

International Committee of the Red Cross

From Tribal Rules to Local Law: codifying traditional rules of fighting in Papua New Guinea

'Codification and Creation of Community & Customary Laws in the South Pacific and Beyond'

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The Highlands Region of Papua New Guinea (PNG) is a densely populated region, home to hundreds of communities with unique cultures and languages. It is also home to multiple tribal conflicts of varying intensity and length.

Tribal conflicts are instigated by disputes over land, power struggles, insults, and terms of compensation for wrongs committed against one clan or tribe. Conflicts between tribes overlap with youth- and gang-related criminality as well as lawlessness associated with disaster situations such as the February earthquake. Tribal conflict traditions do not glorify war but consider it an unfortunate last resort when disputes cannot be solved by other means.

Although tribal conflicts rarely lead to massive loss of life, the humanitarian effects are nevertheless significant. In addition to death and injury, conflicts are associated with destruction of farmland and residences, sexual violence, displacement, and loss of access to healthcare, education and livelihoods. People's homes are burned down, healthcare facilities looted, and entire tribes displaced from their lands.

In the past, warfare did not result in large numbers of deaths or massive destruction of property. War would mostly take place in agreed battlefields, away from residential areas. The winning clans would not want to displace their neighbors for too long, as they depended on them for different social needs, such as trade and labour. After fights, compensation would be paid and enemies would again become cooperative neighbors.

Contemporary battles take place inside villages and towns, resulting in houses, property and vegetable gardens destroyed. The losing clans are chased away from their land, which may remain uncultivated for years and form the basis of disputes that last for generations.

Another contemporary feature since the 1990s is the use of modern, high-powered weapons in place of bows and arrows and hand-to-hand combat. At the same time, traditional rules of engagement are not respected. This has increased the severity of conflict and thus accelerated the cycle of conflict and payback. Whereas in the past, conflicts would be settled between clans in a manner that resolved the balance of power, today's battles are uncontrolled and result in significant destruction and displacement without scope for sustainable peace negotiations.

The absence of, or disrespect for, rules of fighting is a key problem that the International Committee of the Red Cross (ICRC) has worked with political authorities and tribal leaders to address. The tribal rules project in the Highlands aims to reintroduce existing rules for fighting and formalise them in a signing ceremony under the authority of local leaders. The documentation and signing of rules then constitutes a legal document of the Local Level Government (LLG).

Respect for and adherence to the rules will reduce the number of casualties among the civilian population who are not directly involved in the conflict, reduce destruction and damage caused to public infrastructure, reduce the involvement of children in conflict, and improve the safety of neutral parties such as healthcare providers and Red Cross workers.

Ensuring that tribal rules are a legal obligation will also enable the police and other authorities to respond to violations as a matter of rule of law. Unofficially, the PNG government does not respond to or intervene in tribal conflicts but elders may be more inclined to accept police involvement in relation to a formalised set of rules. Moreover, the ICRC will be able to make representations to tribal leaders on behalf of victims of violations of fighting rules, in the same way that it does with the relevant authorities in situations of armed conflict.

Councillors from the Nebilyer LLG in Western Highlands province, with the facilitation of the ICRC, have agreed on 15 rules of fighting. The rules include prohibitions on the targeting of children, the elderly, the disabled, healthcare and educational providers, religious personnel, neutral clans, any civilians not involved in the fighting, public infrastructure such as schools, healthcare facilities, utilities, roads, places of worship, *singsing* places and sacred sites. Community leaders commit to keep battles out of public places, prevent sexual violence, and refrain from involving children in conflicts.

Most of the councillors have signed up to the rules. Once all councillors have signed the document, it will be presented to the Senior Provincial Magistrate in Mount Hagen for endorsement. Then the rules will become local law in Nebilyer LLG. The next step is for Nebilyer councillors to promote the rules and educate their communities on the humanitarian importance of respecting traditional rules of fighting. Leaders of clans that become embroiled in conflict must use their influence and authority to ensure that fights are conducted within the established rules.

The ICRC is now working with local authorities to replicate this project's success in other parts of the Western Highlands, as well as in areas of the Southern Highlands, Enga and Hela provinces.