

Governing Refugees

Justice, Order
and Legal Pluralism

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The governance palimpsest: order maintenance in Southeast Burma

The force of habit, the awe of traditional command and a sentimental attachment to it, the desire to satisfy public opinion - all combine to make custom be obeyed for its own sake. In this the 'savages' do not differ from the members of any self-contained community with a limited horizon, whether this be an Eastern European ghetto, an Oxford college, or a Fundamentalist Middle West community. But love of tradition, conformism and the sway of custom account but to a very partial extent for obedience to rules among dons, savages, peasants, or Junkers. [. . .] in the main these rules are followed because their practical utility is recognized by reason and testified by experience.

(Malinowski 1926: 52)

There is a perception, even an expectation, that refugee camps are spaces where community bonds break down and values disintegrate. Yet the refugee camps in Thailand have remained relatively stable and secure throughout tremendous political and demographic flux. Violent crime occurs, but it is exceptional. From a social science perspective this presents an important question: if these camps are not anomic, then what are the processes of social ordering that are being marshalled? To answer this question it is helpful to look beyond the immediate situation of the refugee camps to investigate the governing processes that were used in the communities from which people fled.

Santos (2006: 47) has described Mozambique as a 'palimpsest of political and legal cultures' where 'very different political legal cultures and very different historical durations are inextricably intertwined'. A similar palimpsest of legal cultures exists within Karen State, where village sovereignty, supernaturalism, missionisation, colonialism and political revolution have each left traces upon approaches to law and order — and which can in turn be traced in the practices of dispute resolution and order maintenance which are used in the refugee camps. These eras of governance have not evolved in linear fashion but have overlapped. Practices and beliefs that were followed before colonization (such as village dispute resolution) continue to serve as the cornerstone of political governance, and have been supplemented but never

fully replaced by newer additions, such as Christian values or the state-building project of the KNU. New layers of governance have changed attitudes towards some crimes and punishment but overall there is considerable continuity in social values and concerns. This is particularly evident in the policing of extra-marital sex, consistently regarded as an extremely serious transgression even as the rationale for its punishment has shifted from supernaturalism to Christian morality to legal (or quasi-legal) authority.

Attempting to define 'law' is challenging, as if the boundaries are narrowly drawn (for example, requiring formal codification or professional practice) it excludes many norm-defining and enforcing authorities, while if the definition is over-broad it misses the particular cultural impact and influence that makes 'law' something different from convention or etiquette (Tamanaha 2008, 2001; Starr and Collier 1989; Nader 1969a). It is more helpful to think of governance practices in Southeast Burma in terms of order maintenance; i.e. the desired outcome of dispute resolution rather than the institutions or mechanisms used to resolve disputes. Following Benda-Beckman and Pirie (2007: 1), 'Order, in this sense, connotes a prescription of "the way things need to be" (e.g. which activities and behaviours should be permitted, and which proscribed) in order to ensure a secure environment.'

The desire to ensure social order lies at the heart of security and governance practices. Benda-Beckmann and Pirie (2007: 1—2) identify some characteristics of the concept of order: order can be subjective or objective, order can exist even in apparently disordered situations (such as a conflict zone or a refugee camp) and order does not exist spontaneously but must be generated and produced through specific practices. In this respect criminal law is just one tool among many methods of producing order, such as custom, tradition, religion and even violence (Johnston and Shearing 2003: 7). Therefore, it is not that 'order maintenance' describes non-state forms of policing while 'law' refers to the formal justice system. Rather, codified and un-codified systems co-exist and operate simultaneously as part of a network of order maintenance mechanisms.

Similarly, the primary actor in securing order is not necessarily the nation-state. In Burma's ethnic territories, multiple state and non-state actors seek political power and control over land, resources and populations. This governance complexity has implications for the administration of justice as it establishes a patchwork of power-holders, none possessing formal jurisdictional authority yet all engaged in policing or dispute resolution activities in various ways. The Burmese national court system operates at township and district level but this formal legal system is rarely used by ordinary villagers in Karen State who instead must rely on an assortment of informal governing authorities: village leaders, members of non-state armed groups, even soldiers of the Burma Army. Unsurprisingly, this leads to highly inconsistent and often unsatisfactory outcomes.¹ There is an echo of the patrimonial governance climate described by Kelly (2006: 113) in the

West Bank, where the legitimacy of the Palestinian Authority has withered as other agents have grabbed power and control. However, despite the absence of an effective, universal rule of law it is apparent that ordering processes do exist and function (albeit with varying degrees of effectiveness), and that these processes have normative force.

This chapter examines the influence of village sovereignty, moral narratives, supernaturalism or ‘spirit-law’, Christianity, and ‘KNU law’ on the definition of harms and maintenance of order in Southeast Burma; and traces the extent to which these various sources of authority have been imported into the refugee camps. The final sections consider the impact of changing frames of governance on perceptions of harm and wrongdoing, focusing on attitudes towards monogamy and a belief in ‘one husband, one wife’.

Order **beyond the state**

Village sovereignty

As was described in Chapter 2, colonization transformed Karen nationalist politics but was much less influential at the level of local governance. Every village has a leader, chosen by the villagers. Disputes and problems within a village are resolved by this leader together with other elders. Describing dispute resolution in a Thai-Karen village, Andersen (1979: 320) found that a final decision was agreed after ‘a debate which is governed partly by the existing rules, that are known to most villagers, and in particular by the social-historical knowledge of the Elders’. Village leaders acquire status but receive little material benefit from their role. There is no automatic inheritance or transfer of leadership functions and no particular privileges attach to the role as a matter of right. Thus, the role of village leader reflects a social value system that is both hierarchical and egalitarian. In a study of Karen society in the 1920s, Marshall (1997 [1922]: 129) found that a leader worked together with other villagers and did not levy any taxes or demand payment, though gifts would often be given to him in recognition of his work and popularity: ‘The Karen had no caste of chiefs, no royal family, or even a privileged social class. Every member of the community shared alike in the ordinary tasks and the privations or prosperity of the seasons.’

Not only does the role of village leader lack attractive privileges, in recent years it has brought considerable danger as village leaders are frequently targeted by Burma Army troops to supply resources (including forced labour) or singled out for particularly brutal treatment. In the hope that soldiers would be merciful towards women, some villages appointed female leaders. The KWO (2010) found that female leaders continued to be targeted by Burma Army forces, and reported witnessing or experiencing horrendous

abuses, including execution, burning alive, gang rape and torture. Though rural Karen villages are conventionally patriarchal, a young female village leader who has been elected strategically will still command the obedience of all villagers (in part, it seems, because villagers recognize that she is assisted in the exercise of power by village elders) (Heppner 2006).

The refugee camps were formed through the uprooting and displacement of entire villages, and the management structures developed in the refugee camps show a great deal of continuity with these practices of village-level governance. Institutionally, every camp is divided into administrative sections, each with a five-member section committee (comprised of a section leader, section social welfare representative, section security leader, KWO member and KYO member). Disputes are sent first to the relevant section leader, and will be referred upwards to the camp committee or justice team only if agreement cannot be reached. Refugees acknowledge the continued relevance of pre-camp governance models to their current way of life:

We live peacefully in the camp because we are Karen people. Before, we lived in the jungle and we lived quietly. For example, in a village all villagers will listen to the village head. If he decides something [everyone is] obedient and quiet. And when we moved to the camp there are lots of people so we have to divide it into sections and then peace and reconciliation will be the section leaders' duty, and also the camp leader's, and also everyone's.²

In our culture we can live stable together. We are Karen. We don't need law and justice. In the past, in our traditions we have no high-level law but only community management. But we can survive with our management system. We love peace and unity and can live peacefully without high level law.³

There is also continuity in the type of sanctions imposed. Criminal justice approaches in the heartland of Burma were transformed during the colonial era, when punishments focused on the offender's body (such as flogging, mutilation, execution or exile) were replaced with a prison system focused on containment. The simple bamboo huts which had served as detention units were replaced with secure concrete institutions, located outside urban areas and built in accordance with the latest Victorian prison architecture (Wintin and Brown 2005).⁴ This transition from personalized, public punishment to depersonalized, private punishment is a classic trajectory in the history of punishment practices (Pratt 2002; Garland 1993). However, it was not followed in rural highland Burma, which has largely retained the informal social practices of pre-colonial times. Simple bamboo huts continue to serve as detention centres, with additional sanctioning options including fines, ritual ceremonies, violence and execution.

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A particularly serious punishment in Karen traditional justice was expulsion from the village, a sanction which might well lead to death if the offender was cast adrift from the support structures of the community. A person who repeatedly violates the rules of the village might be banished or may decide to leave voluntarily if s/he cannot accept a decision of the village leader. This is a common technique of dispute resolution in mediation-focused societies, where if a dispute proves long-standing or intractable, one party will simply move away.

In the Karen context, Marshall (1997 [1922]: 288) described the practice of expelling wrongdoers from the village as 'a primitive quarantine' to protect the rest of the village from the repercussions, while Scott (2009: 264) presents it as an adaptive process for escaping from disputes and obligations and maintaining local harmony. Again, this practice continues in the camps, both in terms of voluntary relocation to avoid a dispute with family or neighbours and in the possibility of expulsion from the camp for those who repeatedly refuse to obey the camp leaders. (See further Chapter 6).

Moral narratives

Tools for 'order maintenance' are not always immediately apparent in the absence of legal codes and institutions. One example of this is the role of moral narratives and didacticism. The earliest English language descriptions of Karen village life and governance are found in the writings of Christian missionaries to Burma. In an essay published in 1868, Mason records dicta and rules as narrated by elders of a Bghai (Bwe) Karen village.⁵ As with much of the writing of this era, Mason's tone is jarringly patronizing and dismissive for modern readers but the core content depicts something surprisingly recognizable within modern Karen society: village-level organization was a broadly egalitarian social order led by a village leader elected by village residents. There was no written legal code or regulations. Instead, the elders of each village were repositories of knowledge and of 'right' behaviour, conveying moral, social and legal norms to the younger people and determining disputes in accordance with these norms. Mason reports the instructions of village elders as exhorting values of hard work and the avoidance of laziness, generosity to those in need, thrifty management of resources, humility, obedience, cooperation, honesty and harmony:

Do not hate each other [. .] do not defraud, do not be dishonest in your transactions [. . } do not do evil to each other [. . } do not steal.
(1868: 138).

What you do, do thoroughly and completely. We love happiness; and our greatest happiness is to clear our fields and to build our houses.
(1868: 133)

The elders' teachings reinforce the positive consequences of correct behaviour and promise terrible repercussions for bad behaviour:

Children and grandchildren, love peace and you will live in peace and live to be old. He who loves peace, his house will be established and it will be permanent. [. . .] He who walks in peace, will enjoy peace. He will have associates, he will have friends [. . .] He will have no adversaries, he will have no enemies.

(1868: 135)

He did evil, and his evil returns upon him; and he grieves, and weeps, and suffers anguish; and when he dies he has no one to bury him, and his body remains in the field, and the birds devour it.

(1868: 138)

In essence, the philosophy of Karen village governance was that a well-ordered community is a peaceful one, and order was maintained by following good practices and avoiding bad ones. Many authors have recognized that Karen cosmology prizes obedience to tradition above development and change (Marshall 1997 [1922]: 37; Cheesman 2002) so it is perhaps not surprising that the moral didacticism recorded by Mason remains much in evidence among Karen communities today. Moral instruction is conveyed in a range of social forums, including religious ceremonies or public events, and in 'lighter' narrative forms such as songs, poems and jokes (Andersen 1979; Hayami 2004). Short poems — *hta* — historically served many functions in Karen society and continue to be performed and written at funerals, among other social occasions (Fink 2003; Mischung 2003). In my own fieldwork, camp leaders and judges continued to emphasize moral values when resolving disputes, repeating much the same principles that Mason encountered: work hard, show humility, respect elders, don't gossip or quarrel, avoid dishonesty, selfishness and sexual contact outside marriage. A premium was placed on peaceful co-existence and the avoidance of quarrelling, gossiping or otherwise escalating disputes.⁶

In Mae La Oon, any event where many people were congregated served as an occasion for disseminating pro-social moral instruction. Often, this role was undertaken by spiritual leaders who intoned lessons and prayers for hours at a time, frequently leading audience members to fall asleep. In camp dispute resolution practices, particular emphasis continued to be placed on perceived cultural norms of 'Karenness' such as honesty, peacefulness and conflict-avoidance:

We don't have any problems with law. For our Karen people, the big problems we make small and the small problems we make go away. We don't want problems. Our Karen people, they are honest, simple, pure.

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Here in the refugee camp there are more than 50,000 people but you never hear anything about big problems. Everything is very simple and our law is very simple. We solve problems in a simple way. Our Karen people are always simple. That's how we became refugees [laughs].⁷

A Sgaw Karen language report on 'Karen Traditional Justice' describes Karen villages as peaceful societies which experienced few disputes because Karen people are quiet, honest and non-confrontational and where,

[the] old or senior people listened to both sides and if it is a big case they made it smaller and if it was a small case they made it disappear, and they settled the case to make both people understand and satisfied with each other.

(Drum Publications 2006: 30)⁸

Likewise, at a ceremony conducted by Mae La Oon's small animist community in January 2010, the prayer (as translated by my research assistant) emphasized peaceful living and repeated the idealized notion of Karen communities as harmonious:

In the old days our ancestors were like a dove, they lived peacefully and never quarrelled. So today in our time, when we drink this strong alcohol, we should not quarrel but we should thank God and he will send us good things for our children, look after us and protect us from bad things.⁹

The centrality of moral didacticism to social life suggests an intriguing possibility, that these moral narratives and messages establish a set of values and expectations which operate as a crucial mechanism for maintaining social order: in effect, a cultural code of citizenship, repeated at numerous sites and fully integrated into daily life. Geertz (1973: 448) is widely quoted for a definition of culture as 'the stories we tell ourselves about ourselves'.¹⁰ This phrase subtly differs from the sentence Geertz actually wrote, but its resonance reflects a wider truth about the importance of narrative in shaping identity, influencing thoughts and behaviour. Religion offers one narrative framework through which expectations are conveyed but narratives and stories may also be important at a communal or even individual level. In a rather different context, in interviews with ex-prisoners, Maruna (2001) found that those who had successfully desisted from crime explained their past experiences and future hopes in terms of redemption and 'making good' that were markedly different from the self-narratives of those who had returned to crime. Engel and Engel's (2010) study of legal consciousness among ordinary people in Northern Thailand found that changing notions of legalism and legal culture were reflected in ways of explaining the causes behind personal injury; these narratives had moved from emphasizing

spiritual retribution to (variously) Karmic justice or personal negligence, but rarely embraced the concept of external fault that is the basis of civil litigation in formal Thai law. Such studies suggest that Geertz' language might be taken even further: that the 'stories we tell ourselves about ourselves' are not only a form of cultural definition but have profound implications for individual behavior, and therefore for understanding patterns of crime and order-maintenance. It might be hazarded that the stories Karen refugees tell — with their emphasis on the importance of moral and ethical behaviour — play a vital role in establishing shared expectations of citizenship and in maintaining stability and order within these communities; inside villages in Burma and Thailand, and in the refugee camps.

Animism or 'spirit-law'

The mention of Mae La Oon's animist community points to another important influence on understandings of social order within the refugee camps, which is that of supernaturalism. It is difficult to generalize about 'Karen' animist beliefs as there are many differences between districts and even between villages. Karen villages appear to have maintained considerable autonomy at the spiritual level too, with a multiplicity of small cults, individual prophets and diverse animist practices (Hayami 2004: 177—200). Furthermore the nature of such belief systems is that they exist as a cosmology and therefore impact on multiple sectors - religion, story-telling, health and medicine, law and dispute resolution, rituals and ceremonies. It is impossible to fully understand their impact and meaning without deep and dedicated anthropological research. However, even in the absence of such a comprehensive analysis it is apparent that spiritual beliefs continue to exert influence on social practices both inside Burma and in the camps. The following sections sketch how and why this is the case, drawing on colonial—era publications (Cross 1854; Mason 1868), findings of research conducted among Karen living in Thailand (Rajah 1986; Andersen 1979,1981; Hayami 2003, 2004) and insights and comparisons from my own fieldwork.

Traditional knowledge among the Karen is influenced by perceptions of spiritual cause and effect which have implications both for conceptualizations of and responses to wrongdoing. The basis of Karen animist belief is spirits — *k'la* — which are territorial in nature. Everything has a *k'la* — a human being or an animal, but also a tree, a plant, a knife, a river, a plank of wood or a stick of bamboo in a house frame. In addition to *k'la* belonging to a particular being or object, there is an overarching spirit, *bti k'sa kan k'sa*, (the god of heaven and earth) as well as many lesser spirits which govern weather processes such as wind, sun and moon, lightning and thunder. The *k'la* is not identical with the 'soul', as it can travel apart from its host, but it is linked to vitality. If a living thing becomes weak — human, animal or plant — it is believed that the *k'la* has travelled away. The human *k'la* is

believed to wander from the body during sleep or times of physical weakness, and can also be detained by spells or witchcraft. If the *k'la* becomes separated from its 'host', the host will die. To prevent this, offerings and ceremonies can be made to attract the *k'la* back to the body. *K'la* can be destructive forces, but a person will not suffer negative effects if his/her '*lso*' is in place. The *lso* is located on the top of the head and so particular care is taken to protect the head, e.g. by avoiding walking underneath a house or low-hanging tree (which may possess a dangerous *k'la*). An annual 'wrist-tying' ceremony is conducted, where a thread is tied around a person's wrist to keep the *k'la* attached to the body.

The importance of the *k'la* is reflected in dietary advice which seeks to maintain spiritual strength in times of weakness, such as pregnancy, childbirth and postnatal care. For example, a pregnant woman should avoid most 'strong' or 'hot' foods (a category that includes chilli and some meats and fishes), while some other 'strong' foods are prescribed to help recovery after illness (e.g. dog meat is believed to help recovery after childbirth and from malaria, while papaya and banana are believed to make malaria symptoms worse).

Karen animism recognizes a great variety of spirits which are dangerous to human *k'la*, and this has a direct link to community governance. Activities which are proscribed are often prohibited because they are believed to be offensive to the spirits rather than harmful *per se*, and leaders' responses are intended to appease the spirits rather than to redress the victim. Falla (1991: 246) suggests that, 'Almost any taboo, custom or prohibition in Karen life may be explained as placating the spirits. Offend them, and the crops will fail, the pigs and buffaloes will die and the people sicken.' Hayami (2004: 142) lists examples of acts that might anger the spirits: 'Extra-marital sexual liaisons, theft, fighting, conflict, gambling and speaking bad words within the community boundaries.' There are some slightly surprising exemptions to the list of prohibited acts — for example, as far as I could ascertain neither suicide nor abortion is considered to bring spiritual repercussions.¹¹ In contrast, extra-marital sex is believed to be particularly offensive to the spirits, and retribution for this offence will be imposed on an entire village or community in the shape of bad weather and failing crops.

Dispute resolution at village level was traditionally understood and is still sometimes explained in terms of 'heat' and 'cooling'. Transgressions make the land 'hot' and unstable and anger the spirits, but spiritual displeasure can be averted by making the land '*cool*' again. Managing this process requires an intermediary and in animist villages, in addition to a village chief there will be a designated spiritual leader (in Sgaw Karen, *bu kbo*) who leads spiritual ceremonies and interventions. In Karen villages in Thailand, Andersen (1981) described the role of the *bu kbo* as 'priest-like', noting that while in the past each village would have its own religious leaders, by the time of her research there were many less such leaders than in the past, with villagers travelling

instead to a neighbouring village for rituals or ceremonies. The process for cooling the land must be determined by the village *bu kbo* in each case but will typically involve an animal sacrifice and ceremony. After the ceremony has been completed, the problem is considered solved. Sometimes, negative impacts will be apparent before there is any knowledge of wrongdoing; in such a case, the *bu kbo's* task is to divine the reason for spirit retribution (tools for this task include sticks or chicken blood) and make the appropriate appeasement ceremony.

As the foregoing illustrates, spiritual beliefs, communal rites and sanctions (and in particular the need to keep the village 'cool') played an important part in maintaining social order in village societies. This 'spirit-law' was effective because it bound a village together in a shared destiny and politico-religious community. If the spirits were displeased, and not subsequently appeased, the whole community would suffer. Yet by participating in the designated rituals and ceremonies problems could be resolved and disaster averted. Village residents therefore had reason to use the existing structures as well as reason to believe in them.

Territoriality was central to these beliefs and practices, and the community interest in policing declined if acts were committed beyond the territorial reach of the local spirits. Engel and Engel (2010: 46—76) describe a similar belief system operating in Northern Thai villages, centred around household and village spirits, powerful life forces whose power is territorially rooted and declines on moving away from the 'sacred centre'. Ceremonies and offerings were made to the local spirits, with individuals appointed to manage the process and compel participation. Spiritual connections bound family members and villagers together in a spatially-defined social order and created a collective interest in redressing violations. They describe this belief system as 'the remembered law of sacred centres', a term which captures both the spiritual and territorial dimensions of this normative order.

Territoriality is similarly central to Karen understandings of community policing. Hayami (2004: 141) describes one Karen animist village as recognizing the forest beyond the village as literally lawless, where the normal rules do not apply, so, for instance, gambling, which is prohibited in the village, is permitted in the forest. Similarly, when outsiders come to a Karen animist village they may be expected to adhere to local spirit-placating practices. Several foreign visitors to Karen animist villages have described having to submit to a marriage ceremony after they stayed in a house where an unmarried man was present. Hayami (2004: 158) describes one woman — a Thai teacher — protesting that she was already married. She was told this was irrelevant; her marriage ceremony had no meaning in the village, while the local ceremony was purely to appease the local spirits and would not need to have any binding value beyond the village. This flexible understanding of the marriage contract (otherwise taken extremely seriously in Karen society, as will be explained below) is echoed in Marlowe's (1979: 74) description of

a Karen man who had been married several times but did not consider he had been ‘truly’ married because his wives were not Karen:

As long as I marry Thai girls and sleep with Thai girls it’s all right. I can divorce them or leave them, it doesn’t matter. Now one day when I am ready to settle down I will marry a Karen girl in church. But you must understand, when I do that, that’s it. I can’t ever get divorced, or leave her, or play around again. That is why I keep away from Karen girls.

This moral relativism is a pragmatic response to a very practical challenge of any community justice system, which is the ability to extend jurisdiction to those who do not choose to accept it. A similar pragmatism is apparent in spiritual practice in the refugee camps. The emphasis on ritual and sacrifice in animism is also difficult to maintain when people have no money to buy animals and extra food. If they are no longer able to observe the practices, for some people it is a relief to adopt a religion which does not require them, such as Christianity. The animist leader I met with in Mae La Oon acknowledged that he was not really able to observe the practices correctly in the camp because he was the true *bu kbo* only of his home village and not of the spirits in the camp. Though he performed key ceremonial rituals of the annual calendar as far as he was able, he viewed his role as one of preserving cultural knowledge rather than truly communicating with the spirits of the area (which would be the responsibility of a local *bu kbo*). Instead, he claimed that the Thai-Karen villages surrounding the camp performed the rituals on behalf of the camp population, including ceremonies of appeasement. So, for example, if the local villages heard of a case of adultery between refugees, they would perform a ceremony to placate the local spirits.¹²

A *bu kbo* can serve as an intermediary with the spirits, but other efforts to harness or direct supernatural forces (such as by the use of plant poisons or enchanted objects) are viewed as intensely risky, potentially returning against the person who uses them and causing sickness or death. In the past, Mason (1868: 149) wrote that if a Karen person was found guilty of having used supernatural powers, ‘it is considered a meritorious deed to put him to death’. To this day the possession of ‘evil’ objects still carries the death penalty inside Burma — a penalty which is still exacted on occasion, as in a case reported by the Mon Forum (2008), where a husband and wife were executed by DKBA forces for suspected witchcraft, though their neighbours described the man as a traditional healer and his wife as ‘just a normal person’.

In the refugee camps, witchcraft is recognized as a crime but the likelihood of prosecution is minimal as an allegation must be supported with actual evidence of possession and use of supernatural objects.¹³ The possession of supernatural objects (examples of which include an ‘evil hand’ or an ‘evil stone’) is not permitted and witchcraft will be ‘proven’ as the cause of death if an unusual object is present in the body, such as a coconut in the stomach.

This had never happened in the knowledge of my sources, though allegations of witchcraft do occasionally occur. One middle-aged woman explained to me that she had been accused by her daughter-in-law of implanting a coconut in her stomach to kill her. When the daughter-in-law visited camp medical staff, she was told that her stomach pain was caused by a gastric ulcer but persisted in the allegation. According to the mother-in-law, members of the camp social welfare department met with her family and advised them that it was not good for a family to quarrel, that they should live together peacefully. Instead, the woman's son and daughter-in-law opted to move to a different section of the camp, far away from the woman's house; this, as noted above, is a classically 'Karen' response to an intractable dispute.

The role of spirit-based belief systems in the camp has to be interpreted in light of a further layer in the governance palimpsest, that of Christianity. Most community leaders and camp committee members are Christians who are aware of the Western scorn for supernatural subjects and are embarrassed to discuss the topic. One camp leader that I asked about witchcraft dismissed the topic entirely:

In the Karen tradition, in the past we have a special law on spells. Like, if you have enough evidence, a specific item like a giant's palm or an evil stone, if you have some evidence you can be punished by special law on spells. Here, it is rarely punished. In Karen state, it is up to death penalty, it's really harsh. But here, there is not enough evidence. It is difficult to understand which item can be used for spells. It is not practical, not logical. So now, we don't even talk about that kind of law. You can't be punished for it. It's not logical. It can't happen.¹⁴

Few other Karen refugees, even other Christians, expressed such strongly rational views. In Mae La Oon, the population is overwhelmingly Christian yet the 'wrist-tying' ceremony remains one of the most widely celebrated ceremonies in the annual calendar.¹⁵ Many Christian Karen profess not to believe in spirits, but there is an almost universal fear of ghosts. When the camp leader claimed that spells 'can't happen' my research assistant was visibly shocked. After the interview I asked whether he agreed that witchcraft was not logical. His response was a pragmatic one: 'If I say I believe in spells, foreigners like you will think I'm crazy. If I say I don't believe, maybe the spirits will be angry with me. So I say — maybe. Maybe yes, maybe no.'¹⁶

Christianity

As was detailed in Chapter 2, the elite of the Karen nationalist movement are predominantly Christian and this dynamic has been incorporated into the camp environment. Christianity is a minor religion for the Karen population

as a whole but it is the dominant religion in the refugee camps, particularly in Mae La Oon. Some reasons for this were discussed earlier (see Chapter 2). Another reason for conversion can be the practical difficulties of practicing traditional animism in the refugee camps. As noted above, spirits are believed to be located in particular sites and objects. When people travel away from their home area, the power — protective and destructive — of these spirits declines. Furthermore, ceremonies of tribute or appeasement have a cost outlay that many refugees simply cannot afford. Such challenges lead some refugees to convert to Christianity, in a decision that is both logical and strategic. An example of this occurred among my own acquaintances, when a student at the school that I taught in was found to have been in a sexual relationship with a girl from a neighbouring Thai-Karen village. The girl became pregnant and the (animist) village leader demanded that the boy provide a buffalo for a sacrifice. As he could not afford a buffalo, he instead converted to Christianity and married the young woman in a Christian ceremony, thus performing the only other ritual that was capable of cleansing a pre-marital sexual relationship of its negative repercussions.

Christian missions transformed local conceptions of law and order in many of the sites where they operated, with control of sex and sexuality seen as a fundamental component of the *mission civilisatrice* (Chanock 1985; Merry 2000a). Monogamous marriage was a particular concern: in Hawai'i, missionaries campaigned against promiscuity and adultery (Merry 2000a: 19, 221—257), while in many African nations opposition was directed at polygamy (Comaroff and Roberts 1977; Hunt 1991). The impact of Christian missions on Karen sexual morality is less clear-cut. In part, this is because only a minority of Karen people were converted to Christianity. More importantly, sexual conservatism pre-dated the arrival of Christian missionaries. Indeed, it is likely that the shared importance placed on monogamy and the nuclear family is one of the reasons for the Karen receptiveness to Christianity. As was discussed above, Karen ethnic identity is tightly bound up with strict behavioural expectations and a strong prohibition against extra-marital sex. The belief that Karen people are of particularly strict moral virtue is shared by other ethnic groups, including Burmans and Thai (Cheesman 2002; Hayami 2003). Baptist missionaries among the Karen applauded the emphasis on monogamy and interpreted it as another indication that Karen people were unusually close to Christianity and a 'lost tribe of Israel' (Mason 1862: 126).

However, while Karen Christians are censorious of adultery, Karen animists are equally or even more so. As was explained above, animist 'spirit-law' sees adultery not as a crime between individuals or a sin in the eyes of God but as an act that will bring bad fortune to the entire village. This creates an incentive for policing which extends beyond the notion of individual punishment and into community self-protection. Among Karen villagers in Thailand, Hayami (2003: 120) found that animist villagers

viewed their Christian neighbours as morally lax (and were particularly appalled that pre-marital sex was not considered problematic if the couple subsequently married) and believed that abandonment of animist beliefs had lowered moral standards:

In some ways, rather than Christianity bringing sexual morals] and monogamous family to a heathen amoral society, one might say that Christianity brought in effect a deterioration of sexual sanctions based on rituals on both the communal and family levels. Ironically for missionaries, Christianity was seen from the non-Christian Karen to be the source of moral degradation.

The Karen National Union and Kawthoolei Law

Since the 1950s, the KNU has operated as the *de facto* state authority within ‘liberated areas’ of Karen State. Though the territory entailed by this has shrunk drastically in recent decades, some remnants of its ambition for a civil service remain. In the KNU governing agenda, health, education and welfare were early priorities, with law coming much later.¹⁷ The ‘Kawthoolei Law’ is modelled on the Burmese Penal Code (itself a product of the British colonial system) with courts at three levels: township, district and headquarters. Judges are appointed by the KNU and no formal training in law is required or provided, though judges I spoke with had attended a short course (between one and three weeks) of training by the Burma Lawyers’ Council. In deciding a case, judges hear evidence from witnesses and reach a decision and judgment. No lawyers are involved and a final decision is reached by the judges alone on the basis of the written KNU law. Kawthoolei Law thus represents an attempt to create a state legal system in accordance with the colonial model, including penal sanctions and a punitive rationale for policing. The elements of consensus and traditional knowledge which characterize village council decision-making are apparently absent,¹⁸ and though there is a Justice Minister, in practice higher judicial decisions are often decided by the KNU Executive Committee.

The narrow ideal of Karenness represented by the KNU elite — Sgaw-speaking, Christian — is also apparent in the administration of justice. Christianity has been a potent motivation for senior members of the KNU, particularly General Bo Mya (KNU president from 1976 to 2000), whose Seventh-day Adventist beliefs led to an increasingly hardline approach to the prosecution and punishment of extra-marital sex (Smith 1991: 393).

Even at the height of KNU authority only the most serious cases would be referred to KNU courts. Now, with very little territory and resources, KNU law has limited reach. When I interviewed a judge from KNU headquarters, he said that only two cases had been decided by that court in 2009.¹⁹ The capacity to impose penal sentences has also decreased with losses of

territory. Instead, an offender may be sentenced to work for the KNU or KNLA troops for a fixed time of months or years, where they may have to assist with cooking, pottering and other 'support' activities. In particularly serious cases, execution may be ordered. I was told of this occurring in a case where a young girl had been badly beaten and raped but it is also a possible penalty in cases of murder and of spying or informing.

Given the limited reach of KNU law, village leaders remain the first point of action for any dispute with a possibility of referral of more serious cases to the KNU. Both systems are susceptible to corruption, as one person from Mu Traw district explained:

I think KNU justice is better than village. Because the village leaders, they are not educated. They give a punishment, if it is their relative, they do not punish. But also, KNU are the same, [laughs] If someone does a mistake and they belong to their organization, they do not punish. The same! It's not fair.²⁰

Elites in power tend to construct legal systems that protect their own interests (Starr and Collier 1989; Chanock 1985; Moore 1989) and in this the KNU is no different. In 1992, *New Yorker* journalist Jon Lee Anderson spent time with KNU members and KNLA troops inside Karen State. It was already apparent that the KNU's territory and authority was slipping and that Karen society was entering into a time of flux, when increased contact with new authorities and external forces would change the parameters of the society. Pointing to practices of recruiting prisoners into the KNLA and the execution of adulterers Anderson (1992: 194) concluded that, 'The KNU's administration has become less equitable the more desperate the situation has become'. A more recent example was given to me by an interviewee, who described an incident where two villagers were arguing over the ownership of a honey tree. On appealing to the local KNU commander to resolve the problem, he promptly declared the tree to be the property of the KNU.²¹

The role of the KNU in the refugee camps is discussed in Chapter 5. Refugee leaders assured me that the KNU has no jurisdiction over cases between refugees but can only deal with cases involving KNU members or people living in KNU controlled areas. One KNU judge explained that 'Our leaders say, do not disturb the camp. They do not belong to us, they belong to the NGOs [. . .] the refugee camps have KRC law, not KNU law'.²² However, until 2011, the KRG camp rules and regulations clearly stipulated that certain offences (including murder, weapons possession and espionage) should be sent to 'the mother organization'. In addition, camp leaders still recognize KNU jurisdiction if the offences were committed inside Burma; so, for example, during my fieldwork a woman from Mae La Oon was summoned to a KNU court inside Burma to give

evidence against her adulterous husband. He was sentenced to five years in prison.

'One husband, one wife': perceptions of harm in policing adultery

The previous sections have outlined several frames of governance that have influenced Karen refugees. However, while rationales for policing and governance have repeatedly shifted from pre-colonial times through to the patrimonial present, it is less clear how much change has been effected on underlying beliefs and perceptions of crime and harm.

As mentioned above, the conservative values of Karen society have been commented upon since the first missionary contact (Marshall (1997 [1922]: 192, 287; Hayami 2003: 112). Sexual activity before marriage is utterly prohibited and the boundaries of forbidden activity are drawn very broadly to include essentially any private contact between a single girl and an unrelated man. In the past, this could lead to banishment from the village or community and even today in many Karen villages a young couple who are known to have been alone together will be expected to marry, subject to the decision of their parents and the village leaders. As one person told me, 'it's probably impossible to calculate how many young people have been forced into marriage for being seen alone together.'²³

The phrase 'one husband, one wife' was repeatedly used to describe Karen beliefs and the prohibition against adultery. This was also described as including bigamy:

Then we have our traditional law. Old law, law that came from our parents' parents' parents. For example, that one husband can have only one wife. He cannot take a second wife when his first wife is still alive. This is our tradition, it came from our old parents.²⁴

However, Mason (1868) had described the practice of 'concubine wives' (a second wife married while the first wife is still alive, with all spouses living together) as permissible where both women agreed, the village leader granted permission and a ceremony was conducted to appease the spirits. When I asked people in the refugee camps whether they had ever heard of or encountered a case where a man had two wives simultaneously, several people described cases from their villages where this had occurred and even claimed that the practice was only stopped after the introduction of KNU law. One Karen leader agreed that in the past village leaders had been able to sanction 'concubine wives' but said this had happened only in some areas and only in a few cases. The KNU ended the practice by strong enforcement mechanisms. Between 1981 and 1985, he said, 'they had to shoot a lot of people'.²⁵

Whether or not many people were in truth executed for the offence, it seems that in relation to bigamy, the language of tradition was manipulated to engineer desired social reforms (a familiar pattern in legal anthropology, e.g. Starr and Collier 1989). The converse is true in relation to the policing of adultery, where the language used to justify its prosecution has changed repeatedly but the underlying perception of harm has remained constant. Adultery is the most important policing concern of Karen leaders and the KNU, and is arguably the area which leads to the most unjust and disproportionate penalties. This is not a recent concern: as was explained above, adultery has been taken very seriously by Karen leaders since pre-colonial times.

For Karen animists, the prohibition of adultery was inspired by the belief that extra-marital sex was offensive to local spirits, who would punish the community by bad weather, crop failure and poor harvests. Thus, though adultery was a private offence it had collective repercussions and the community had a shared interest in policing it. Wrongdoing may be inferred from the consequences; so, if crops fail it is apparent that the land has become 'hot' and the spirits are displeased. Then, the spiritual leader must take steps to determine what has occurred and to cool the land. The village leader and elders would determine the punishment for adultery, and so had some latitude in sentencing, but penalties were often very harsh. Descriptions of the responses to adultery include banishment, death by poisoning, public humiliation (e.g. to be made to eat from a dish on the floor like a dog, or to be stripped naked and chased around the village), compensation in the payment of money or food; and ritual (in the sacrifice of a chicken or buffalo and performance of prayers) (Marshall 1997 [1922]; Drum Publications 2006; Falla 1991: 260).

In the Kawthoolei Law drafted by the KNU, adultery was a capital offence. Anderson (1992: 175) has suggested that the KNU rarely enforced this penalty and only did so during the 1980s as a pragmatic response to poor morale and defection from the front lines following a spate of spousal betrayals: in the words of the KNU Chief Justice of the time, 'Excessive mistresses is death. Just one mistress is usually ten years'. My own interviewees told me that execution for adultery continued well into the 1990s. Even where the death penalty was not imposed, adultery was still a very serious crime which could lead to a lengthy prison sentence, exile from a community or expulsion from the KNU/KNLA (though in recent years the punishment was more likely to be conscription *into* the KNU/KNLA, in an effort to provide resources for the struggling army). A Karen village prison visited by Falla (1991: 260) held twenty male prisoners of whom three were jailed for murder and seventeen for adultery. Of four female prisoners, one had been jailed for pre-marital sex and three jailed for adultery — with the latter group all receiving sentences of between ten and fifteen years.

Of course Karen society is not unique or even unusual in the seriousness with which fidelity in marriage is approached. Sex is a crucial area of regulation

in almost all societies and adultery is frequently one of the most serious sexual offences (Donnan and Magowan 2010: 7; Berkowitz 2012). A review of prohibitions of adultery in ancient legal orders (Murray 1961) found that common rationales for policing the offence were as a violation of the husband's property right in his wife, or as a possible corruption of a family bloodline (which again shows a clear link to property and inheritance). From the earliest appearances in legal codes, male and female offenders were treated differently. As Berkowitz (2012: 20) writes, 'Virtually nothing consumed ancient lawmakers more than female infidelity, and very few crimes were so severely punished'.

Interestingly, neither a property rationale nor gendered enforcement is apparent in Karen society. Historically and presently both partners are punished equally (though as there is no detention site for women in the refugee camp the man will often receive a sentence of detention while the woman may be required to spend an equal amount of time working for the KWO). The core value at stake seems to be protection of the family unit rather than inheritance, property or lineage.²⁶

When I asked Karen refugees why adultery should be punished, some mentioned the traditional belief that adultery displeased the spirits and would cause the land to become dangerously 'hot', when it must be 'cooled' by special prayers and ceremonies. More frequently my respondents mentioned emotional harm and disruption to the family, including to children of the marriage(s). This emotional harm was recognized as real and at least as serious as the harm suffered by a victim of theft or assault. Adultery was also seen as a root cause of other social harms, including domestic violence, divorce and potential alcohol abuse or addiction. Finally, and most compellingly for most of my interviewees, was an argument from custom. It was important to punish adultery because 'we are Karen' and because the Karen tradition is to have one spouse for life, 'one husband, one wife'.²⁷ Respondents occasionally mentioned a Christian rationale for punishment, such as one member of the KRC who suggested that the camp justice workers were proxies for Divine retribution:²⁸

In our Karen culture we cannot give money [as redress for adultery]. They have been married in a church with a Pastor. They have agreed to the system of one husband, one wife. They pray to God and so maybe if they make a problem God will punish them. But God cannot punish them directly — so the people in the camps, the camp leader and camp committee should make punishment for them.²⁹

In the refugee camps, adultery is still treated as a serious transgression but in comparison with the executions and twenty-year prison sentences imposed inside Burma the sanctions are relatively lenient. In 2009, camp justice in Mae La Oon dealt with seven cases of adultery and one of sexual 'misbehaviour' of 'hugging and kissing'.³⁰ The standard punishment for cases of adultery was

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a sentence of three months detention for the man, two months detention for the woman and a fine of between 500 and 1000 baht each. The term of detention could be reduced or avoided by paying an additional fine of 500 baht for every month sentenced. In principle, adultery is not actively policed but will only be dealt with if there is a complaint, which is usually made by a wronged spouse. Nevertheless, adultery was one of the most commonly policed cases in the camp.

The centrality of adultery to camp policing practices has been challenged by international agencies, including UNCHR and the IRC. The position of these agencies has been that the rules of the refugee camp must conform with Thai law, and as adultery is not a crime in Thai law it should not be treated as a crime in the refugee camps either.³¹ After some years of negotiation (see Chapter 6), this position has been defined in a set of 'Mediation and Dispute Resolution Guidelines' for the refugee camps:

Under the Thai law, adultery is not a crime therefore a person should never be held in detention if s/he has committed adultery or has been accused of adultery. Based on shared community values, camp justice shall encourage and, if possible, restore good relations between the spouses involved in an adultery dispute.³²

A mediation or group conferencing approach is envisaged, with possible outcomes including a promissory note, counselling, compensation, community service, religious teaching or moral and ethical instruction from the camp leaders, or divorce.

This de-criminalization of adultery has not yet been applied in all nine border camps, but its prospect provoked strong reactions from community organizations and refugees as a direct challenge to culture, tradition and the prevailing moral order:³³

If we look at Thai law, sometimes it's not the same as our culture. It seems like they don't value our culture. If we let this happen, more adultery will happen. Even though we stay in Thailand, every ethnic group has their own culture, values and expectations. For Karen, we practice only one husband, one wife.³⁴

In our Karen tradition it is one husband, one wife. So our tradition is becoming lost.³⁵

Notes

- 1 Two cases illustrate the extreme variation in responses to social problems. One interviewee told me of an incident in her home village near Pa'an (the capital of

Karen State) where a Burma Army soldier offered a bag of rice in compensation for raping an elderly woman (and this was considered an exceptional concession of responsibility). Another described a case in Karen State where villagers lynched and murdered someone for 'anti-social and loutish behaviour'.

- 2 Interview #74, Mae La Oon, 20 February 2010.
- 3 Interview #81, Mae La, 6 March 2010.
- 4 Winton and Brown (2005) note that Rangoon Central Jail (no longer in operation) and Insein Prison (still the most feared prison in Burma) were both constructed according to the 'Pentonville model' of wings radiating from a central hub, permitting the categorisation and separation of prisoners. However, some continuity was preserved between precolonial and colonial disciplinary practice, including the use of convict labour and reliance upon convicts as jailers. These elements permitted some undermining of the prison's hegemonic force as jailors were susceptible to bribery and manipulation, thus allowing prisoners some leverage to improve their conditions of confinement.
- 5 Bghai or Bwe is a sub-group of Karen ethnicity, with its own distinct language but recognized as part of the larger Karen 'family'.
- 6 These values are all apparent in proverbs emphasizing respect for parents ('if your children and spouse die, you can find new ones; if your parents die, they are gone forever); social hierarchy ('an arrow is good to shoot; the young are good for asking to do things') and peaceful co-existence ('silent flatulence spreads widely, whispering creates traps'). Proverbs available in both Sgaw Karen and English translations at www.drumpublications.org (accessed 10 August 2013).
- 7 Interview #82, Mae La, 6 March 2010.
- 8 Translated by Zion Lay. The page reference is to the Sgaw Karen original. This description of the 'Karen' philosophy of justice was echoed by several of my interviewees. See further Chapter 6.
- 9 Field notes, 30 January 2010.
- 10 The original phrase occurs in Geertz 'Notes on the Balinese Cockfight', summarizing the centrality of the cockfight to Balinese culture: 'Its function, if you want to call it that, is interpretive: it is a Balinese reading of Balinese experience, a story they tell themselves about themselves,' Thus, the 'story' he has in mind is performative rather than narrative.
- 11 Abortion is certainly perceived as 'bad' — but as a social or legal rather than spiritual problem. Karen refugees perceived suicide as a risk in situations which appeared trivial to me, such as rejection of a courtship advance or public embarrassment. It is perhaps relevant that a study comparing twenty-one of the world's richest societies found suicide to be the only social ill which occurs more frequently in egalitarian societies than in non-egalitarian societies (Wilkinson and Pickett 2009).
- 12 Interview #68, Mae La Oon, 30 January 2011.
- 13 Witchcraft accusations and their implications for refugee protection are considered in Schnoebelen (2009).
- 14 Interview #88, 7 March 2010.
- 15 A good indication of how this is rationalized by Christians is provided in a short video produced by Karen News (2013a) which shows the wrist-tying ceremony taking place in Mae La camp. Though this is a core animist ritual, it is described

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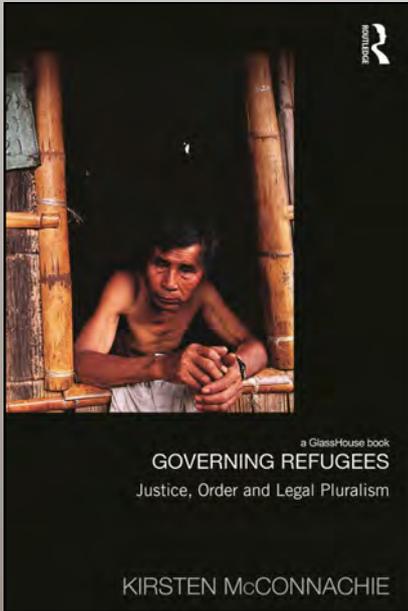
- by refugees in the video as a cultural event, passed down from Karen ancestors, celebrating the unity of the Karen people. In this way, the event is stripped of its religious meaning and replaced with an important political message.
- 16 Field notes, 7 March 2010.
- 17 The first codification of a Kawthoolei Law took place in the mid-1970s, in a document prepared by leading members of the KNU, including Htoo Htoo Lay, a Rangoon-educated lawyer who still holds a senior role in the KNU Executive today.
- 18 As my research was based entirely on the Thailand side of the border, I was not able to witness any KNU court practice, and this summary is based on interviews with judges and with villagers from KNU areas.
- 19 Interview #83, 6 March 2010.
- 20 Interview #6, 14 January 2009-
- 21 Interview #105, notes from phone interview, 1 September 2010.
- 22 Interview #82, 5 March 2010.
- 23 Email, 2 November 2010. This strict approach could be interpreted as protecting women (by ensuring that a man who has sexual contact with her will marry and provide for her and any children they have) but the social taboo of pre-marital contact is also susceptible to manipulation, as one interviewee explained: 'I think that if you ask [our] students, especially the ones from Brigade 1, they see this a lot. They say — "Oh, when we stay in our house we have to shut our door and be very careful, because if that man likes you he will come and attempt to rape you at night and then your mother will ask you to marry that man straight away.'" Interview #4, 11 January 2009-
- 24 Interview #41, 1 May 2009-
- 25 Field notes, 12 March 2010. I was told of one relatively recent case of a man inside Karen State who had been arrested for having two wives. He pleaded that he had married his second wife before the law was written and so was allowed to keep both wives - but the village was warned that any subsequent cases would be charged with adultery, as a crime carrying the death penalty. In the same village, a man who was married to two sisters was punished by being exiled to another part of Karen State, though not formally prosecuted. Interview #105, 1 September 2010.
- 26 In other respects too, Karen conventions do not emphasize property rights in spouses or children. For example, lineage patterns are unusually short: there is no 'family name' shared between spouses or passed on to children and therefore no way of connecting family members other than personal knowledge of a blood relationship. However, blood relationships are meaningful for inheritance. According to Karen traditions of inheritance, if one parent dies, their children will inherit his/her property. Even if the surviving spouse later remarries and has further children, the children of the new marriage have no claim on the property of the first spouse (Drum Publications 2006).
- 27 Even if a spouse dies, it was necessary at one time to conduct a ceremony before the surviving spouse was permitted to remarry. This is no longer done in every case, but the ritual is still recognized. In 2009, a couple were arrested by the Camp Security staff in Mae La Oon for remarrying after a divorce (the same spouses were involved in both marriages) without requesting administrative permission for the remarriage. They were detained for one month before being

- permitted to remarry. When I returned to Mae La Oon in 2012, this case was referred to by several interviewees as a reason why divorces should not be granted.
- 28 Churches also play a role in opposing adultery, through a managed process of confession, repentance and forgiveness: 'If you belong to a church and if you commit adultery, you have to go [. . .] Normally you have to write a letter, and the Pastor will read it out in the church, in the whole church during that service, and you are asking to leave. And in another week or month, that depends on you, if you want to come back and be in the church members, then you ask for acceptance and forgiveness and again they will read out the letter from you, and then you have to come up yourself in front of the church and then they will shake hands with you and welcome you back into the church.'
- 29 Interview #93, 12 March 2010.
- 30 The breakdown of cases is as follows: 21 alcohol; 1 drugs; 7 adultery; 1 sexual misconduct; 1 disobeying camp rules; 3 stealing; 1 stealing teak/wood; 1 stealing rations. In the same year, camp security recorded 89 incidents involving 246 individuals. Incidents not referred to the camp justice team included cases of drunkenness, fighting, breach of curfew, disputes with security staff and wearing military uniform. These case records should not be understood as a definitive picture of dispute resolution in Mae La Oon: many more cases are solved at section level than at camp level, and some cases are also resolved by other departments of the camp committee, such as social welfare.
- 31 Though the UNHCR/LAC approach to policing adultery is consistent with Thai law there is some precedent for recognizing adultery as a crime in refugee camp policing. In Sierra Leone, UNHCR developed camp by-laws in conjunction with the refugee population. UNHCR initially refused the community insistence that witchcraft and adultery be punishable crimes, but conceded when it was apparent that the entire process would be rejected otherwise 'and the potential rejection by the refugees of the by-laws on these issues would push witchcraft and adultery outside the agreed system and impair UNHCR's role to monitor and influence the proceedings' (UNHCR 2006c: A4). The primary distinction between this example and the situation in Thailand is that Sierra Leonean law recognized witchcraft and adultery as criminal, and thus there was no contradiction between the camp law and the national law. The primary argument against recognizing adultery as a crime in the camps in Thailand would therefore seem to be one of protecting state sovereignty rather than protecting human rights standards.
- 32 Guidance Note 10, Mediation and Dispute Resolution Guidelines (copy on file with author).
- 33 Interview #139, Mae La, 24 April 2012.
- 34 Interview #153, Umpiem Mai, 26 April 2012.
- 35 Interview #156, Umpiem Mai, 27 April 2012.

Governing Refugees

Justice, Order and Legal Pluralism

Kirsten McConnachie



Refugee camps are imbued in the public imagination with assumptions of anarchy, danger and refugee passivity. *Governing Refugees: Justice, Order and Legal Pluralism* marshals empirical data and ethnographic detail to challenge such assumptions, arguing that refugee camps should be recognised as spaces where social capital can not only survive, but thrive.

This book examines themes of community governance, order maintenance and legal pluralism in the context of refugee camps on the Thailand-Burma border. The nature of a refugee situation is such that multiple actors take a role in camp management, creating a complex governance environment which has a significant impact on the lives of refugees. This situation also speaks to deeply important questions of legal and political scholarship, including the production of order beyond the state, justice as a contested site, and the influence of transnational human rights discourses on local justice practice.

The book presents valuable new research into the subject of refugee camps as well as an original critical analysis. The interdisciplinary nature of McConnachie's assessment means *Governing Refugees* will appeal across the fields of law, anthropology and criminology, as well as to those whose work directly relates to Refugee Studies.

"At last, recognition of the unique community-based refugee camp management model developed on the Thailand border. McConnachie's insightful research challenges common perceptions of refugees as powerless victims and of refugee camps as dangerous places lacking normal social structures. It also shows that on this border, trust well-placed has built strong community structures with potentially crucial roles to play in refugee return, reintegration and reconciliation in Burma. Academically rigorous, the analysis nevertheless displays deep understanding of the practical challenges of humanitarian responses in politically complex situations. This book makes an important contribution to refugee assistance and camp management policy debates."

Jack Dunford MBE, Executive Director, The Border Consortium 1984 to 2013

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