

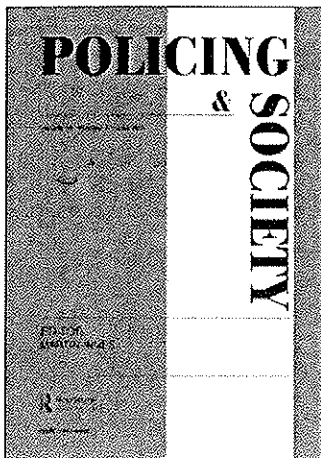
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Publisher Routledge

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Policing and Society

Publication details, including instructions for authors and subscription information:
<http://www.informaworld.com/smpp/title~content=713646669>

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First Published on: 03 December 2008

To cite this Article Dinnen, Sinclair and Braithwaite, John(2008)'Reinventing policing through the prism of the colonial kiap',Policing and Society,

To link to this Article: DOI: 10.1080/10439460802187571

URL: <http://dx.doi.org/10.1080/10439460802187571>

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Reinventing policing through the prism of the colonial kiap

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(Received February 2008; final version received October 2008)

Few institutions globalised more quickly to every nation on earth than the one Sir Robert Peel invented in 1829. The argument of this essay is that the transplantation involved has very often lacked contextual attunement to local conditions. Consequently, a great many nations have police that are promoters of tyranny, privilege and corruption rather than defenders of liberty. The particular argument of our contribution is that there has been excessive transplantation of urban policing models into societies where village life is more the norm. In this regard, we suggest there is something to learn from pre-Peelian police in the first world and colonial policing in the third world.

Keywords: New Guinea; colonial policing; history of policing; rural policing

Early modern police in the West

The early modern idea of police in the West differs from the contemporary notion of an organisation devoted to fighting crime (Garland 2001). Police from the sixteenth to the nineteenth century in continental Europe meant institutions for the creation of an orderly environment, especially for trade and commerce. The historical origin of the term through German back to French is derived from the Greek notion of 'policy' or 'politics' in Aristotle (Smith [1762] 1978, p. 486, Neocleous 1998). It referred to all the institutions and processes of ordering that gave rise to prosperity, progress and happiness, most notably the constitution of markets. Actually, it referred to that subset of governance that many contemporary scholars conceive as regulation.

Police certainly included the regulation of theft and violence, preventive security, regulation of labour, vagrancy and the poor, but also of weights and measures and other forms of consumer protection, liquor licensing, health and safety, building, fire safety, road and traffic regulation and early forms of environmental regulation. The institution was rather privatised, subject to considerable local control, relying mostly on volunteer constables and watches for implementation, heavily oriented to self-regulation and infrequent (even if sometimes extreme) in its recourse to punishment. The lieutenant de police (a post established in Paris in 1667) came to have jurisdiction over the stock exchange, food supplies and standards, the regulation of prostitutes and other markets in vice and virtue. Police and the 'science of police' that in eighteenth century German universities prefigured contemporary regulatory studies¹ sought to establish a new source of order to replace the foundation laid by the estates in the feudal order that had broken down.

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English country parishes and small market towns, as on the continent, had constables and local watches under a Tudor system that for centuries beyond the Tudors regulated the post-feudal economic and social order. Yet there was an English aversion to conceptualising this as police in the French, German and Russian fashion. The office of the constable had initially been implanted into British common law and institutions by the Norman invasion of 1066. The office was in turn transplanted by the British to New England, with some New England communities even requiring Native American villages to appoint constables. Eighteenth century English political instincts were to view continental political theory of police as a threat to liberty and to seek a more confined role for the constable. Admittedly, Blackstone (1769) in his fourth volume of *Commentaries on the Laws of England* adopts the Continental conception of police, and Adam Smith applauds it in his *Lectures on Jurisprudence* (1762--1764).

Peel's creation of the Metropolitan Police in London in 1829 and the subsequent creation of an even more internationally influential colonial model in Dublin were watersheds. Uniformed paramilitary police, preoccupied with the punitive regulation of the poor to the almost total exclusion of any interest in the constitution of markets and the just regulation of commerce, became one of the most universal of globalised regulatory models. So what happened to the business regulation? While the Victorian ideal was laissez-faire, from the mid-nineteenth century factories inspectorates, mines inspectorates, liquor licensing boards, weights and measures inspectorates, health and sanitation, food inspectorates and countless others were created to begin to fill the vacuum left by constables now concentrating only on crime. Business regulation became variegated into many different specialist regulatory branches.

The shift from generalist regulatory police to paramilitary crime-control police has created an important public policy problem in countries such as Australia, where rural people have become the new poor, yet miss out on all the protections of the regulatory state available in the city. In the move from the police economy (in which the local constable was responsible for all forms of commercial rip-offs in a country town) to the galaxy of specialised regulatory agencies which only find it economic to base inspectors in offices in major cities, rural citizens are the big losers. In the city if the butcher's scales increase the weight of meat or if suburban petrol stations fix prices, something might be done about it. However, there are no inspectors in the bush today to do anything about such rip-offs. Regulatory redesign is needed to reverse the sad effects of the abolition of the multi-disciplinary constable for those who live in villages and farms. Peel's invention of paramilitary police preoccupied with the discipline of crime control was a disaster for the village dwellers of all the world's nations, especially their poorer ones. The remedy may be the reinvention of rural constables as multi-disciplinary regulators of plural forms of domination.

Policing villages in the developing world

The British Empire's colonies were mostly founded long before the Peelian revolution specialised policing in 1829. Colonial policing was therefore shaped initially from the institutional clay of the eighteenth century non-paramilitary regulatory model of police. There were constables who were post-Peelian in the capital, rather more pre-Peelian in rural areas:

'The police department in India,' wrote Sir Edmund Cox shortly before the First World War, 'is the very essence of our administration. There is no other which so much concerns the life of the

people. To the ordinary villager the . . . constable . . . is the visible representative of the Sirkar, or Government'. This view was echoed two decades later by J.C. Curry when he remarked that 'The Indian policeman is the ubiquitous embodiment of the government', and went on to claim that millions of villagers who had never seen a squad of soldiers or encountered a British administrator has nevertheless had frequent contact with the police. (Arnold 1992, p. 43)

Arnold also quotes Jawaharlal Nehru as having a similar view of the centrality of Indian police to dispersed governance immediately after independence. Yet perhaps, District Officers, or *kiaps* in the New Guinea case which we will consider in detail later, were even more important regulatory 'police' (in the eighteenth century sense) in nineteenth and twentieth century colonies. These colonies also started as almost exclusively village societies, with few and small towns. When colonial administration and comprador capitalism created cities, it happened much later than in the West, so the rise of paramilitary police to control riots and urban crime was also later. And the paramilitary police remained until the end of British colonialism a less powerful institution than the diaspora of village-based district officers. Colonial policing had more than its share of corruption, incompetence and excessive use of force. But for all that, the argument of this article is that colonial policing had a structurally healthier hybrid of rural regulatory policing and urban paramilitary crime-control police than Western societies such as Australia have today. While it would be folly for Sydney to do without crime-control police with specialised capabilities from forensics to traffic to riot control, our hypothesis is that outback towns might do better with a '*kiap*'. Of course such a contemporary Australian bush *kiap* would regulate different things from the New Guinea colonial *kiap*. She would not have to worry about regulating community disruption from threats of sorcery. But she might have to warn the two petrol stations in town that they are breaking the law when they agree to increase their prices in concert. She might have to warn a local foundry to put a fence around dangerous machinery or head off serious conflict by warning a farmer to stop polluting a stream with agricultural chemicals. Before returning in our conclusion to the idea of a contemporary *kiap* of regulatory capitalism, first we consider the experience of the colonial *kiap* of Papua New Guinea.

Policing the frontier – the colonial kiap

Papua New Guinea (PNG), comprising the eastern half of the island of New Guinea, gained independence in 1975 and inherited the familiar array of institutions that constitute modern statehood. These were assembled by the former Australian administration over a relatively short period of institutional modernisation in the late colonial period. They included the standard components of a modern criminal justice system, notably a centralised police force, hierarchy of courts, and prisons. In the fourth decade after independence, this system continues to struggle to gain effective traction in famously diverse social settings and does so against a background of burgeoning law and order problems. The police, in particular, have experienced major difficulties in fulfilling their constitutional role of preserving peace and good order, and maintaining and enforcing the law in an impartial and objective manner. An expanding litany of police failings includes incompetence, brutalisation, nepotism, corruption, politicisation of senior ranks, as well as poor responsiveness to community needs. Decades of Australian development assistance have had little impact on police performance with a recent review concluding that the police force 'was close to total collapse' (Royal Papua New Guinea Constabulary (RPNGC) ARC 2004, p. 40).

Australian assistance has assumed the merits and feasibility of transplanting an urban-centred policing model, even though 85% of the population live in rural villages. Disappointing outcomes have been viewed as technical and administrative challenges to be overcome by improved modalities of delivery, such as the recent deployment of serving Australian police officers to work alongside their PNG counterparts (McLeod and Dinnen 2007). The notion that the model being transplanted may itself be flawed, and that more innovative approaches to policing are required, is rarely raised. PNG's overwhelmingly rural character is but one indicator of the many ways in which its circumstances differ from those of the metropolitan donors seeking to shape its modernisation and development. With over 800 languages spoken among a population of just over six million people, PNG is one of the most socio-linguistically diverse countries in the world. Government and commercial facilities are concentrated in urban centres, while most people live in rural villages surviving through a combination of subsistence agriculture and cash cropping. Transport and communications infrastructure is still rudimentary. Bonds of kinship, shared language and ties to ancestral land, along with *kastom*² and Christianity provide the basis for individual identities and allegiances among most Papua New Guineans rather than abstractions of 'citizenship' and 'nation'. Most 'citizens' live on the margins of the modern state, including its formal justice system. Accessing the nearest police post, magistrate or government office often entails a long journey by foot, truck or canoe. Everyday disputes are addressed informally in the community. In some areas, notably in the Highlands, significant disjunctions still separate local perceptions of right and wrong from those inscribed in state law. Violent forms of self-help, including 'payback' and warfare, are considered legitimate responses to grievance in certain places.

As with other facets of the modern state, the history of institutionalised policing in PNG is a remarkably short one. In its current form, the RPNGC dates from the period of institutional modernisation that began in the 1960s as part of the larger process of decolonisation. Throughout most of the colonial period, policing was an integral part of an overall system of administration marked by a lack of institutional differentiation. This was, in part, a practical response to the enormous challenges of extending government control in such a large, fragmented and topographically diverse territory.

The northern half of modern PNG was colonised originally by Germany in 1884, prompting Britain to declare a protectorate over the southern part of the island in the same year. British New Guinea was subsequently transferred to Australia and renamed Papua in 1906. Following World War I, German New Guinea became a mandated territory of the League of Nations and was administered by Australia. After World War II, the two territories of Papua and New Guinea were administered jointly, becoming self-governing in 1973 and finally independent in 1975. The key official in colonial policing was an administrative official, sometimes called a 'patrol officer' or 'district officer' and more popularly known by the pidgin term *kiap*.³ *Kiaps*, typically young Australian men, played a critical role in the extension of government control. Patrols led by the *kiap* accompanied by his armed 'native' constabulary provided the most visible face of colonial 'government'. The *kiap* has been described as a 'multi-powered boss' (Rowley 1972, p. 76) who was viewed by local people as 'almost God's shadow on earth' (Nelson 1982, p. 35).

The expansion of the administrative frontier was uneven and incremental. European exploration of the densely populated Highlands only commenced in the 1930s and was led by gold prospectors rather than by government agents. At independence, while some communities had experienced over a century of centralised administration, others had less than 20 years. Limited resources and the difficulties of local topography impeded a timelier and more uniform process of consolidation. In the early years, there were relatively few

kiaps scattered across vast tracts of land. At the height of Australia's pre-war administration in 1938, a total field staff of 150 men existed to govern three-quarters of a million people, while a similar number of people lay beyond official government control (Nelson 1982, p. 33). By 1940 approximately, two-thirds of the inhabitants of the two territories were governed by patrol (Griffin *et al.* 1979, p. 61), including most of the previously neglected Highlands by the late 1940s. According to Downs (1980, p. xv), '[f]or the greater part of this history the Territorial Government operated through fifteen district offices, fifty-eight sub-districts and a score of remote patrol posts serving a total of 11,920 villages'. As late as the 1960s, young patrol officers and a dozen police might have responsibility for the administration of a sub-district comprising around 10,000 people (Nelson 1982, p. 33).

Magistrates in British New Guinea provided the prototype for the *kiap* as developed by later administrations (Banks 1993, p. 12). These officials had considerable powers and occupied multiple roles. As described by Wolfers:

A 'magistrate' in Papua was more than a judicial officer. He was, and his successor the patrol officer still is, in many areas, the sole personification of the government: policeman, explorer, road-builder, health inspector, social worker and prison warder; even in court, where he deals with most of the 'lesser offences' against the law, and civil disputes between Papuans, he acts as prosecutor, defence counsel, judge and jury. (Wolfers 1975, p. 19)

The Germans and British developed a similar system of administration based on districts. Each district had a headquarters and three or four dispersed government stations. *Kiaps* and their police undertook regular patrols radiating outwards from stations. A major part of their early work was the exploration of new territory and pacification of warring tribes (Sinclair 1984, p. 7).

Prior to World War II, New Guinea *kiaps* were part of the auxiliary police establishment within the New Guinea Police Force. In Papua, members of the magisterial service, resident magistrates and patrol officers were appointed as officers of the Royal Papuan Constabulary. They had no formal ranks or uniforms. The two police forces were brought together for administrative purposes after World War II. Patrol officers and district officers remained as commissioned officers in the Field Constabulary Branch up to and beyond independence. In the pre-war years, there were a small number of uniformed 'professional' police with European officers in both territories. Their role was primarily confined to the small urban centres of Port Moresby and Rabaul, which were the main expatriate enclaves in both territories.

English common law and selected Australian legislation, including the Criminal Code of Queensland, were introduced into Papua and, after 1921, into New Guinea along with a formal court system. The civil jurisdiction of these courts was taken up with the regulation of the commercial activities of the small European community. Serious criminal cases were heard by a single judge in the District or Supreme Courts. However, the main body of introduced law affecting local people was a comprehensive set of 'Native Regulations'. These applied exclusively to indigenes and could be made in respect of any matter having a 'bearing or affecting the good government and well being of natives' (Native Administration Ordinance, section 4).⁴ Many dealt with the punishment of minor crimes, while others ranged across such diverse matters as 'sorcery, adultery, cruelty to animals, the obstruction of watercourses, taking part in the production of motion pictures, and the wearing of clothes' (Geeves 1979, p. 56).

Whereas, Australian criminal law was administered by professional judges or magistrates, the regulations were enforced through Courts of Native Affairs (New Guinea)

and Courts of Native Matters (Papua) presided over by field officers. This dualistic system recognised the need to temper the strict application of law given the considerable gulf separating colonial and indigenous social orders. As noted by Downs (1980, p. 148), '[r]egulations for human conduct introduced the people to an alien society as well as to an alien judicial system. Administration and justice were intertwined'. The formal courts also applied more lenient penalties to indigenous offenders with a limited exposure to the colonial social order and whose 'criminal' actions were deemed to have been influenced by customary beliefs (Dinnen 1988).

Knowledge about local people and their cultures was viewed as an important condition for effective performance by field staff. Cadet patrol officers posted to New Guinea after 1926 returned to Sydney after two years service. The School of Civil Affairs, renamed in 1947 the Australian School of Pacific Affairs, provided instruction in colonial administration, anthropology, law and order in PNG, practical administration, elementary medicine, tropical agriculture, geography, *Tok Pisin* and *Motu*, animal husbandry and entomology, and something called 'the administration and administrative policy in New Guinea' (Kituai 1998, p. 30).

In practice, the intensity of 'government by patrol' varied considerably. For villages close to administrative centres it might mean a couple of visits a year, a single visit every one or two years for more distant communities, and even rarer in less accessible places. The *kiap*, assisted by village constables in Papua and *luluais* and *tutuls* in New Guinea,⁵ would inspect the village, collect head taxes, complete the census form and hear cases. Subject to qualifying examinations, field staff were appointed members of the Courts of Native Affairs or Native Matters in their second or third year of service. In this capacity, *kiaps* dealt with around 75% of all court cases heard in the colony (Downs 1980, pp. 148–149). The *kiap* court would usually be held in the open with the *kiap* seated at the front facing the litigants or alleged offenders, and often with the entire village in attendance. He would listen to what everybody had to say, sum up the situation, and then make a decision. Inputs from the village leaders were critical in the resolution of most cases. Decisions were recorded and appeals could, in theory, be taken to the District Courts. Although technically illegal, *kiaps* sometimes opted for 'out of court' settlements in the interests of maintaining peace. Most were also aware that village officials and traditional leaders convened their own unofficial 'courts' and the *kiaps* often lent their tacit approval to these village fora (Downs 1980, p. 150).

The active role of indigenous actors in the mediation of colonial power was an important reason for the relative success of the 'kiapdom' (Gordon 1983). *Pax Australiana* could not have been achieved without the acquiescence of most indigenous leaders and groups. The successful ending of intergroup warfare forced together groups that had previously existed in a state of mutual suspicion. In doing so, it generated new social and economic opportunities dramatically through expanding existing horizons. Ambitious individuals were not slow to recognise this potential and exploit its possibilities (Rowley 1972).

The *kiap* system was successful in large part because it did not displace local power structures or dominate local politics. In the case of local dispute resolution mechanisms, 'customary law held sway and only when it failed was the *kiap* involved' (Clifford *et al.* 1984, p. 112). *Kiaps* tended to let local parties resolve disputes themselves. As Gordon (1983, p. 210) put it '[kiaps] had a basic anthropological training; enough to realise that matters or disputes were more complex than they appear on the surface, and thus should be left alone'. In this pluralistic setting, *kiap* courts provided additional fora that could be incorporated into local political strategies. Decisions by unofficial mechanisms could be

confirmed or contested in the new courts provided by the colonial state. Interactions between indigenous and colonial systems thereby served to strengthen each other. '[U]nofficial courts served to make *kiap*'s "law" "strong" because of the nature of cooperation which existed between *kiaps* and unofficial "magistrates"' (Gordon 1983, p. 211).

It is also important to appreciate the critical role of the *kiap*'s indigenous police and the manner in which their roles complemented each other. Working with the *kiap* brought considerable prestige to local police, while European *kiaps* depended on their subordinates for local knowledge and language skills. This dependence also rendered the *kiaps* susceptible to manipulation. As Waiko (1989, p. 97) observes, 'The colonial officers were not aware of the complexities of the relationships between clans and tribes; nor did they realise that in the early period of contact it was often the police who determined whether relations between groups were to be hostile or peaceful'.

Institutional modernisation and the decline of the *kiap*

Paul Hasluck – Australia's long-serving minister for external territories (1951–1963) – played a key role in transforming the framework of administration in PNG. From the outset he identified justice as a major target for reform. His broader project of institutional and political modernisation aimed to replace the old colonial system of 'native' administration with a system of modern bureaucratic government. Hasluck's approach fell squarely within the tenets of the prevailing modernisation paradigm with its assumption as to the universal and linear direction of historical progress.

An early priority was to establish a separation of powers between judicial, administrative and executive arms of government. This meant supplanting the administrative model of colonial control with an independent, institutionally differentiated and professionally staffed system of justice. Hasluck wished to abolish the dualism that discriminated between indigenes and expatriates, and replace it with a unitary system of courts administering a single body of law (Hasluck 1976, p. 348). The first stage was completed in 1957 with the establishment of a separate prisons branch under the Corrective Institutions Ordinance. He then set about the more challenging work of separating the police from the Department of Native Affairs and the control of the *kiap*. An Australian jurist, Derham, was commissioned to undertake a comprehensive review of the administration of justice in PNG. Derham's report became the blueprint for the modern justice system inherited at independence (Derham 1960). While recognising the important work performed by the *kiap*, Derham viewed it as an idiosyncratic and essentially transitional institution – a preliminary stage on the way to establishing a fully modern system.

The establishment of centralised policing as part of the larger process of decolonisation was not unique to PNG and occurred in most other former British colonies. As independence approached, colonial police forces become more paramilitary in character, developed centralised command systems and specialised units, and usually grew dramatically in size (Anderson and Killingray 1992, p. ix). In 1961, the Papua and New Guinea police were separated from the Department of Native Affairs, and in 1966 they were removed from the control of the Public Service Commission in order to ensure their 'neutrality'. These reforms resulted in a police force that was initially divided between an urban constabulary under the command of full-time police officers, and a rural constabulary under the command of *kiaps*. The number of police stations increased dramatically during the decade before independence (Gordon and Meggitt 1985, p. 84).

With the expansion in size and operational scope of urban policing, tensions developed between the two branches. European police officers resented working under the authority of district officials (Downs 1980, p. 155). *Kiaps* complained that regular constabulary sent to rural areas 'rarely [left] the town in which [they] were stationed' and were commanded by 'European officers with little knowledge of the country' (Oram 1973, p. 12), while regular police were accused of reluctance to intervene in the intergroup warfare that began to reappear in parts of the Highlands from the late 1960s, as well as of incompetence when they did. Police mobile squads were formed after the police reorganisation in 1966 and used for this and other public order purposes.

The courts also underwent significant change from the mid-1960s, with a shift away from the relatively informal *kiap* courts to more formal court procedures. Local courts were intended to replace the *kiap* courts. These would, in turn, be eventually replaced by district courts staffed by professional magistrates. Most of the 'Native Regulations' were repealed in 1968 and replaced by summary offences codified in criminal legislation.

These reforms had significant impacts at local levels. Under the old system, the dispute resolution powers of the *kiap* could be supplemented with powers issuing from his various agency functions (Gordon 1983, p. 220). In addition to his penal powers, he could try and induce behavioural change by using his authority to provide roads and other services. The *kiap* had a wide range of sanctions to choose from, as well as the discretion to adapt these to different circumstances. Sanctions could be applied immediately, with minimal formality or delay. Through working with local leaders, the *kiap's* decisions were usually accorded a high level of legitimacy.

By contrast, the discretion of the professional magistrate was constrained by a multitude of substantive, evidential and procedural rules. Professional justice took a long time. It entailed a cumbersome process conducted in an arcane foreign language that was incomprehensible to most Papua New Guineans. As well as weakening the local standing of the *kiap* by depriving him of his most potent powers, these changes contributed to growing levels of dissatisfaction with state regulation among indigenous parties. The new system was viewed by many as confusing, unpredictable and unjust. Speaking of the Western Highlands, Strathern observed that:

[t]he *kiap's* handling of trouble cases in the past combined both a concern for public order and a capacity to deal with minor offences. In fact, these derived from different aspects of his roles (administrator and magistrate), but it meant that he 'settled disputes' roughly along lines familiar to Hageners. The paradox is that although, the modern official courts are ostensibly concerned with law and order, they fail in Hageners' eyes to take cognisance of matters directly related to both of these elements. (Strathern 1972, p. 143)

The authority of the police was also diminished, with this formerly powerful and prestigious agency of pacification now subject to regular and humiliating 'defeats' in court, often on obscure technical grounds.

The rapid localisation that commenced during this period also had a weakening effect on state controls, not only because of the short-term effects of replacing experienced personnel with less seasoned ones but also the effects of the erosion of the social delineation between colonial officials and their clientele. *Kiaps*, magistrates and other expatriate officials exercised considerable autonomy in their dealings with local leaders precisely because they were foreigners. Their apparent lack of interest in competing with Melanesians by engaging in local politics and their immunity to the pressures of *wantokism*⁶ contributed to an aura of independence and impartiality. However, the basis of these local perceptions was fundamentally challenged once Melanesians began

occupying these positions. Irrespective of their individual integrity and professionalism, indigenous officials were immediately vulnerable to accusations of *wantokism* and to suspicions that they would become rivals in the local political competition (Gordon 1983, p. 215).

The return of the *kiap*

Many *ex-kiaps* were recruited by resource developers during the 1980s minerals boom, often serving as community relations officers (Banks and Ballard 1997). Much of their initial work involved the negotiation of land access and compensation issues but this extended into other activities as individual projects matured. Their community liaison tasks are similar to those of the old *kiaps*. These include mediating disputes, overseeing compensation payments, determining land ownership and group membership, conducting censuses, as well as dealing with labour relations. An ability to access company resources means that, like the old *kiaps*, they continue to be viewed as important gatekeepers to modernity and wealth. The continuing utility of the *kiap* model today highlights the importance of building and sustaining relationships with village people as a critical ingredient of successful administration in rural PNG. The returning *kiap* also has much higher levels of legitimacy among local people than do government officers, and these are mainly derived from the former's gatekeeper role. As Banks and Ballard (1997, p. 163) argue, the link between providing 'development' and legitimacy is critical in explaining the 'failure' of government in contemporary PNG.

At the same time as PNG has seen this return of a new *kiap*, it has also seen a return of less paramilitary, less centrally administered police whose interactions with local communities are in some respects more akin to the old colonial system. Today these are community auxiliary police, who at least in parts of PNG, such as Bougainville, are respectfully connected to village people and their structures which they seek to mobilise through a community policing philosophy. Unlike the RPNGC, who became progressively more urban-based and focussed on urban crime problems, the community auxiliary police, while under the control of the RPNGC, only served part-time as police and lived and worked in their village.

In the 1990s, we also saw a return to some of the negotiated peacemaking that *kiaps* deployed in the pacification of rural intergroup warfare. These were the gang surrenders (mostly in urban settings) and peace settlements where the negotiators were not *kiaps*, but mostly officials and church leaders. Like the old inter-tribal pacification, this has had some success (Dinnen 2001). Finally, we have seen a return to restorative justice, albeit with some modernist trimmings of training for facilitators, rights and gender equality concerns (Dinnen 2006). There is not space here to describe and critique these adaptations of older approaches to contemporary settings. Our point is simply that a modernised, formal justice system run from the capital proved so incapable of dealing with such a great variety of problems that significant partial returns to village-based responsive and flexible governance of security became attractive and, in many cases, the only option available to rural dwellers.

While all of them can deliver some kinds of efficacy that urban-administered Westernised justice cannot, all of them also threaten some of the genuine virtues of more formal rule of law. Here we think the restorative justice literature is informative on how new hybridities might save those rule of law virtues (Braithwaite 2002). Patriarchy, or domination by big men, must be countered, new separations of powers must be infused into village justice that will work in a way that a man wearing a white wig in the capital may

not. New human rights institutions that actually touch the traditional fabric of justice in villages where many people still live need to be, and can be, crafted. In this regard, Wardak (2004) provides some useful ideas on rights institutions that might check and balance the patriarchal domination of Afghan *jirgas-jirgas* that nevertheless deliver more practical safety for villagers than paramilitary police and urban courts under the sway of warlords.

Conclusion: the case for a contemporary *kiap*

In developed as well as developing societies, it is time rural communities got their fair share of the regulatory budget. Deputising country police as multi-skilled regulatory inspectors could be a useful piece-meal solution. If the money handed over by capital city regulatory agencies for this work increased the number of rural police by one-third, this could be good for rural crime-control challenges that can be serious, especially in nations like Australia where the outback has more poverty, more guns, higher concentrations of displaced indigenous people and more violence (especially family violence). Part of what is needed in a nation like Australia is for country police to do a better job at building relationships with the Aboriginal community. Providing some regulatory services that protect disadvantaged minorities from consumer rip-offs would not be a bad way of beginning to build that.

In the Solomon Islands, for example, the single most important issue for the future of villages is forests and logging. We have seen during our fieldwork the tragic sight of villagers asking the police for help in dealing with Asian logging companies, only to be told that that is the responsibility of the Forestry Department in the capital. Here is the nub of what concerns us in this paper. The Forestry bureaucrats are in the capital (with minuscule travel budgets); the trees are out there among the villages. If we want to tackle this aspect of the global warming agenda, perhaps we need to think *kiap*, to think part-time village constables being responsible for forest enforcement; to consider reversing the Peelian revolution in its application to village societies.

There are more radical solutions still. One is to abolish the police budget in favour of a policing budget, and to do likewise with every kind of regulatory budget. Some Aboriginal communities in Australia might bid to do their own policing. Country towns could bid competitively to the state for a bundling of their share of the police and regulatory budgets into a multi-purpose local policing/regulatory service. The policy detail would be difficult and inevitably vary between societies. However, it might be a path to better justice and local democratic empowerment of rural communities. The idea of abolishing the police budget in favour of a contestable policing budget has been advanced by the Patten Commission into policing in Northern Ireland and pushed in the scholarly writing of one of its members, Clifford Shearing with his co-author Philip Stenning (see Shearing 1995). It is ironic that Ireland, birthplace of so much of the colonial policing doctrine of the British Empire, should be the site where the idea of regulatory hybridity through contestable policing budgets should now emerge. It is an idea worth considering for fostering the hybridity needed for the unique regulatory problems of both contemporary developed and developing societies. Even when nations have strong states that make policing work well in the city, that state is often weak and ineffective for rural citizens, especially disadvantaged ones.

Democratic experimentalism (Dorf and Sabel 1998) and learning through doing are needed to develop these ideas. It is hard to envision the path such innovation might take, and the traps it might fall into. What is easier to see is the folly of transplanting Peel's basically sound policing innovation for London through security sector development assistance into village societies. It may be that these villages would be less well served by

paramilitaries in expensive patrol cars than by *kiaps* on foot working with part-time community auxiliary police living in the village.

Notes

1. Pasquino (1991, p. 112) reports a 1937 bibliography for German-Speaking areas that lists 3215 publications from 1600 to 1800 under the listing, 'science of police in the strict sense'.
2. *Kastom* is the Melanesian *Pigin* term for culture or tradition.
3. The word 'captain' was corrupted into *kiap* in New Guinea Pidgin (Nelson 1982, p. 33).
4. The regulations applying in both the territories were essentially the same in substance although, the New Guinea regulations tended to carry harsher penalties. After World War II they were gradually pruned and some were abolished. See Wolfers (1975).
5. *Luluais* were village leaders appointed by the colonial authorities to represent the government at village level. *Tutululs* were their interpreters.
6. The term *wantok* in Melanesian Pidgin means someone who speaks the same language (literally, 'one talk') but is popularly used to describe relations of obligation and reciprocity binding relatives, members of the same clan or tribal group, and much looser former of association. In the modern context, *wantokism* is often used in the negative sense of nepotism.

References

- Anderson, D. and Killingray, D., eds., 1992. *Policing and decolonisation: politics, nationalism and the police*. Manchester, UK: Manchester University Press.
- Arnold, D., 1992. Police power and the demise of British rule in India, 1930–47. In: D.M. Anderson and D. Killingray, eds. *Policing and decolonisation*. Manchester, UK: Manchester University Press, 42–61.
- Banks, C., 1993. *Women in transition – social control in Papua New Guinea*. Canberra, Australia: Australian Institute of Criminology, Australian Studies in Law, Crime and Justice.
- Banks, G. and Ballard, C., 1997. The return of the *Kiap*: recolonising rural Papua New Guinea. In: D. Denoon, ed. *Emerging from empire? Decolonisation in the Pacific*, December 6, Research School of Pacific and Asian Studies, Australian National University, Canberra, Australia. Canberra: Australian National University.
- Blackstone, W., 1769. *Commentaries on the laws of England, vol 4*. London: Dawsons.
- Braithwaite, J., 2002. *Restorative justice and responsive regulation*. New York: Oxford University Press.
- Clifford, W., Morauta, L., and Stuart, B., 1984. *Law and order in Papua New Guinea* (Clifford Report). Port Moresby: Institute of National Affairs and Institute of Applied Social and Economic Research.
- Dinnen, S., 1988. Sentencing, custom and the rule of law in Papua New Guinea. *Journal of Legal Pluralism and Unofficial Law*, 27, 19–54.
- Dinnen, S., 2001. *Law and order in a weak state: crime and politics in Papua New Guinea*. Honolulu, HI: University of Hawai'i Press.
- Dinnen, S., 2006. Restorative justice and the governance of security in the Southwest Pacific. In: D. Sullivan and L. Tift, eds. *Handbook of restorative justice*. London: Routledge, 401–421.
- Derham, D.P., 1960. *Report on the system for the administration of justice in the territory of Papua and New Guinea*. Canberra, Australia: Department of Territories.
- Dorf, M. and Sabel, C., 1998. A constitution of democratic experimentalism. *Columbia Law Review*, 98, 267–473.
- Downs, I., 1980. *The Australian trusteeship: Papua New Guinea 1945–75*. Canberra, Australia: Government Publishing Service.
- Garland, D., 2001. *The culture of control: crime and social order in contemporary society*. Oxford: Oxford University Press.
- Geeves, R.T., 1979. *The administration of justice and the European residents of Rabaul and the mandated territory of New Guinea, 1921–1942*. Thesis (MA). Australian National University.
- Gordon, R.J., 1983. The decline of the *Kiapdom* and the resurgence of "tribal fighting" in Enga. *Oceania*, 53, 205–223.
- Gordon, R.J. and Meggitt, M., 1985. *Law and order in the New Guinea highlands*. Hanover, NH: University Press of New England.

- Griffin, J., Nelson, H., and Firth, S., 1979. *Papua New Guinea: a political history*. Melbourne, FL: Heinemann Educational Australia.
- Hasluck, P., 1976. *A time for building: Australian administration in Papua and New Guinea 1951–1963*. Melbourne, FL: Melbourne University Press.
- Kituai, A.I., 1998. *My gun, my brother: The world of the Papua New Guinea colonial police, 1920–1960*. Honolulu, HI: University of Hawai'i Press.
- McLeod, A. and Dinnen, S., 2007. Police building in the Southwest Pacific-new directions in Australian regional policing. In: A. Goldsmith and J. Sheptycki, eds. *Crafting transnational policing: police capacity-building and global policing reform*. Portland, OR: Hart, 295–328.
- Nelson, H., 1982. *Taim bilong masta – the Australian involvement with Papua New Guinea*. Sydney, Australia: ABC Books.
- Neocleous, M., 1998. Policing and pin-making: Adam Smith, police and the state of prosperity. *Policing & Society*, 8, 425–429.
- Oram, N., 1973. Law and order: maximum participation at all levels. *New Guinea*, 7(3), 4–22.
- Pasquino, P., 1991. *Theatrum politicum: the genealogy of capital – police and the state of prosperity*. In: G. Burchell, C. Gordon and P. Miller, eds. *The Foucault effect: studies in governmentality*. Hemel Hempstead, UK: Harvester Wheatsheaf, 105–118.
- Rowley, C.D., 1972. *The New Guinea villager: a retrospect from 1964*. Melbourne, Victoria: Cheshire.
- Royal Papua New Guinea Constabulary (RPNGC), 2004. *Administrative review committee (ARC), Draft Report*. Papua New Guinea: Government Printer.
- Shearing, C., 1995. Reinventing policing: policing as governance. In: F. Sack, ed. *Privatisierung staatlicher Kontrolle: Befunde, Konzepte, Tendenzen*. Baden Baden: Nomos Verlagsgesellschaft, 70–87.
- Sinclair, J., 1984. *Kiap – Australia's patrol officers in Papua New Guinea*. Bathurst, NSW: Robert Brown & Associates.
- Smith, A., 1978. *Lectures on jurisprudence*. Oxford: Clarendon Press.
- Strathern, M., 1972. Official and unofficial courts: legal assumptions and expectations in a highlands community. *New Guinea Research Unit, Bulletin*, 47, 1–166.
- Waiko, J., 1989. Australian administration under the Binandere thumb. In: S. Latufeku, ed. *Papua New Guinea: a century of colonial impact 1884–1984*. Port Moresby: National Research Institute, 75–108.
- Wardak, A., 2004. Building a post-war justice system in Afghanistan. *Crime Law & Social Change*, 41, 319–341.
- Wolfers, E.P., 1975. *Race relations and colonial rule in Papua New Guinea*. Sydney, NSW: Australia and New Zealand Book.