to mediate, and also not to consider divorces in the court itself, indicates that it is a topic that they are altogether not willing to be held accountable for. However, on this occasion they equally do not feel any other forum in Bialla's dispute forum network would be either. This makes it their job to reframe the case entirely, attempting to resolve the issue to a point that another forum, or the disputants, will be better suited to deal with it in the future. This approach seems in keeping with an idea introduced in my discussion of Demian's work in Suau (2004a). She summarises certain relationships as shifting to have “destructive” rather than “productive” potential, and as a result it becomes the job of village court magistrates to find a solution that will correct this imbalance. Divorce involves the interests of many parties, and as such the dissolution of one does not appear to build or settle relationships in the positive way the magistrates are often seeking. The magistrates in Bialla work to identify the destructive force within the relationship and find a solution that both parties can fulfil that will rebuild a more positive relationship moving forward.

The magistrates' aversion to divorces can also shed light on another choice they make in the proceedings of this case. When considering the connection Thomas (Louise's new partner) has to the case it becomes apparent why the magistrates choose not to address the status of his relationship with Louise at all. As with so many disputes in Bialla, it is factors like this that make me acutely aware that in each instance I may only be seeing a fragment of much more extensive disputes and relationship negotiations. When one considers the possibility of bringing in the interests of a whole third *lain* (Thomas') into the forum one can begin to see just why this is never done.

If Louise and Thomas are recognised to be married by those around them in what the magistrates would call a de facto marriage, it would mean that the magistrates' request for Louise to return to the house of William would in turn be forcing Thomas into a divorce (or at the very least another adultery dispute). If anything is done to confirm Louise's second marital status it would create a serious problem for the magistrates, who are working to find a clear ruling that will create peace between all the parties involved. It is for this reason I believe that the magistrates ignore Thomas throughout the entire court session, and do not

ask any questions about Louise's new marital status, beyond the date of which she left William.

It is decisions such as this that illustrate how carefully the magistrates shape a case hearing, and their recognition of matters that, if acknowledged, will add further complexity to a case that they hope to resolve. Although this can be seen to demonstrate the wonderful foresight of the magistrates at Bialla, it is also another instance where the village court may not be in a position to fully resolve the potentially conflicting conceptions of *pasin marit* held by those invested in the outcome of a case. It is therefore not a surprise that I found so many cases of this sort made their way through other dispute forums available in the region, and likewise this may suggest why disputants head into each dispute forum with such specific elements of a dispute they seek resolution to. In Kimbe's village court I once saw multiple fragments of a dispute that all stemmed from a single event. They all involved the same woman and yet were presented in court as three separate incidents. Each was duly dealt with by the magistrates completely separately from one another. The only sign they gave of even recognising the many parts of the dispute they had seen was at the very end of the day, as the woman got up to leave and a magistrates called out to her jokingly, “we do not want to see you again!”

Returning to William and Louise's case, outcomes such as the one their case receives illustrates the limitations of the village court when it comes to enforcing any rulings the magistrates may make. Just because it is the opinion of the magistrates that Louise should resume living with William that does not mean that William will walk away and demand Louise return to his home. As such, it is not in tangible actions of this kind that one sees what it is that the village court does. Rather, this insight comes from what the disputants choose to do next. Having brought the case forward hoping for a divorce William may well be unsatisfied by the ruling, but it does not mean he will keep bringing the case forward if Louise continues to live with Thomas. What Louise will more likely be held to is the compensation payment that the magistrates eventually land on. They conclude the hearing by briefly scolding Louise for her decision to leave William:

Yu bin rongim lo mekim dispela na go long mama blo yu.

“You were wrong to do this and go to your mother”, they say.

The magistrates order Louise to pay William K630 compensation for committing adultery. This is in no way a contribution to paying back his original bride-price – a fact that the magistrates make sure to emphasise. If they choose to pursue it, the task of repaying the bride-price will fall to Louise's family, the original recipients of the payment. This compensation ruling indicates that Louise is the person who must pay William for her adultery, but as I have already discussed, despite this Louise's mother was still treated as a key contributor to the dispute and its escalation. It was her actions and judgement of events that were far more extensively discussed in court.

The magistrates were very keen to highlight the impact of Louise's mother's choices upon her daughter's marriage to William and contrasted them with *pasin marit* often. The magistrates explain that through the act of accepting William's partial payment Louise's mother had entered into an understanding with his relatives and extended kin. Part of this understanding should have been that she would send Louise back to him when she ran away. This holds much of the magistrates' attention because in making certain choices Louise's mother has as much impact upon the dispute as Louise's original decision to run away from William had. Had she acted in keeping with the more widely shared practices surrounding a daughter's marriage (sent Louise home to William) then the case, had it reached a dispute forum, would always have been one of adultery. This is because Louise's *lain* would have been seen to have lived up to their side of the relationship forged when bride-price was given. In effect, by sending Louise back they would have shown their support for William, and as such he would not have been asking for the bride-price back from them. William's dispute would purely have focused on Louise and her adultery. Instead, by supporting Louise the dispute has been able to escalate to one involving a possible divorce. This is what the magistrates are required to untangle and through their discussion of the case recognise Louise's mother to be central to the dispute's escalation. It is only once they have worked through the question of whether the couple were married at all (a question the magistrate's feel Louise's mother implicitly raised by accepting Louise's departure from her husband's home), that they are able to oversee the case they believe they should have been addressing the whole time: one of adultery.

Through this description one cannot help but return to the fundamental role that *lain* and the intrinsically ethical aspects of *pasin marit* play in marital disputes and their resolutions. Through their approach to disputes the magistrates indicate how people are

expected to contribute to the success of a marriage. At its core it is often the future of relationships that the village court magistrates concern themselves with. In this way, marriages and relationships are rarely considered to be the concern of two people alone. Instead, many people are tightly connected to the successes and failures of relationships, and one way that these ties emerge explicitly is when disputes arise. Like the example given previously in which a woman introduced herself in reference to her son's job, in the village court as people come forward on behalf of a relationship (not necessarily on behalf of an individual involved) they define themselves through their own connection to it. This idea is evident once again in the case study that follows.

Case Study: Nellie and Augustus

It would be incorrect, off the back of the case study I have just examined, to assume that parents can never support their progeny who challenge their spouses in court. Bride-price does not forge a relationship based upon blind allegiance to the groom regardless of circumstances. This is proven in the case study that follows, in which employment of *pasin marit* as a means to discuss relationships, choices, and practice, enables parties to take very different positions in court to that which I have just described. The following example also took place in Bialla's village court. So too does it involve an incomplete bride-price payment and the bride's mother as two of the central influences upon the case. But despite their similarities, on this occasion the disputant's mother is the one to relate her own actions as significant to how the case should be overseen, and in doing so makes explicit her understanding of the inherently ethical component of her actions in regards to her daughter's marriage. It is the effect that this difference has upon the case's treatment that will allow me to demonstrate how the fulfilment of practices associated with *pasin marit* by all parties linked to a dispute, can fundamentally alter what kind of dispute the magistrates identify as having cause to discuss, what the village court is able to do in response to this, and as a result, the outcome for the disputants.

It was my first day seated alongside the magistrates on the bandstand that plays host to Bialla's village court. My Tok Pisin was barely at conversational standards, and I had spent the preliminary half an hour feeling a mixture of excited and completely out of my depth.

The magistrates did little to help, and on occasion switched to the *tok ples* of the region, Nakanai, leaving me with nothing but ghosting words of familiarity. Having grasped enough to spark my curiosity I returned to my recording of that court session many months later, to discover a case involving a woman called Nellie. She had come to court on behalf of her daughter Jeppy, who had been hit by her husband. As a result of this assault Jeppy had lost her unborn child.

Following the reading of the summons in which the assault was described, the magistrates asked Jeppy's husband, Augustus, if the story on the summons was true. Although Augustus did not deny that he had hit Jeppy, he did attempt to qualify his actions by claiming that for a month before this happened his wife had been staying away in town, and when she came back she was pregnant. Augustus explained this and emphasised Jeppy's infidelity as a justification for his treatment of her. Jeppy's mother, Nellie, was then given a chance to speak. She said that fighting had only happened on two occasions in the couple's marriage that she was aware of, and she was not there in person to witness either event. Her proof of these events instead came from her description of how her daughter came to stay with her each time, and how Augustus always came later to collect her.

When describing the first instance where Augustus hit Jeppy, Nellie explained how she was not worried, as she did not think Augustus was a very violent man. She saw it as a normal course for a marriage to take, especially between young people. When describing the first time her daughter came to her she said:

Mi larim tasol. Pasin blo yangpela i sa gat pait, mi sa toktok long en "pasin blo yangpela i sa gat pait i sa kamap. Blut bai kamap, bai tupela understandim pasin blo marit." Mi tokim em, "yu go bek, nogut stret".

"I just left it. The way of the young is to fight. I usually say to her 'It's the way of the young to fight, to bleed. You two will understand the way of marriage.' I told her, 'You must go back [to your husband], this is a mistake.'"

Despite not immediately relating to the events that led to the case, what this part of Nellie's story shows is her previous understanding of marital fights that the couple had. By contrasting “*pasin blo yangpela*”⁹⁹ with “*pasin blo marit*”¹⁰⁰ Nellie begins to share her understanding of *pasin marit* with those she is addressing in court. She also justifies her reaction to her daughter’s experience and why she, as a mother, was comfortable sending her back to her husband. By including the description of her advice that she gave to Jeppy, and that she instructed her return to Augustus, Nellie verbally demonstrates to the court that she acknowledges (and acted in accordance with) her relational position both as Jeppy's mother, and as someone who fulfilled their side of the marital agreement with Augustus and his *lain*. It is also worth noting that in this case the marriage itself is never in question. By telling Jeppy to return to Augustus, Nellie clearly recognises the marriage. Likewise, by going to get her Augustus does too, as co-residency (as the previous case also demonstrated) can be used as an indication of a couple's marital status.

Rather than working in any way to define the marriage, this part of Nellie's story is more of a character reference for herself than a contribution to details surrounding the dispute. She uses this description to verbally establish her reputation in the court setting. Through speech and the description of past action, Nellie is able to relate and justify her position and interpretation of events. In doing so the ethical domain that was an intrinsic part of her judgements and decision making, emerges quite prominently as she relays her interpretation of the dispute. It also goes some way to reflecting Nellie's desire to be seen to act in accordance with what she understands her role to be both as Jeppy's mother, and as a representative of Jeppy's *lain* who are invested in the relationship forged with William's *lain* upon the receipt of bride-price (Wardlow 2006). By sending Jeppy back to William, and then through the act of speaking shared this decision with a large crowd as a means to make a point, Nellie helps highlight an element of the ordinary ethics shared amongst residents of Bialla – namely, that as Jeppy’s mother she cannot just let her daughter run away from her husband. In telling the court that she sent Jeppy back, Nellie hopes to gain the court’s good favour. This can only be a desire based upon Nellie’s understanding that the court would recognise her decisions as in keeping with *pasin marit* and hence, share in some of the tacit ethics that informed her decision in the first place. Nellie's explicit description of her actions before even discussing the content of the dispute itself demonstrates the importance she

⁹⁹ The way of the young

¹⁰⁰ The way of marriage

believes this kind of detail has in the case. Nellie is ultimately shown to be correct in her judgement of the situation and her audience, when later on in the hearing the village court magistrates refer back to this moment as an example of Nellie being “good” (“*gutpela*”).

The idea of parents’ central involvement in their offspring's marriages was a recurring theme in many of the cases I witnessed during my fieldwork. This involvement was demonstrated most clearly in instances when parents would stand on the side of the genesant, and actually bring cases to court against their own daughters for running out on their husbands. What Nellie's description does in this instance is provide support to a further concern that she planned to raise regarding Augustus' conduct. She described how on the second occasion when Jeppy ran to her house, Augustus came and took her away again without any explanation and (perhaps more to the point) without bringing anything to give their family:

Pikinini meri blo mi taim em i kam kisim em, em i no gat wanpela samting olsem em ya pasin kastom blo holim pasin pikinini blong yumi, kam kisim tasol. i nogat wanpela toksave i kam lo mi, mama blo pikinini, just kisim pikinini lo gate...taim em i paitim em numba two taim migat medical certificate, pikinini i karim em yet I karim i go lo haus sik we em i go tokim long complainant HCO (Health Care Official) wantaim husat sista i in charge lo disla taim na em i wokim medical certificate blong em we mi karim wantaim lo provim disla case blong en blo court ya? Pasin marit tambuman blo mi em i no givim wanpela samting o even tok wanpela samting lo mi inap nau pait i kamap na i wokim disla damage blo pikinini blo mi nau we mi kamap meri nice stap...nau ai blong ol yupela bikpela manmeri, ol lawman na nau mi sanap.

“This time when he [Augustus] came to get my daughter he didn't bring anything in the way of our custom. He just came to get her. He didn't even have an explanation for me, her mother! Just got my daughter and left...this second time he hit her I got a medical certificate. Jeppy was still pregnant, and we went to the hospital to talk to a HCO, the sister who was in charge at the time and she made a medical certificate that I have brought to prove Jeppy's case to the court. My ancestor's way of marriage

if you do not give something or even say anything to me after a fight happens, and you have done this kind of damage to my daughter, this is when I stop being a nice woman...now all of you powerful people, all you law men have seen me stand here.”

In this section of Nellie's story, she starts to express her judgements of Augustus' actions in regards to his marriage to her daughter following this second event. Similarly to the conflict that could have potentially arisen between Pastor Aaron and Joan, here custom and the “ancestor's way” (“*pasin tumbuna*”) once again occupy a central position in informing the disputants ideas regarding the practices associated with *pasin marit*, and inform the language that is used when Nellie comes to describe what happened. As Nellie describes it, it is Augustus' disregard for the custom of gift-giving that allows her to explain, and justify to the magistrates, her decision to stop being a “nice woman” and take the dispute to court.

Ultimately, what the magistrates take from this story is that Augustus' *lain* never completed the bride-price payment when the couple married. They come to this conclusion despite the fact that it is never stated explicitly in Nellie's description of events. This interpretation of the case is well received by the disputants, who raise no complaints when much of the conversation begins to revolve around bride-price. It is also worth noting that despite Nellie's reference to medical records and the death of an unborn child, neither are referred to again until the magistrates make their final recommendation and suggest the assault be discussed in the district court. Instead, the entire case continues with the focus heavily shifted towards the unpaid bride-price, despite no one actually stating an amount or a deadline.

Following the change in interpretation that the dispute undergoes (from one of assault to one of unpaid bride-price), suddenly the magistrates begin referring back to the first part of Nellie's story. They now use Nellie's description of her own actions to inform how the case should proceed. As was presented to us in the case of Louise and William as well, a marriage is an understanding reached between more than two parties, there are lots of people involved and connected to the success and failings of each. As Lambek (2010b) argues in reference to what actions do as a feature of ordinary ethics, entering into a marriage defines certain terminology and engages with predetermined criteria through which those involved in a relationship can be discussed and judged (by others or themselves). In some ways, these criteria are reminiscent of the “categories” that Demian (2015a) introduces as a means to

describe the many ways that Papua New Guineans in Suau interpret, talk about, and respond to *kastom* (see chapter two). In the case studies I have discussed here, we see how this easily extends beyond a married couple to include in-laws and other *lain* members tied to it. Therefore, by describing her commitment to sending Jeppy back to Augustus in usual circumstances, Nellie has shown the magistrates that she is fulfilling her part in the marriage's longevity and peace. When it is revealed that Augustus has not then acted as expected there can be no doubt of firstly, the existence of the marriage at all, and secondly that he is the only one whose actions come into conflict with the criteria that have so far helped define his marriage.

Having heard this the magistrates speak with Augustus, who claims that he was well within his right to hit Jeppy as she had been away in town when she got pregnant. Despite this information the magistrates choose not to reframe the case into one of adultery, unlike they had done in Louise's case. In fact, they do not even require Jeppy to be present, despite (at least on paper) the case revolving around an assault that she suffered from. Instead, the magistrates brush over his argument, and proceed to lecture him on “*pasin Nakanai*” or the “way of the Nakanai”. They talk to him at length about what is expected of a man when his wife runs to her parents' home, and that this lack of bride-price payment is “wrong” (“*rongim*”) in matters such as this.

To conclude the case, the magistrates make it clear that a compensation payment is owed. However, they say that it is well above anything that they can charge. Anything above K1000 is beyond the village court's remit, and instead they advise Nellie to take the case to the district court as soon as she can. However, they do not suggest this in order to deter further action as they had done in Louise's case. On that occasion they were attempting to prevent a divorce and save themselves from any potential repercussion that may have come with breaking a marriage up. In this instance, they instead want to ensure Nellie and Jeppy receive the correct compensation that would truly settle the dispute.

The death of an unborn child is not a subject I ever saw village court, or any of the other dispute forums in Bialla, willing to address. It is this aspect that the magistrates are keen to see moved into the district court, but that does not mean they do not recognise their ability to settle another aspect of the dispute as it was presented to them. Therefore, after clarifying why the district court could help, the magistrates also suggest a village court hearing to deal with the unpaid bride-price. Due to the way the case had been created and the

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information written on the summons, that element of the dispute could not be dealt with immediately. The court would have to be remade in order to consider the bride-price element of the dispute. Much to my surprise I was actually able to see Nellie return to court in order to discuss the unpaid bride-price only a week later. She had registered the newly defined dispute with the village court officer on the day of her last court appearance and, in accordance with the magistrates' suggestion, described it as one relating to an incomplete bride-price payment.

On this second occasion Nellie was still keen to emphasise that she was really there to stand up for her daughter and that she cared little about the money, although the magistrates showed no interest in that aspect of the case this time. In fact, the magistrates demonstrated no prior knowledge of the case at all. The entire process began from scratch, including the magistrates' requirement of proof that the couple were married at all. As I described regarding the multiple aspects of a dispute that I'd seen in Kimbe's village court in a single day, treating every case as if it's entirely new allows the magistrates to focus on one fragment of the larger dispute they had identified elements of during the previous session.

This lack of personal connection to the disputants demonstrated by the magistrates is in keeping with how the village court was presented by Aaron and other residents of Ewasse. The feelings they described to me, in which the village committee was presented as a more personal process, appears consistent with the village court magistrates' conscious removal of themselves from the issues they oversee. Although on the one hand this can be interpreted as evidence that the magistrates do not wish to show bias, or become individually accountable for the outcome of any cases by being too attached to it, what this fresh start also helps to confirm is how each case, once begun or concluded in the village court, exists in isolation from any precedent. The making process means that a case, much like the village court itself, is temporary.

In this second instance Nellie's bride-price payment was clarified but not completed, as the disputants were told to come back with Augustus' parents and Jeppy in order for the actual exchange to be completed. This request continues to demonstrate that this case concerns people beyond Jeppy and Augustus, an idea is understood by everyone from the outset by the fact that Nellie appears in court rather than Jeppy. In hitting his wife, and not performing as expected following this, Augustus created tensions between two *lain* that otherwise would not have been there.

Amongst the many interesting facets of this case (treatment of custom, constraints of the village court, and importance of bride-price to name but a few) what one can see here is the way in which the magistrates (and the disputants themselves) in Bialla use conceptions of *pasin marit* as a means to discuss and define relationships, as well as share judgements of the actions of disputants explicitly with others present. This ultimately provides the village court magistrates with a means to guide the shape of a marital dispute and envision the relationships of the disputants moving forward. Much like Louise's case, in this instance the magistrates still appear keen to ensure the future of the marriage being discussed. But due to Nellie's description of how she had acted appropriately, Jeppy's actions do not undermine the marriage like Louise's had. Therefore, the dispute is able to take on quite a different shape, focusing on what the magistrates then identify as the real threat to the marriage – the unpaid bride-price. So, regardless of who brings the case forward, and how it is described on the summons, it is the job of the magistrates to identify the aims of the disputants and then reframe the case so it can be successfully dealt with in an appropriate forum. In this instance, that involves identifying fragments of the dispute they were presented with and dividing them between venues in order to find a solution and maintain the marriage.

By considering the relationships and the significance of *pasin marit* demonstrated through disputes in the village court such as those discussed above, one can begin to understand how certain ethical components that intrinsic to everyday life in PNG become identifiable within a dispute forum, and so too are the interpretative processes that magistrates apply in order to oversee the cases they are presented with. What these cases also illustrate is the insufficient means provided to the village court officers in order to create an accurate summary of the work which they are doing on legal records. However, this should by no means be taken as evidence that the courts don't do anything. To return to the concern I expressed in chapter one, the formats and case terminology required on summonses, and other legal documents that are sent to offices in Port Moresby, require magistrates to summarise and frame cases to fit with a Western model provided by an Australian government (Goddard 2005). Therefore, it should not come as a surprise when reports are produced that describe the village courts' shortcomings, as all field evidence indicates that there is no way for magistrates to accurately reflect the outcomes they are facilitating within the confines of current case report guidelines. Even in cases that find no clear legal resolution, what this chapter has shown so far is that disputants are provided with new

approaches to their conflict and definitions for relationships, that had previously been under dispute. It is this idea that I want to elaborate on in the section that follows.

The Job of a Magistrate

Both of the cases that have just been described are indicative of some of the processes that are employed by magistrates and disputants as a means to discuss cases involving marriages and the language used to explicitly justify actions involved. Neither of the cases should be considered outliers. Rather, they are both examples of the way cases are often dealt with in Bialla's village court. Of the fifty-eight cases I saw go through the village courts during my field work, only eight of them were defined as adultery cases by either the genesant's description in the summons, or the magistrates themselves. But as I have been arguing throughout this thesis, turning to records and documents in order to understand the village courts is not generally the best way to find accurate answers. Despite only a small number of cases being classified as adultery in an official sense, acts of adultery did appear in the courts on other occasions as well. Other cases were brought to the village court that would present as a case of assault, bride-price issues, or slander, but the actual conflict in many of these instances would stem from acts of adultery. With these cases included, adultery soon rises to a significant percentage of all the cases seen in the village courts I managed to sit in on.

Much like the oil palm industry, adultery is often an influential factor behind the arguments of parties involved in a case, and hence *pasin marit* often becomes a prominent feature of discussion even though its definition is flexible and it is not used as the central definition of a case. Adultery, I would argue, emerges in dispute forums as just one of the criteria linked to *pasin marit*. You would never see a case described by magistrates or disputants (including on summonses) as a case of *pasin marit*. Adultery, on the other hand, was referred to in this way. For example, a common excuse for acts of violence would be that a person discovered their wife or husband was cheating on them and “adultery” was the term used as a means to summarise this. From my experiences in both the village court and other

dispute forums around Bialla, adultery is most certainly a recognisable term through which marital disputes can be framed.

In the majority of cases, the approach taken to the case and the scale on which the compensation payments are then decided are driven by the magistrates. They frame the case with a specific legal language once they have ascertained certain pieces of information, and they then handle the case in accordance with this new frame. This often alters the amount of compensation discussed, or even who the focus of the case is seen to be.¹⁰¹ It is this process that means when it comes to the topic of how ordinary ethics can be seen as a component of one concerning *pasin marit*, the way in which magistrates choose to frame a case, and the questions they ask in order to do this, become illustrative of the predetermined criteria and judgements that inform what it means to be part of a marriage, and how this is expressed and upheld through action and discussion in the broader community.

The predetermined criteria that can be seen to inform the approach the magistrates take to a case of this sort are informed by two things. The first factor is whether the magistrates determine a couple to be married or not. This is not established within a strictly legal standing, but in the eyes of the community in which the couple in question live. To identify whether a couple is married the magistrates rely on answers to a series of specific questions that those present can provide them. This process usually involves establishing the length of a relationship (this is often discerned by establishing the duration of cohabitation), the knowledge and support of other family members, the exchange of a bride-price (or promise of one in the future), and any children that depend on the couple. In the case of William and Louise, the factors that they refer to most frequently in order to define the relationship are the payment of bride-price that Louise's mother is so adamant does not count, and the length of time that William and his two wives have been living together. Combined these are signs of the existence of what the magistrates describe as a “de facto marriage”. Having established this can be seen to inform how the magistrates go on to interpret the actions of the disputants in question. If there is no marriage, the term adultery cannot apply and does not provide a means to interpret the dispute in a way that predetermined criteria otherwise would. Although this appears far more systematic and consciously applied by through the magistrates’ engagement than Lambek’s original introduction to predetermined

¹⁰¹ An adultery case in the village court rarely exceeds a K500 payment. Framing a case in terms of adultery instantly limits the amount that can be awarded. In other venues this same restriction is not applied and is one of the perceived perks of keeping your dispute in more local forums.

criteria, I believe it remains an apt means to describe what we see take place. However, it is worth noting that these criteria are by no means fixed, and exist in a number of other situations that are not consciously perceived or employed by individuals without the explication that they receive in the village court context.

The second factor influencing the magistrates chosen approach to a case is what the disputants want from the village court, and how they express this. After defining a marriage, it becomes the job of the magistrates to identify what the parties were hoping to achieve through the court. They do this whilst keeping in mind anything the village court is in a position to do that may prevent further disputes developing following the hearing. This is made difficult when the hopes of disputants are not in keeping with the magistrates' interpretation of the case, and in some cases are only truly revealed a considerable way into the hearing itself. This can be further complicated when the wants of the disputing parties cannot actually be met by the village courts, as is the case for William and Louise in seeking a divorce. This means that the final ruling of any case may come down to the magistrates' vision for the dispute going forward, rather than working to fulfil the original design of the genesant(s). In William and Louise's case, William expresses his wishes explicitly in the summons. He wants his marriage to Louise to be confirmed, thus empowering him to demand his bride-price to be returned, and therefore his marriage to Louise to be over. What Louise is disputing is the need to return the bride-price payment and the status of the marriage to begin with, and not in fact disagreeing with William that she wishes to remain removed from his household. Despite the shared goal that can be identified here, the magistrates choose to take the case in a different direction meaning that, on paper at least, neither party gets what they originally set out for.

The idea that no individual is able to truly influence not only the making of a case, but the possible outcome is worth acknowledging. It is at this point it is once again appropriate to reflect upon how Strathern's theory of "dividuality" may resonate within an investigation of life in Biella (1988). Disputants, as we have seen, are unable to come to court solely on behalf of themselves as individuals because disputes arise from tensions created in reference to the actions and interactions of others. Disputes are inherently relational. Therefore, disputes are often the product of these relationships that extend beyond any single self and be influenced by certain ordinary ethics as they are experienced and enacted by a given community's members. It is therefore not only individuals that the court seeks to cater to. In

practice this means that disputes are often considered in reference to the *lain* invested and connected to them. Magistrates work to identify those social tensions that most threaten the extended relationships created between *lain* through modes of social reproduction such as bride-price exchange. It is then these tensions that the magistrates work to address, rather than seeking a conclusion to the case in the form of specific single rulings. It is in this endeavour that Bialla's other dispute forums are called upon as a vital resource for long term peace-making. These forums can be referenced and utilised as a means for the village court to define its own abilities, and to fragment disputes into manageable pieces that leaves no *lain* or person wholly responsible for its outcome. It is in this that it becomes apparent why the wants of individuals are not only unable to shape the rulings made in village court, but equally why these wants cannot be used to gauge a court's success.

The result this has upon the cases I just described means that instead of working to oversee the repayment of bride-price to William, the magistrates work to establish next steps to be taken by both parties that would ensure peace between their *lain*. As a result, they define the marriage, something that had been at the centre of the argument held by both sides. This empowers William and supports his complaint against Louise's actions. The magistrates also identify Louise's mother as accountable in the case, and direct William's demands of the return of his bride-price at her, instead of Louise. Their ruling does not address the bride-price exchange, but through compensation seeks to restore an "equivalence" (Burrige 1957) to the marriage which will allow the couple, and their extended families, to move forward peacefully. In any case the magistrates certainly do not base their decisions on an effort to fulfil the original wishes verbally expressed by either party.

What the magistrates do work towards is a solution that does not exist in fixed law, but reframes the dispute and empowers William so that the case may be resolved in the long term in another forum following the conclusion of the hearing. It is here that one can identify a clear connection that the magistrates perceive between the village court and other dispute forums in the region. Not only do they acknowledge when the village court is not best suited to a case, but they actively uphold a single spot within a network of other forums that can work to find disputants a place more suited to their needs. That is not to say that this process is always quick, or even smooth. However, it does encourage a reassessment of how the village courts can be improved upon. Instead of focusing on the education of court officials in new legislation, my research considers how to better capture the entirety of the dispute

mediation process taking place, and how to include other forums when discussing improvements to what is currently thought of as an isolated venue.¹⁰²

It is through the kind of reframing process described in this chapter, and acknowledgement of the intrinsically ethical domain that informs that reframing, that the real uses of the village court begin to emerge, along with the need for the other forums present in the Bialla. Thanks to the absence of accurate records of how the courts are made and used (the only way state oversight is maintained in Bialla's village court) the value of the village courts remains entirely invisible to state oversight in cases such as those described in this chapter. This is because the court focuses on helping to shape the next steps taken by disputing parties, rather than any fixed compensation ruling that might appear on case summaries. Documents attached to the case also fail to illustrate the complex relational attributes often integral to cases of this sort, fitting cases into the parameters laid out by the Western model upon which the village court reports are based. By looking at how magistrates deal with cases in more detail one can begin to understand the important role that the courts are playing in Bialla as facilitators not only in the conclusion of certain cases, but in guidance towards next steps that are not immediately achievable within the village court itself. This is to the extent that the court literally becomes a more suitable venue in certain circumstances. On occasions where this does not take place, the magistrates instead work to help provide a definition for the case that the disputants are then able to take away and use to redefine their dispute and work towards finding another way to solve the issues. Through acknowledgement of these processes, one can begin to understand how the complex social dynamics that must be catered to can lead to magistrates acting beyond their original legal remit, and out of sight of any state records.

102 A four-year investment plan has been devised by Australia's Department of Foreign Affairs and Trade (DFAT). *An Australian Investment to Support Law and Justice in Papua New Guinea* was released in 2015, and advocates donating \$90 million towards a variety of projects in PNG, including the village courts. This plan does acknowledge that there are venues outside those they have specified their help to improve: "the village courts are not the only local justice and security providers. A nuanced understanding of local and potentially diverse stakeholders to improve community safety will be adopted in specific locations" (2015: 17). No suggestions are outlined in order to engage with these other forums. The focus remains on cementing the courts' connection to the state, through frequent auditing and encouraging "linkages with other agencies, most notably the police and district courts" (2015: 25).

Conclusion

The village court in Bialla is being used as a venue in which the tacit ethics are voiced and mediated. Many of the cases taken to the village court can be seen to reflect ethical judgements that seem to act as both the foundation for, and product of, numerous relationships in the area. Factors such as economic change, means of employment, urban development, and the increasing number of extraprovincial marriages, all appear to be influencing the content of conflicts in Bialla. With these factors in mind, in the village court one can see the magistrates and disputing parties attempt to define the ever-changing understanding of what constitutes a marriage, and the types of engagement displayed by each member within it. By defining disputants' relationships and identifying steps that should be taken, the village court may not conclude a case, but may instead establish another process involving other venues in order for the disputants to resolve their issues.

This chapter has also explored how the conflicts that arise in marriages are a concern for more than a married couple. Many relationships are created through a marital union, beyond the interests of the couple themselves, and as a result we have seen how the village court needs to cater to the diverse roles that many people may play in a conflict concerning the success of a marriage. The magistrates are required to understand how each person present in the court is connected to the dispute, and in some cases must explicitly identify how the actions of the disputants have contributed to the matter being addressed. In the case of marital disputes, this is often discussed in terms of *pasin marit*, an elastic term that allows disputants and magistrates alike to indicate their responses to acts related to the dispute. This was seen most clearly when the magistrates explained their interpretation of Louise's mother's actions relating to her daughter's marriage. Ultimately, the choices she made in regards to her daughter was seen to further damage the marriage and the extended relationships attached to that. But these discussions are not the only thing influencing the magistrates' rulings. They are influenced by their own understanding of the law, that may not be in line with a strictly legal definition as one would read it within the Village Courts Act. Instead, here one can begin to see the nuances of village court law in Bialla, and how the magistrates involved perceive their role and the effect that has on the cases that are brought there. As made evident through their employment of certain criteria that can be identified as ethical judgements (such as their identification of adultery as a category of action that

challenges a marriage) and their aversion to divorce, the magistrates clearly consider how their decisions will affect the community beyond the conclusion of the case.¹⁰³ They are also always considerate of how they are connected personally to the ruling, and the matters which they have no wish to take responsibility for.

Through cases such as those discussed above, I have introduced the complex (and on occasion extra-legal) role that the village court is playing for residents of Bialla. However, despite the popularity and successes of the village court, by looking at the processes and actions taken by the magistrates it becomes apparent why the village courts are not able to exist in isolation as the only mediation forum in the area. With the magistrates themselves preferring to mediate certain cases outside the formality of the village court setting, it is perhaps no surprise that the court is perceived by others as inadequate to cater to their needs. Taking into account the dissatisfaction disputants may feel at the conclusion of their case, limitations of the village court's legal remit, the cap on compensation, and the unwillingness of the magistrates to address certain issues, the need for alternative dispute forums is made clear, but so too is the village courts position, not always as a final destination for disputes, but as a middleman in a larger dispute forum network.

103 There is currently a debate taking place that examines dividuality in the presence of the increasingly Christian ideologies in PNG (Robbins 2004; Keane 2007; Mosko 2010; Bialecki and Daswani 2015). This is mostly based upon the premise that individuality is central to the construct and articulation of Christian personhood.

Chapter Seven

Conclusion

This thesis has explored the ways that dispute forums are being engaged as tools for defining relationships in a way that can facilitate peaceful conflict resolutions in Biialla. The Papua New Guineans that I spoke with widely agreed that without these forums the only means people would have to settle dispute would be through acts of violence. Dispute forums are considered to be a more peaceful way to settle disputes and, despite not necessarily providing more immediate solutions, they come with less fear of violence or future resurgence of the conflict attached. It is this conception of dispute venues that helps to shape their use and informs the roles of that a range of actors play in their materialisation. I have examined some of the factors contributing to disputes, and the potential outcomes created as disputants utilise a range of flexible forums in order to gain definition for their relationships and settle disputes.

By defining a relationship (by identifying a person's marital status for example), or clarifying key points of contention (such as whether someone broke their promise), dispute forums aim to provide disputants with the means to take their dispute forward towards a peaceful outcome. This may mean that a dispute is reframed and overseen again in another dispute forum, or that disputants are provided the means to come to an agreement amongst themselves. Disputants' roles and relationships can undergo some reconfiguration when they use the information gained in the dispute forum to inform their actions afterwards. For example, if a marriage is upheld by village court magistrates, then disputants are likely to be discussed and undergo judgements in accordance with the predetermined criteria that define the relationship. This interpretation will also be reflected in any required compensation payments, as who pays and how much can illustrate a lot about how a dispute and a relationship have been defined by the forum in which it was overseen. Having discussed the influence of ordinary ethics, reputation and *lain* in communities such as Ewasse, it becomes understandable why the identification of relationships and the criteria associated with them can have such significant impact upon a person's speech and actions. How a relationship is defined can inform the treatment of the entire dispute. Once identified, relationships can

often determine who is involved, what their actions reflect, and what the core focus of the dispute should be.

The positions of authority these forums hold and the content of the disputes raised within them means they provide insights into topics such as ethics and reputation – topics that have significant repercussions for sociality in Bialla that extend well beyond the parameters of their emergence in disputes. PNG provides a relevant field for this discussion not only because it has such a wealth of dispute forums, but because they are frequently recognised, funded, and categorised by the government and third parties in certain prescriptive ways (see chapter one). Likewise, many aspects of the relational identities and exchange relationships, now synonymous with Melanesian society, are displayed, defined and reconfigured in these venues. Strathern's theory of dividuality that I introduced in chapter three provides a good example of this (1988). The idea that a person is first and foremost a composite of their relationships has a serious impact upon how one could approach what happens in dispute forums. Without the relational connectivity that comes with dividuality, the scope of influence that dispute venues have, and the potential for repercussions that everyone was so scared of, are easily missed. This is because if we take it that people who appear in dispute forums are first and foremost individuals, removed from the broader relational context in which their selfhood may be determined, then disputes remain isolated from any significant broader relational context, and the rulings are seen to effect less people. It is this kind of approach that can conceal the doings of these venues and make them look ineffective when they fail to directly address the concerns of the individuals present.

Through recognition of Strathern's theory I have been able to marry the kind of sociality and ordinary ethics informing judgement and action I was seeing expressed daily in Ewasse, with the tensions and treatment of disputes in venues throughout the region. In terms of Bialla, these forums have become a means to identify relationships and how they are embodied and reconfigured in relation to one another. As a result, these venues are not only well suited to expand on discussions regarding those relationship dynamics themselves, but likewise allow us to identify how dispute forums are having to adapt in order to cater to them. This is particularly the case when one considers economic and environmental changes that may be impacting on certain relational trends that would previously have been unlikely to occur. For example, in chapter three I described how the growth of Bialla town and the oil palm industry have influenced the content of disputes (both subject and economy-wise). Yet

what my research revealed was far from any upheaval in how these disputes were being dealt with or the embodiment of those involved. Instead, businesses and villages were finding ways to engage in relationships with businesses and institutions in a manner that is by no means new in the area. In the case of HOPL and Ewasse this came in the form of repairing their relationship through a shared meal.

It is through discussion of the variety of dispute forums that emerge in Biialla, and emphasis that has been placed upon relationships and exchange in the region by Strathern (1988), Mauss (1925), and many others besides, that one fundamental question arises. If life in Biialla revolves heavily around interactivity and *lain*, why should one presuppose that a discussion on the village courts must revolve around individuals and law? In response to this, my research has sought to question conceptions of law and the significance of legislation in the village courts. Having discovered that law does not sit at the heart of local conceptions and uses of dispute forums, my approach has been supported and informed by an emphasis on legal-decentralism. By removing law's presumed position of centrality, the village court's connection to other dispute venues in Biialla, and the wide range of outcomes they facilitate, become apparent.

Without legislation to inform my interpretation of what the village courts could do, my research has been able to reveal what a range of dispute forums were being used for, and how they were able to oversee a wide range of disputes. In doing so, my work has revealed the significance of actor-networks in the making of the village court, and its position within a wider dispute forum network. My work has relied upon a number of theories in order to establish an approach to dispute venues that can accurately reflect how they materialise, and what they can do. In order to describe the details surrounding the materialisation of the village court I have introduced elements of actor-oriented anthropology. In this approach I have been provided the means to look at dispute forums in a new way that identifies the significant roles that actors play in the creation and uses of these venues. Rather than seeing a dispute venue as a static whole with an isolated purpose (to apply law), instead dispute forums in Biialla are the products of emerging networks between actors that can be maintained (or not) over time. As a result, dispute forums should be regarded as more flexible entities. They can be made and unmade, and exist physically or conceptually depending on the dispute and actors engaged as part of it.

In order to examine the position of actors in dispute forums, and the many forms they can take, I have drawn upon concepts from Actor-Network-Theory (ANT) and some of the approaches described in the volume *Thinking Through Things* (Henare et al. 2007). These theories have allowed me to identify relevant actors in the court-making process and describe their influence in/as the forum in which they are engaged. Latour has provided the foundation for my use of ANT (1983; 1993; 2005). His ongoing contemplation of how one can challenge the divide between human and nonhuman actors has informed my discussion of village court magistrates as actors networked with (rather than in a superior position to) other actors, that together influence the existence of the village court. Latour's approach has allowed me to identify how the village court does not emerge as the product of desires held or actions undertaken by one or other of these actors. Instead by focussing on networks, the interactions between a range of actors are given "analytical purchase" that informs my wider discussions of the formation of place and types of authority (Strathern 1996: 521).

ANT liberates life and influence from residing wholly with human actors, and has enabled my identification of the networks and influences sparked and sustained by actors like the village court chairs. Networks provide a particularly useful imagery with which to discuss dispute forums in PNG because, "any entity or material can qualify for attention" (Strathern 1996: 522). Having said this, it is important not to overlook the criticisms ANT has received, namely the difficulty to identify relevant actors without a criteria defined and applied from outside of the network, as well as ANT's potential for endless chains of association, and its capacity to imbue nonhuman actors with intentionality. Although my approach does not come without some criteria that is defined outside of the network (namely, by my interest in dispute forums), through the likes of Reed, and Strathern's work *Cutting the Network* (1996), I have been able to develop an approach that limits the potentially endless scope of the actor-network and demonstrate the significance of certain actors in this setting, without assuming their significance continues beyond the confines of the dispute forum network I have discussed.

In an effort to develop Latour's use of ANT for use in the context of my fieldwork, and address any concerns regarding how one can go about identifying relevant actors, I have called upon ideas expressed by Reed (2007). His work on cigarettes in Bomana prison not only considers the importance of certain nonhumans in this setting, but also demonstrates the relevance of this approach within the Melanesian context. In his description of how cigarettes

(as opposed to money for example) influence the sociality of prisoners in Bomana, Reed demonstrated a practical method to identify the significance of certain actors over others. He also describes how certain actors can emerge in/as place. I was able to combine this method with aspects of ANT in order to recognise the importance of multiple actors in dispute forums (like the chairs but not the can of soda) and discuss how they network with one another and the impact that has upon the use and materialisation of forums in Bialla.

I have also in no way assumed any intentionality behind actors in the court-making or dispute forum networks I have discussed. Instead, it is purely through the connections and outcomes produced by these networks that the majority of my discussion has taken place. The speech, judgements, and actions of human beings have been explicitly reintroduced and examined in chapter six. There I discussed the way in which disputants express their interests in and interpretations of disputes. I also considered how magistrates involvement in these cases, as well as how they may have been impacted by the results of the actor-networks in which they featured. It is in discussions such as this that my work strays from a strictly ANT approach, and relies on a broader theoretical groundwork. The relevance of actor-oriented theories remains at the heart of my research as they remain relevant to my field due to the significant role that certain actors play in the temporary materialisation of dispute venues. My contribution to these long-established discussions therefore comes from their new application and development alongside concerns with conflict and emplacement.

As Alice Street has identified, due to its “alternative ontological conditions for personhood and agency” the Melanesian context provides anthropologists with rather a handy tool through which to engage in research (2015: 225). In terms of dispute forums, this means that these venues bring into stark relief kinship and exchange relationships that in turn implicate the significance of certain actors and “knowledge operations” that would otherwise remain unintelligible. This implication of actors has enabled me to identify the court-making process that takes place each week, and in doing so recognise how the village court forms as a fluid place, endowed with temporary authority to oversee disputes and engage with them in an appropriate manner. In the case of Bialla, I have described how numerous relatively mundane actors are able to unite in order to mutually embody the authority of the village court. This was most keenly seen through the magistrates' interaction with the court's chairs.

It is through a network of court-making actors, and their interactions with one another that the significance of the physical manifestation of dispute forums can be identified and

discussed. This materialisation allows for the reconfiguration of social dynamics between disputants, but one should not assume this takes place in the form of a legal ruling. It is far more common that the real transformation of a point of conflict is gained through the reframing of a case, the definition of a relationship, or guidance for future action to be taken. This is noteworthy because in my attempt to understand how relationships are being presented within dispute forums my research has had to consider how the village court comes into being, and what that means for those who use it. This extends beyond the materialisation of these venues, and requires me to consider the dispute venues as places that interact with one another, and what emplacement means for the disputes overseen in them.

Despite the often productive social reconfigurations I was able to witness take place as a result of village court hearings, there were also plenty of instances where this venue proved to be a less than suitable forum for the disputes raised there. Therefore, it has been through the recognition of actor-networks, and the extensive relationships vitally concerned in the disputes, that my research has been able to identify how Bialla's village court exists within a network of dispute forums. During my fieldwork, actors and content passed both physically and verbally between venues in an effort to deal with them in an appropriate manner. Ultimately, outright resolutions (in a traditional legal sense) were difficult to identify. Instead, the flow of actors and dispute between venues encouraged me to reconsider my definition of resolution (Colson 1995). Disputes were regularly fragmented, dealt with in multiple forums, and reframed over a period of weeks or months. This treatment sometimes allowed different venues to address different parts of a long standing conflict, or got disputants to a point from which they were able to deal with their own dispute, rather than seeking a forum-based ruling.

Once again, if one considers how the disputants discussed in this thesis conceive facets of their identity in relation and reference to others, the way that actors relate and identify one another in terms of which venue is being used allows the venue itself to encompass those relations in the form of its identity. The result of this network not only sees these venues define themselves in regards to others (an event that positions them within the dispute network), but similarly enables them to tackle different aspects of disputes in a variety of ways. Put another way, through the acknowledgment of court-making actors in a single venue, my work has been able to demonstrate the significance of the village court for disputes beyond its materially and legally conceptualised confines. Instead, the court has

been emplaced within a broader network of other dispute forums that, previously absent, are now situated as a key component of dispute resolution in Bialla. This is a network of knowledge and actors that allows local residents to render disputes, and the social connotations they encapsulate within them, visible. It is in this rendering that the disputants and their relationships also become susceptible to transformation.

Following a discussion of the court-making actors present in Bialla, and the unmaking of the village court, I was able to return to the more specific concern of what it is that dispute venues are able to do for the residents of Bialla. Therefore, in chapter six this thesis proposed that human intention (distinguishable now from their role as court-making actors through recognition of conscious intent that informs their actions) cannot independently determine the form that disputes take, but that does not make the forums and human intention irrelevant to one another. Disputants certainly do not hold authority over the reframing of their disputes or their relationships in these venues. However, neither do the magistrates. Instead, disputes are made visible through pathways of various actors. These actors unite to form the parameters of place, as well as specific aspects of the relationships that are engaged within it. As previously mentioned, these relationships are by no mean a definitive representation of the entirety of a dispute. Instead, disputants emerge within “encompassing relations” that allow certain aspects of often much more extensive conflicts to be addressed (Munn 1992). It is therefore the forum that is chosen, the actors involved, and the encompassing relations revealed, that determine much about how a dispute is eventually resolved, defined, or transformed.

Beyond Bialla: What this Means for Dispute Forum Based Research

I have discussed dispute forums in terms of their emergence as features of a networked environ, called upon to facilitate social (re)arrangements. This approach has certain implications for the anthropologist and future policy-maker alike. As a result, I want to dedicate this final section to a brief consideration of what the recognition of a dispute forum network in Bialla, and the village court's place within that, could mean for those concerned with the broader research and discussion surrounding justice and dispute resolution going forward and their place in the theoretical fields I have utilised in the course of my discussion.

There are three main elements that should be pulled from the findings in this thesis in order to examine the possible implications of my research. These elements are loosely guided by the theoretical discussions established during chapter two: legal-decentralism, actor-oriented anthropology and emplacement. The first focuses on how the village court in Biälla is not only (or even primarily) a legal entity, and what this means for it as a tool of governance and as an anthropological object. The second suggests the impact that repositioning dispute venues as the materialisation of a network of actors has in terms of the theoretical approach needed in order to discuss these venues. The third and final element of my discussion addresses the extensive relational aspects that contribute to the emergence of the dispute forum network. This leads me to highlight how unmet social expectations provoke their own visibility in the form of emplaced disputes.

Thus far, I have identified a need to challenge the role of the village court based upon its presumed position as a static “technology of governance” (Street 2014: 223). As an alternative, my research has considered its uses as a fluid, and very much local, means of social explication and reconfiguration. In the second chapter of this thesis I suggested that a legal-centric approach to the village courts diminishes the role they play within local communities by positioning them within a preconceived hierarchy of courts. The problem this approach presents is that it presupposes that state law is the point around which disputes should, and may already, orbit. As I described in chapter four, although the state is by no means a complete absence from village court rhetoric there is an active value placed by the local population upon independence and division from state power. This was seen most explicitly in the use of the provincial flag in village court sessions, and the magistrates' encouragement to make the village court work in order to prevent a greater level of state intervention.

By developing an approach that decentralises the law and using it in the consideration of places that are traditionally recognised as legal, discussions can expand in new directions. This is not to ignore the impact that colonialism and law-making has in dispute forums around the world, nor to encourage isolation in debates regarding universalism and cultural relativism (Wilson 2001:124). But by removing state law and the interests of governance as the assumed pivotal point around which dispute venues revolve, a space is created for equal consideration to be given to other facets of disputes that may impact upon forum usage in equal measure. One of the reasons that this is so important to recognise in future studies of

the subject is that disputes overseen in a court should not necessarily be expected to fall into categories of “success” or “failure” in terms of a legal outcome. If one were seeking to better understand the uses and outcomes of law in PNG one should not assume that evidence will best be provided in a courtroom. Law is, after all, everywhere (Davies 1996: 7).

Another reason that I have remained so eager to remove this legal measure of success is because there were so many instances in which the village court proved useful in defining certain aspects of disputes or relationships. This definition then enabled disputants to deal with their conflicts in new ways following the village court hearing. However, as these would often not involve any kind of legal documentation to conclude the case or any strict ruling made on the part of the magistrates, the village court would not be recorded as having achieved anything. Outcomes were often entirely invisible to the state and rarely immediate. As a result, the village court is unable to provide evidence of the kind of resolutions expected by the government and international legal bodies. If further research were to find the same were true of other village courts around the country, this could have significant ramifications for the reputation of the courts on both a national and international scale as the current invisibility of resolutions contributes to the courts' bad reputation in certain political and media circles (see chapter one).

Similarly problematic is the interpretation of village courts as standalone local legal bodies. Interpreting the village courts as individual forums that work within the legal hierarchy conceals any part that other dispute forums may play in local peace-making efforts. Legal-decentralism does not conceal the impact that law can have on what a dispute forum does. Rather, it removes any assumption that a dispute forum should be identified as a place that does law. For those wanting to know what village courts do, or are capable of doing, future studies will need to consider the influence of the other dispute forums that are used alongside the village court. Without this recognition the village courts' impact on dispute settlements cannot be fully recognised. Through consideration of the dispute forum network, research into disputes in PNG can be expanded beyond the confines of venues and into discussions of their significance as microcosms of broader social concerns.

The final reason that my research challenges legal-centralism in the village courts is due to the fact that legal documents can misrepresent them (Galanter 1981). This can occur when form requirements place emphasis on the identification of individuals involved in a dispute. Naming specific people in this manner can result in their isolation from the more

extensive relationships that really constitute the dispute being discussed. This ultimately renders the nuanced reframing of a dispute that often takes place invisible. This is because the outcomes sought in these disputes are rarely discussed in terms of an individual and what they want or deserve, and are even less likely to see a ruling that can be made fully comprehensive in written form. There is a language informed by ethical judgements, relationships and action that shapes dispute discussions in the courts that do not fit neatly into any legal category. If I adapt a problem Demian (2015b) identified when discussing customary law, trying to cater to these disputes with a purely legal means leaves these disputes “placeless”. By locating these disputes within the law one is forced to remove them from the relationships that constitute them,

The second subject I want to use to reflect upon what my research may mean for discussions moving forward is that of actor-oriented anthropology, with particular attention to the significance of things. Aided by the decentralism of law, a wide range of actors have been able to emerge as particularly significant in the materialisation of the village court in Bialla. In chapter four for example, I described a number of actors and their influence over how the village court materialised, and what this court-making process allowed it to do. The use of chairs in the court demonstrated how authority was not held in magistrates as individuals, nor the chairs as objects. This was not merely a matter of symbolic authority either. Rather, it was through their mutual interaction with one another over the course of a court session that it became apparent how the authority of the court was constituted, and what this enabled the magistrates to do. This was crucial to establish, not only because it made clear how the village court was being used, but because it allowed the importance of the later removal of court-making actors to be revealed.

Through a description of the unmaking of Bialla’s village court I examined how dispute forums can work in both symbolic and literal reference to one another – simultaneously identifying the significance of other venues, as well as defining themselves. Once again, if I take the chairs as an example, their removal can also be seen to drastically altered the existence of the village court. This reconfiguration of actors allowed the mediation forum to emerge in the village court’s stead. This was partly made possible by the interaction the chairs had previously had with the magistrates. This meant their removal saw a change in how the magistrates existed within the forum that followed. Rather than maintaining the authority of magistrates their roles were altered to mediators, relieving them of the

responsibility for the dispute's outcome that they so feared. At its core this consideration of court-making (and unmaking) actors encourages those looking into dispute forums to question how the materialisation of a dispute can impact upon the way it is treated. The interaction disputants have with these court-making actors influences not only their dispute, but their place within it. As I describe in chapter four, through the path of a summons the tributant is defined in a way that eventually shapes the whole case. This takes place regardless of their own interpretation of a dispute, or the desires they may have in terms of an outcome. The way that forums materialise and connect is therefore vital to any consideration we have of dispute mediation in PNG.

Through the identification of a variety of court-making actors, I have revealed how the village court in Biialla forms as not only a flexible, but networked forum. This is a realisation afforded by the acknowledgement of numerous actors and the positions they hold, both in the making of the village court, but in how disputes are dealt with in forums outside of that. It is this networked facet of conflict that makes an actor-oriented approach to dispute forums so useful for research moving forward. By recognising how these venues network with one another, and are constituted by networks themselves, research into the capacity these venues have to create change and settle disputes can no longer stop at their literal and metaphorical doors. The existence of Biialla's dispute forum network provokes a response that requires future research into dispute in PNG to consider truly why disputes may emerge in the way that they do, and what specific forums may be able to provide that another could not. At the same time, these findings continue to challenge the idea that official venues service (or should service) the population in a greater or more “legal” capacity than other venues that may be available. The true outcomes of the village court can only be fully understood in regard to a wider complement of venues, that can emerge in all shapes and sizes.

The identification of dispute forums as *places that do* has been central to my research. Throughout my discussion numerous places have emerged as sites in which disputes are discussed and reframed. They have been presented as integral to the experience of dispute mediations, as which dispute forum is used (or one is allowed to use) can reflect a great deal about a dispute and the parties involved. As a result of this, I would like to conclude this discussion by clarifying what the emplacement of disputes within forums means for research going forward.

Adapting Street's (2014) use of emplacement in a PNG hospital, my research has examined how interaction between actors are informing the use (and creation) of dispute forums as places. In combination with elements of ANT, emplacement has allowed me to recognise the importance of a flow of actors not only as networked in their own right, but as "place-binding" entities (Tilley 1994: 25; Ingold 2009: 33). These places are then capable of networking with one another, the result of which in my case is a dispute forum network in which each forum informs the use and potential outcomes of the others. It is in this acknowledgement of forums' continued lines and influence prior to, and beyond, their temporary materialisation as tangible places, that one is able to understand what these venues are able to do. By focussing on disputes in/as places in this way, I have been able to cut what could potentially otherwise be an extensive an unending actor-network (Strathern 1996). Whereas the use of actor-oriented anthropology has allowed me to identify how dispute forums come into being and connect with one another, by cutting this network emplacement is the theory that has helped me to question what being in these different forums as places, means for the disputes that are taken there. Placing a dispute in the village court for example, makes it less personal (at least in the eyes of the residents of Ewasse) than if it were to take place in the committee meetings. These two venues alter the definition of the disputants, and the potential outcomes of the case at hand. In this way, by looking at how disputes relate to the places they are overseen, I have been able to question why there is cause for so many forums to exist in Bialla to begin with.

The emplacement of disputes has allowed me to analyse actors with a mind to revealing their roles in forum-making and larger dispute networks. The work of the likes of Reed (2007) has informed the way I have identified significant place-making actors that contribute to how these forums are used. Hence, it has been the emergence of court-making actors in/as places that has provided a focal point through which I have been able to identify and discuss social rearrangements in Bialla. In this way this entire thesis has been able to use disputes as a means to investigate broader social concerns, relationships and networks in Bialla. This approach is of particular significance as it has not only allowed for the expansion of an actor-oriented approach, but it has provided the means to further explore the extensive relationships that are always crucial to the decisions, individuals, and acts that constitute communities throughout much of Melanesia. These forums provide Bialla's residents with places in which usually tacit ethical components of the everyday and relational connections can be defined and made explicit. In this sense previously unspoken understandings of how a

person's relationships "ought to be" (Burridge 1957: 769), or why a decision was made, are revealed through the presentation of cases in court.

The forums I have discussed during this thesis have provided me with places from which I have been able to follow the paths of actors in order to decipher their significance within the site where my investigation began. This research has relied upon a synthesis of theories of emplacement and ANT in order to explore how actors, place, and disputes can be mutually explicating and result in the formation of a dispute forum network. It is only through consideration of this network that the real uses and outcomes of dispute forums become apparent. As I have already mentioned, to rely on the discussion that takes place in court, or to look to legal documents in order to see disputes, is to miss the expanse of relationships and expectations that disputes emerge out of and result in. In the village committee meeting for example, we are provided with the means to reflect on how people's disputes in Ewasse are shaped by their reputation, and how that particular venue will react in accordance to that. The fact that certain people cannot access certain forums as a result of their disconnection from the local relationships that constitute it is evidence of this. Olan for example would not be able to make use of the village committee because of his reputation amongst the other residents of Ewasse, who unite in the creation of the committee each week. Similarly, it is for this reason that an adultery case like Ambrose's in the village committee receives a very different reception to that of Louise in the village court.

If one were to extend the ramifications of my findings beyond Biialla, this would mean that anthropologists would no longer seek to resolve questions about disputes in PNG based entirely upon static laws or courtrooms. Instead, any consideration of justice and conflict resolution in PNG would extend beyond predetermined venues and into a broader scheme of networks and social expectations in the region. Likewise, discussions of dispute forums like the village court would not emerge purely as products of law or governance. These forums provide another place that can be seen to materialise in reference to disputes, and provide researchers with a means to uncover a myriad of social and cultural motivations, concerns, and ideals, that often do not comprise of legal concerns at all. To remove these venues from a wider context of places of social negotiation – an oil palm block; a school; a hospital – may be to isolate them from their true position and significance in a community.

The world I entered when I moved to Ewasse was a warm and welcoming one. To dedicate such energy to describing conflict and disputes in such detail almost feels like a

disservice to the people and place I came to care for, and who I believe came to care for me. But discord is not the feeling that I believe my discussion ultimately dwells upon. Instead, if anything can be seen in the dispute forums in Bialla it is a shared peace-making effort, and an incredible amount of flexibility and innovation that is required to achieve it. This innovation can be seen in the way forums are ever changing to cater to new groups, businesses and content of disputes. So too do compensation rulings and judgements shift and bend to encompass new economies and beliefs. It falls to anthropologists to keep up with these innovations in our research, finding new ways to reflect and describe what we see. I can only hope, three years after I first arrived in Ewasse, that this thesis has managed to keep up.

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Appendix

The Gifts of Argonauts: Melanesia and the Anthropologist

Anthropologists have been fascinated by PNG and Melanesia ever since the publication of Malinowski's seminal work, *Argonauts of the Western Pacific* (1922). His work in the Trobriand Islands sparked an interest in the region that has continued to this day, and has inspired some of the field's most surprising and renowned developments through the works of authors such as Margaret Mead (1935), and Marcel Mauss (1925), to name but two. As a result, it would be fair to say that any new anthropologist undertaking fieldwork in Melanesia is endowed with a weighty tradition of literature to contend with and consider when it comes to their own findings. This is not because as anthropologists we are forced to directly apply the works of our predecessors to our own situations, especially when there is such diversity of landscapes, languages and social environments as that which we encounter in Papua New Guinea. Instead, we are charged with the task of acknowledging those who have equipped us to recognise the significance of certain events that we are witness to in our own field experiences. Not only that, but we must each ask ourselves, "what do I bring to the table?".

Although my particular focus has led me to develop a theoretical framework often stemming from situations outside of the Pacific context, there are a number of subjects that live under the skin of my discussion, not always rising to the surface, but with a significant precedent in other works of Melanesian ethnography. These subjects are those of law, social control, and exchange. With such emphasis placed on these topics by a number of my regional predecessors I feel it is worth briefly examining those specific authors whose theories resonate as submerged themes through my findings, and trace back briefly how these now hugely divisive and diverse topics came to be so pertinent to so many.

The first section of my discussion revolves around the presence of law, conflict resolution, and social order as they appear in other ethnographies based in Melanesia. Malinowski's *Crime and Custom in Savage Society* (1926), and Strathern's discussion in her work *Discovering Social Control* (1985) provide me with two examples through which I am able to examine how certain precedents established in these publications can be seen to resonate in my own approach, and why they should rightly be taken into account when considering institutions such as law courts, as well as the numerous other dispute resolution forums available in PNG. In particular, I focus on how Malinowski challenged Houghton (2017): *Courting Disputes*

anthropologists to reassess our approach to what constitutes law, and Strathern's understanding that social control should not be considered a force "at rest" until disrupted by conflict (1985: 116), but rather just one part of a circulation of broader social interchanges.

A fundamental part of both of the approaches taken by Malinowski (1926) and Strathern (1985) is the idea that numerous aspects of dispute settlements are informed by reciprocity and exchange relationships. Key to this interpretation is the understanding that reciprocity and exchange are significant factors in a wide range of situations and interchanges in Melanesia, and are by no means only identifiable within a dispute context. That being the case, and knowing that my own discussion focuses heavily on the role of exchange and reciprocity in the context of disputes, the second section of this appendix considers a number of works that have already discuss these subjects in the Melanesian context, and how they can be seen to maintain their significance in Bialla to this day.

In order to demonstrate their relevance as topics outside of disputes, here my consideration of exchange and reciprocity revolves around my recollection of a fairly average day in Bialla town. Through my use of this story I am able to weave my consideration the works of Malinowski (1925) and Mauss (1925), who were writing over 90 years ago, with my own understanding of the continued significance of these topics in contemporary Bialla. Following this, I turn to Sillitoe (1979) as a means to illustrate one example of how these ideas developed and altered as new findings came to light. This section concludes with brief recognition of the contributions that Lattas (1993; 2001), and Weiner (1992) have made, not only to regional ethnographic findings, but theoretical approaches to exchange more broadly. By approaching anthropological literature in this way, not only am I able to follow an arch of anthropological investigation in this region as it has continued over time, but I am able to illustrate the relevance of these discussion to my own work as they are woven through the tapestry of daily life in the area.

Crime and Control

Although much has changed in the years since Malinowski wrote his short work *Crime and Custom in Savage Society* (1926), he raised questions about the nature of law that

anthropologists and legal scholars continue to ask themselves to this day (Conley and O’Barr 2002). Despite the presence of language which is extremely uncomfortable for the likes of a reader today, Malinowski’s book raised valuable questions regarding the forms that law can assume, how people use it, resist it, and respond to it, while simultaneously asking how one can go about studying and discussing it. In doing so he ultimately landed upon the question: how is social order constituted in “primitive” society, and utilised an innovative ethnographic approach (at the time) in order to address it.

In his description of disputes and their outcomes – such as the story of a boy committing suicide by throwing himself from a coconut palm when he was publicly shamed for becoming romantically involved with a member of his own clan – Malinowski invites us as readers to not only recognise the means by which members of the community in which he was based held themselves and each other accountable, but also to conclude that they lived by something we should recognise as a system of law. In doing so, he provokes a question raised in my own, and many others’, work: what are we looking at when we say we are looking at law, what can it do and how can we, as anthropologists, go about examining it? In doing so Malinowski encouraged a shift away from any presumption that western models of law were of use when it came to understanding the law he saw used where he was conducting his fieldwork. Instead, he turned to “binding obligations” (1926: 15) and reciprocity as a means to consider why people may adhere to what he identifies as rules, and where these rules may be observed.

Although my own work does not contend directly with the question of what constitutes law and I do not seek to classify “norms and rules” (1926: 15) in the way Malinowski does, the precedent set in his removal of a western model of law as a guiding framework for his discussion certainly has echoes in the approach I have taken to the dispute forums of WNB. I came to recognise that any understanding of the village courts (and other dispute forums) in Biialla cannot be accomplished without first acknowledging and then removing the influence that legislation and state guidelines have previously been seen to have on the role and capacity of the courts to oversee disputes. It is instead in the activities and interactions that take place between actors on a daily basis, and in the events leading up to, during, and following disputes, that I have come to understand what dispute forums in Biialla really are and what they do. Similarly, Malinowski argues that law and legal phenomena as he understands them, cannot be thought of as independent institutions but instead as merely

one aspect of everyday life (1926: 59) and as such any form of legal oversight should be seen as part of the chain that constitutes social life in Melanesia (1926: 125). In this we see the beginnings of an approach that would ultimately come to inform my own recognition of disputes as fragments emerging in forums that constitute only one part of their own chain of social significance in WNB.

Malinowski pursues another interesting line of enquiry as he explores magic as a legal-force that can be associated with power and influence present in many social exchanges and interactions in Melanesia (1926: 86). This emphasis on sorcery is not something I came across in such a significant manner at my own fieldsite, hence its absence from the heart of my discussion, however, Malinowski's approach to the topic is quite revealing in a broader sense beyond the specifics of his fieldsite. By placing important legal-mechanisms in, as, and alongside acts of sorcery, Malinowski invites us to reconsider not only where law can be found, but the kind of outcomes it might produce. In these instances, continued exchanges of magic and interpretation of their outcomes can be seen as both evidence of and solutions to conflict. Although his own interpretation remains focused on ideas of rules, order, and "disharmony" (ideas that bring with them opposing constructs of crime, disorder and harmony that may or may not exist) this discussion of magic can now be seen to creep towards the idea that peaceable solutions may not be the end game towards which disputants and events surrounding conflict, may strive. What happens if the conflict isn't a means to an end, but part of a necessary and continuous set of interchanges. It is in pursuit of this idea that I now turn to the work of Marilyn Strathern.

In her work *Discovering Social Control* (1985), Strathern provides another angle with which to approach dispute settlements in PNG. Over the course of her article, Strathern goes beyond Malinowski's questions that sought to describe facets of social control and the kind of law that could be associated with it. She does so in a number of ways, but key to my discussion is her challenge to "naturalistic assumptions" that social control be seen as systems that provide "counterparts" to western regulatory mechanisms and legal processes (1985: 112). In other words, law that appears in a governmental context performs the same task that may be fulfilled by other means elsewhere in the world, but ultimately all work to the same end – "societal regulation and order" (1985: 113). She argues that it is common practice for anthropologists to locate these social orders and controls in other cultures by seeking those instances when adjudication takes place and by defining the sources of conflict. In doing so,

Strathern believes conflict ultimately remains tied to individual interests that become identifiable when they disrupt the presumed social order there. The problem she goes on to identify is that this approach ultimately does little more than to back up a belief widely shared among anthropologists, that “society is describable” and “underestimate[s] the direction of indigenous interests” (1985: 113). Although not an outrageous or damaging claim in itself, Strathern builds upon this assertion in order to consider why a discussion of social order that revolves around these set mechanisms of description, counterpart relation to western models, and individual interests may be misleading when it comes to any examination of dispute settlements and social control in PNG, and specifically in the Hagen region of the Highlands.

Strathern’s approach differs dramatically from the faults she finds in previous work on social order in Melanesia. Where she distinguishes herself is in her findings that violence should not be seen as a means to an end or a negative force that inspires social and self-regulation. Instead, Strathern explains that “dispute settlement is a form of public, collective activity which mobilises support and contributes towards a definition of inter-group relations predicated on reciprocity” (1985: 124). What this means for those of us studying disputes is that far from illustrating a disrupt in an otherwise steady social order, or occasions that stand apart from the everyday, instead disputes, conflict, and even violence should be considered as one more part of a broader circulation of social factors that all feature as part of the reciprocal relationships constituting core facets of society in the Melanesian context. Social order not only cannot be used to identify what constitutes law, as perhaps Malinowski was finding in his work, but should not be sought as a means to define disorder. In her rejection of an approach to disputes that rests upon the dichotomies of violent/peaceable and ordered/disordered forms, Strathern reminds those of use looking into the subject to reconsider the relevance of law and order in our discussion, and even the methods we apply when we seek to locate conflict and control.

In combination the two texts I have discussed above not only provide a reminder of how disputes have already featured significantly in research conducted in Melanesia, but they also highlight the importance of avoiding any preconceptions of what constitutes law and order in any given society, and whether they are relevant in a discussion of dispute forums and conflict at all. Despite their differences, what both these texts have in common is the emergence of reciprocity as a feature of everyday life in both Hagen and the Trobriands in a

way that came to influence the findings of both authors alike. Strathern specifically identifies reciprocity as a “regulatory force” independently informing social behaviours outside of any government oversight we might recognise as law (1985:111). Malinowski too sees reciprocity and “binding obligations” (1926: 15) attached to them as a means by which relationships are maintained and expressed, and uses this to advance his discussion of social control. With this in mind, and knowing that my own work also places a lot of weight upon expressions of social ties through certain exchanges, the next section looks at some of the other anthropological works that have acknowledged the significance of reciprocity and exchange in Melanesia. Building upon Strathern’s assertion that disputes should not be held apart from other related social systems, this section not only allows me to review the influence that previous research has had on the field, but also allows me to address the presence of reciprocal relationships in the daily makeup of life in Biialla, and not only as a mechanism for expression and transformation of disputes in the forums described in the body of my thesis.

Payday Friday: Biialla and Exchange

Myself and Pastor Aaron sit in the shade of our Land Rover, waiting for Pastor Joan to collect some canned drinks that she can sell from our house in the village. A man comes to the window of the vehicle and shakes both our hands. He chats briefly with Aaron about a meeting at the local high school that they both need to attend, before disappearing into one of the ten large, Malaysian-owned stores that make up Biialla's high street. A few minutes later he returns, handing us cans of Sprite and boiled eggs before heading off into the crowd. This is only the first of a series of visits that Aaron and I receive during our time in town. Some people stop by just to talk, and considering Aaron's vocal role in many town meetings and events, it is no surprise to me that he is a familiar face to many people. There are some who stop by the car and hand over small amounts of money, a newspaper, drinks, ice creams and promises to visit the village one day soon. But as quickly as these items are passed into the car, a visit by another friend or acquaintance leads to the item being passed on, or shared. This happens most frequently with cans of drink or notes of 5 kina.¹⁰⁴ By the time Joan

¹⁰⁴ Kina is Papua New Guinea's national currency, and takes the form of both notes and coins. This is the only form of currency that can be used in any of the stores the constitute Biialla's high street, although between villages other value systems are still present.

returns I believe Aaron has received and redistributed about 20 kina, and no longer has a need to buy lunch.

Gifts of this kind, anthropologists and social theorists have long recognised, are at their heart social. Acts of giving have therefore sustained the attention of anthropologists for many years, and particularly those anthropologists working in Melanesia, starting with Malinowski's (1920; 1922) description of the Kula exchange between the Trobriand Islands. To very briefly summarise his findings, Malinowski identified the Kula exchange (sometimes called the Kula Ring) as a ritual exchange of goods between different island communities. Malinowski illustrated how this involved travelling great distances in canoes in order to hand over items of value, such as shell necklaces and bracelets, that travelled opposite directions around a network of participating islands. By asking why people were willing to travel so far in order to present these gifts, Malinowski came to map a network of exchange taking place, often seeing objects continually passed on over time until they returned to their original owner. By acknowledging other “functional” trades of goods with a more identifiable economic value that were also taking place in the region (this often took the form of food and other tools with practical application), Malinowski was able to realise that the Kula exchange must involve a value of a different kind. Without direct commercial value attached Malinowski posited that the Kula exchange must be doing something more than directly fulfilling the survival needs or economic wealth of a community. He proposed instead that the lengthy (and at times dangerous) journeys undertaken by those involved in the exchange created “firm and lifelong relationship[s]” (1920: 98) between those involved, despite often not sharing a language or having contact for long periods of time between each exchange.

Mauss (1925) was among the first to publish a strong reaction to the gift giving practices Malinowski had described. In his work *The Gift: The Form and Reason for Exchange in Archaic Societies* he engaged with the ideas Malinowski had set down, but also challenged them by proposing that gift exchange is a process of continuous obligation to both give and receive not merely as individuals, but as groups. This acknowledgement of group affiliation, and concern for group identity arguably provides us with the “foundation of sociality” (Siegel 2013: 61) as it came to be understood. This meant gifts could be understood as involving and representing more individuals than those directly partaking in the exchange itself.

Mauss' interpretation scored a division between gift exchange and commercial
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exchange, describing how commercial acts of *gimwali* (barter) are short lived and functional, in a way that gifts are not. At their core gifts were reliant on a mutual understanding between giver and receiver that what was being exchanged was in fact a gift, and as such came with certain social obligations. Therefore, for Mauss, gifts could be used to reveal connections between certain groups, sustained over both distance and time through continuous reciprocity, and link this process to maintaining peace between said groups. The exchanges made long-lasting relationships, and demonstrated the obligation passed on, implicit in the original act of giving. Mauss presented us with a wondrous “impossible” (Siegel 2013: 63) paradox, in which the giver of a gift became a figure of both generosity, and simultaneously “self-interest” an idea that returns in Malinowski’s *Crime and Custom in Savage Society* the following year.

Jumping forward now to consider Sillitoe's (1979) study of the Wola in the Western Highlands of PNG, we continue to see how fundamental discussions of the likes of Mauss have continued relevance. To begin with, Sillitoe identifies a similar paradox to that which Mauss confronts. In Sillitoe's case, rather than the conflict existing between generosity and selfishness, his paradox shifts this discussion towards the wants of an individual, in conflict with the social pressure created by the society within which they are based, or as he describes it, “individual interests versus community interests” (1979: 5). Sillitoe argues that exchange is what can mediate this paradox, as it fulfils the interests of both, by encouraging group sociability while simultaneously rewarding individual self-interest. As a result, in Sillitoe's mind, exchange provides a cornerstone of social organisation. As Strathern summarises Sillitoe's approach, “Relations between individuals sustain it, and it in turn sustains them” (1988: 67). In Sillitoe's work we see how the concept of exchange can shift into a discussion that considers what exactly a society is that allows it to function as one, and yet simultaneously engages with those who constitute it as free agents. It is this discussion that we will see emerge as a ghostly frame in my later consideration of legal spaces.

Although no approach entirely without fault, Malinowski, Mauss and Sillitoe alike each recognised the importance of exchange practices when it comes to understanding sociality and relationships in Melanesia. As Sillitoe's work demonstrates, the groundwork the likes of Malinowski and Mauss laid, has proved to be of continuous fascination for anthropologists, and their findings remain embedded in much of the work they have inspired. Even on those occasions when they are no longer directly engaged with, the continued

significance of exchange in Melanesian studies reminds us of the significance of exchange practices in Melanesia at large, and is testament to the focus of their academic pursuits.

Having introduced a few of the ways in which anthropological consideration of exchange has developed in Melanesia, I now wish to reconsider what was taking place on that afternoon when me and Aaron sat waiting in the Land Rover. By keeping the likes of my predecessors in mind, the items we see passed continuously in and out of the car window now encourages us to consider how this might fit into a larger exchange system at work in Biialla. Far from short term actions, what these drinks and food items reveal is a forging or renewing of connections, repayments of past gifts, and the acknowledgement of other social beings. Both the giver, and receiver of a gift, are connected through a mutual acknowledgement of the other person's existence. However, the content of the gifts I saw exchanged in Biialla were nowhere near the grandiosity and longevity of the objects described in the Kula exchange. So how is it that I contend that in these transient small items resonates the continued importance of what Malinowski identified?

What held my attention as I watched Aaron that afternoon was that, as quickly as he would receive a gift, for example a can of soda, another person would arrive at the car window and become the recipient of that now half-finished can. Aaron never accumulated goods or wealth beyond a couple of kina. If one week I noticed he went home with money to spare, the next week he would be distributing it in equal measure. Much like the constant passing of Kula objects between the islands, items rarely stayed permanently within the Land Rover, they were not ours to keep.

There is no doubt in my mind that what I saw take place on our trips to Biialla town was the maintaining of relationships through a flow of reciprocity that could continue over time, especially as Aaron was by no means exceptional in this habit. A flow of gifting was in constant motion, not only in Biialla, but more locally among the residents of Ewasse as well. This continued to such a point that I soon found myself a part of it, always either receiving food from someone at my door, or dropping something off to someone on my way home from the garden. It is in these instances where we see how exchange appears as a consistent feature of the social landscape in Biialla, yet delivered with none of the pomp and circumstance of Kula ritual. Far from gifts remaining as explicitly functional objects through which social connections can be forged, and grounded in a cultural-relativist approach (something Mauss has been criticized for as it is seen as encouraging an us/them dichotomy.

See Thomas 1991) anthropologists such as Munn and Strathern, have brought a more phenomenological discussion to light. In an attempt to avoid creating divisions that were inherent in past works on the subject, both came to consider how these exchanges not only connect social beings, but create them.

In the context of my discussion these considerations remain significant as they explore how objects can extend beyond their bound forms, and in some cases become extensions of social selves, “inalienable” and often remaining connected to a giver long after the object has left their possession (Weiner 1992). They are free to be distributed and recalled over time as required, and in each instance reaffirming relationships or social selves in the process. This idea is certainly not limited to the Kula exchange, or even to physical objects. Andrew Lattas, an anthropologist who, like myself, has conducted work in West New Britain Province, takes a more Marxist approach that takes money and commodities as the objectification and enactment of sociality and subjectivities (2001: 162). Through much of his work on cargo cults, he has pointed out that dreams, trances, shell-money, telephones and sorcery can also provide schemes of self-alienation and possession:

All these phenomena are closely tied up with exchange relations, and the indigenous images of alienation they provide can operate as indigenous commentaries about the evils and dangers of gifts but also about the coming of commodities and colonialism.

Lattas 1993: 105

Through Lattas we see an example of how an approach to exchange that used to be quite straight-forward, has extended through tendrils out of a purely physical and clear process, to include the concerns of the animate, invisible, inalienable and imaginary. Therefore, despite the obvious importance of exchange relations in every instance discussed so far, we are faced with the need to continually reassess and develop the ideas delivered to us by our anthropological predecessors.

In some ways Bialla demonstrates a striking difference to the exchanges presented in

the works I have discussed here. There is no chance that the gifts Aaron and myself received will ever return to the person who originally gave them, at least not in their original form. Food is physically impermanent. There is also a far more casual air to the exchanges I saw take place, especially in comparison to mortuary exchanges I witnessed during my fieldwork. Do we then conclude that these exchanges are less permanent? Or lack the importance of more formal exchange rituals? Far from it. Instead I believe what the culmination of this work, and my own experience, allows us to consider is how these daily acts of exchange are part of the bedrock of sociality in Biialla, and, much like the Kula exchange, we see it bridge gaps between the diverse groups residing in the area, sustaining peaceful relationships. Although food is consumed or shared, the act of giving and receiving itself is what creates and sustains reciprocity-based relationships over time.