

HUMAN RIGHTS AND BOLIVIA'S PLURALIST LEGAL SYSTEM

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The 2006 election of Evo Morales as Bolivia's president signified a changing reality in the country. Considered the country's first indigenous president, Morales represented the hope of many indigenous activists that their goals of expanding indigenous rights could be achieved.¹

In many ways, their dreams were fulfilled. In 2009, Bolivia rewrote its constitution, formally naming itself the Plurinational State of Bolivia and undergoing significant decentralization.² As part of the government decentralization, the new constitution greatly expanded the autonomy afforded to indigenous groups, empowering significant self-governance.³ Article 190 of the constitution, which addresses indigenous rights most clearly, reads:

I. The nations and native indigenous rural peoples shall exercise their jurisdictional functions and competency through their authorities, and shall apply their own principles, cultural values, norms and procedures.

II. The rural native indigenous jurisdiction respects the right to life, the right to defense and other rights and guarantees established in this Constitution.⁴

The official recognition of indigenous "principles, cultural values, norms and procedures" created a system in which indigenous law is placed on equal and parallel footing with what I will refer to as "ordinary law," Bolivia's codified legal system. Indigenous groups have full autonomy in practicing their own legal traditions and carrying out their own punishments, so long as they do not cross the boundaries articulated in the second clause. However, the reform

¹ Caroline Stauffer, "Native Peoples Sour on Morales, Bolivia's First Indigenous President," Reuters (Thomson Reuters, August 24, 2018).

² Herbert S. Klein, *A Concise History of Bolivia* (New York, NY: Cambridge University Press, 2011), 291.

³ Ibid.

⁴ Max Planck Institute, tran., "Bolivia (Plurinational State of)'s Constitution of 2009," Constitute Project (Oxford University Press, August 12, 2019), 57.

has met pushback within the country and outside it, with some expressing fears that a dual legal system could lead to human rights abuses, either through overly violent punishment or a lack of due process.⁵ However, first-hand accounts from the indigenous communities impacted by the constitutional changes indicate that granting indigenous law the same value and weight as ordinary law has enabled often rural, remote communities to work for reconciliation and justice when crime takes place.⁶ Bolivia's bifurcated legal system, while presenting potential challenges for federal oversight, empowers indigenous communities whose legal needs have often been dismissed because of discrimination or geography.

The Fight for Indigenous Legal Rights

Throughout the twentieth century, Bolivian society has undergone drastic changes. Although poverty has remained persistent in the country, education, health and indigenous rights have undergone massive amounts of progress.⁷ Bolivia is home to approximately 11 million people,⁸ and 44 percent identify with one of the 36 recognized indigenous groups of the Andean country.⁹ The majority are Quechua or Aymara, but there is also a significant Guaraní population.

Indigenous groups of the Andes have faced discrimination and oppression since the early days of the Spanish conquest. Indigenous groups were disenfranchised for most of Bolivian

⁵ James M Cooper, "Legal Pluralism and the Threat to Human Rights in the New Plurinational State of Bolivia," *Washington University Global Studies Law Review* 17, no. 1 (2018).

⁶ Inti Schubert, "Sistemas jurídicos indígena originario campesinos en Bolivia" (Deutsche Gesellschaft für Internationale Zusammenarbeit, November 2012).

⁷ Klein, *A Concise History of Bolivia*, 285.

⁸ "The World Factbook: Bolivia," (Central Intelligence Agency, February 1, 2018).

⁹ "Indigenous Peoples in Bolivia" (International Work Group for Indigenous Affairs).

history, and only received the right to vote effectively once the literacy requirement was dropped.

The subjugation of indigenous groups in Bolivia played a crucial role in the development of its indigenous resistance groups who ultimately paved the way for the Estado Plurinacional de Bolivia, as the country is formally known today. Bolivia's status as a nearly half-indigenous country helps explain why indigenous groups feel that equal and parallel indigenous law is necessary in the state. The country has long had a relatively split judicial system, but it was never codified or formalized in the past. Indigenous communities simply pursued their own justice as necessary, but this led to concerns about vigilante justice as well as long-standing frustrations with the inherent colonization of the justice system.¹⁰

The 2009 reform granted Bolivian indigenous groups full political and judicial autonomy, within the bounds of the constitution. Despite Bolivia's large indigenous population, the indigenous rights reforms of the last decade have been met with resistance from the country's elites and some mestizos throughout the western and eastern parts of the country.¹¹

Indigenous law is historically and culturally an oral tradition, passed down from one generation to the next. Indigenous law emphasizes the role of the community, and the gravest punishment under indigenous law is typically an exile from the community. Generally speaking, indigenous communities have historically pursued jurisdiction over incidents that occur within their own communities, when both parties are members of that indigenous group. The legal norms can protect areas that are not addressed or criminalized in Bolivian civil law, like adultery,

¹⁰ Peter Strack, "Bolivia's Pluralist Justice System Combines State and Indigenous Law," *Development and Cooperation* (Engagement Global, August 12, 2019).

¹¹ Waskar Ari, *Earth Politics: Religion, Decolonization, and Bolivia's Indigenous Intellectuals* (Durham, NC: Duke University Press, 2014), 180.

which can be punished in many indigenous legal systems. Reconciliation and rehabilitation of community members, in order to promote community harmony, is a key goal of indigenous justice. Offenders are ideally reincorporated back into the community, having been reeducated on community norms.¹²

Vigilante lynchings and mob attacks, on the other hand, are not a key goal. The Western media has painted Bolivia's system as enabling "barbaric" indigenous justice, while often missing the main idea of indigenous justice.¹³ While exile, shamings, lashings or exposure to the outdoors are potential punishments under indigenous law, the death penalty is not typically allowed and cases such as lynchings are likely occurring extrajudicially. Although indigenous community members may be involved, it is highly unlikely that it killing someone with a mob would take place in the name of the community.¹⁴

The 2009 Constitution: *Refundar Bolivia*

A key promise of President Evo Morales' campaign was a new constitution to create a significantly more decentralized and pluralist state. Delegates for a constitutional convention were elected in 2006, separately from the national congress. The Constitutional Convention Assembly was much more representative than the congress at the time, with 56 percent of delegates identifying as belonging to an indigenous group, nearly half of the delegates under 40 and 34 percent were women.¹⁵ "No estamos hablando de una simple reforma constitucional,

¹² Strack, "Bolivia's Pluralist Justice System Combines State and Indigenous Law."

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Klein, *A Concise History of Bolivia*, 291.

estamos hablando de refundar Bolivia,” Morales said about the Constitutional Convention.¹⁶ The constitutional process was controversial, but the new constitution was ultimately written in 2008.

Bolivians approved the new constitution in 2009, and it went into effect in 2010.¹⁷ The constitution decentralized the government, reinforcing departmental, regional, communal and municipal authorities. It expanded the power of the executive, made voting for all adults 18 and older obligatory and enacted vast changes to affirm the traditions and norms of the indigenous population of the country, which is a majority.¹⁸

The 2009 constitution declared the respect, dignity and recognition of the rights of lowland and highland indigenous communities, as well as Afro-Bolivians, as crucial for state policy. The official state languages were declared to be Spanish and the 37 indigenous languages most commonly spoken in the country, mandated national and local governments to use Spanish and a common indigenous language and guaranteed traditional communal land rights for indigenous groups.¹⁹ The list goes on, but one of the most crucial changes to the constitution regarding indigenous rights is that legal pluralism was formally established for Bolivia.

Articles 190, 191 and 192 of the constitution declare that communal indigenous justice must be respected and upheld in Bolivia, as long as it does not contradict ordinary justice, the national civil and criminal legal system.²⁰

Indigenous people are empowered to create their own political, legal and economic systems according to the 2009 constitution. The bifurcated legal system, however, poses key

¹⁶ EFE, “Bolivia Inaugura Asamblea Constituyente Que Pretende Refundar El País” (El Universo, August 6, 2006).

¹⁷ Klein, *A Concise History of Bolivia*, 291.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ Max Planck Institute, tran., “Bolivia (Plurinational State of)’s Constitution of 2009,” 57-58.

legal questions for the country as it continues to develop a system that will respect indigenous rights, human rights and appropriate and clear legal jurisdiction. The constitution recognized long-standing legal traditions among indigenous groups, empowering these communities to create their own territorial units that can ultimately become districts, municipalities or sub-regions. Each of these territorial units comes with its own legal jurisdiction, enabling indigenous groups to potentially adjust their level of control over their region as is seen fit.²¹

Pluralism and Human Rights

Concerns about indigenous justice's possible threat to human rights in Bolivia does not exist without reason. Community authorities who oversee judgement are often in charge of multiple areas of life, "reducing the separation of powers to a historic relic," according to James M. Cooper.²² Furthermore, there are concerns that lashing and other forms of corporal punishment are common, and that women's rights could be threatened by legal pluralism.

Cooper cites a particularly notable example of an extrajudicial lynching, "when hundreds of indigenous peasants attacked and looted the home of Victor Hugo Cárdenas, an Aymara intellectual and former Vice-President of Bolivia."²³ This case is taken as an example of supposed dozens of cases of mob violence occurring in the name of legal pluralism.

However, as indigenous community leaders describe for themselves, mob violence is never a community-sanctioned result of a traditional legal process. Most frequently, the resolution of an indigenous legal process is financial restitution (sometimes in the form of goods

²¹ Klein, *A Concise History of Bolivia*, 292.

²² Cooper, "Legal Pluralism and the Threat to Human Rights in the New Plurinational State of Bolivia," 9.

²³ *Ibid.*, 9-10.

rather than cash, but restitution nonetheless) or a public apology. When mob violence does occur, it is taking place outside of the system of indigenous justice. Indigenous communities using mob violence as an extrajudicial punishment is just that—extrajudicial. Lashings are not an unlikely outcome, to be sure, but are used sparingly and only in cases where non-violent punishment is impossible. Additionally, as Strack notes in his rebuttal to concerns about human rights and legal pluralism, “It is important to note that whipping is not a traditional indigenous punishment in that area. Powerful landlords introduced it to the region in the 19th century, and the local people eventually adopted the practice. Previously, people who had committed serious crimes were banned from community life.”²⁴ While the history does not inherently justify lashings, this reality points out that it is not an ancient practice nor a frequently applied punishment.

Women’s rights do present a more legitimate and serious concern regarding human rights and legal pluralism in Bolivia. While many indigenous leaders discuss the importance of balance in the law, including gender balance, in various interviews, many indigenous communities are patriarchal, and punishment for adultery does present some concerns for women in particular. However, I argue that the greater issue is the state of women’s rights in Bolivia as a whole. When women face subjugation and violence across an entire political community, smaller denominations of the community will confront the same problems. Bolivia has made significant progress over the past 20 years toward institutionalizing women’s political involvement, and women held 50 percent of the seats in municipal assemblies as of 2015.²⁵ Discrimination and

²⁴ Strack, “Bolivia's Pluralist Justice System Combines State and Indigenous Law.”

²⁵ Paola Flores, “As Women's Roles Expand in Bolivian Politics, so Do Attacks,” AP NEWS (Associated Press, August 25, 2018).

violence remain common, however, as is the case for women in many Latin American countries. Moving forward, Bolivia must confront how indigenous justice can both empower local communities and the women that live within them.

Punishment in Legal Theory

The philosophical purpose and legal efficacy of punishment is an issue that has been explored since the dawn of legal systems itself. Philosophers, lawyers and other scholars have asked whether legal punishment is justified at all, and if so, to what extent, and continue to struggle with the question today. Punishment itself is intended to be burdensome and condemnatory, and is applied as a consequence for behavior criminalized by the state.²⁶ “Crimes are socially prescribed wrongs,” according to the Stanford Encyclopedia of Philosophy, and are a matter between the defendant and the whole political community. While the exact philosophical aim of punishment continues to be debated (as do all things in philosophy), three major views see punishment as a way to reduce crime, an “intrinsically appropriate” response to crime or as a communicative tool that morally responds to crime.²⁷

There is a fourth mode of thinking about punishment that believes that the goal of action taken by the political community as a consequence for crime should be restoration. Restorative justice seeks to repair the harm that has been done and the relationship between the victim, offender and greater community. This mode of thinking, which focuses on mediation and reparation, appears to be most similar to the ideology that underpins indigenous legal systems.

²⁶ Antony Duff and Zachary Hoskins, “Legal Punishment,” Stanford Encyclopedia of Philosophy (Stanford University, July 18, 2017).

²⁷ Ibid.

Indigenous law in Bolivia is primarily aimed at promoting community harmony, respect for life and reconciliation.

Western thinking about legal systems is often intertwined with ideals of human rights, a relatively recent development. Human rights as a codified set of principles—in particular, the United Nations Universal Declaration of Human Rights—is a vastly important development for protecting human life and dignity.²⁸ Simultaneously, Western political and legal thought is often predicated on the importance of the individual; individualism and the protection of the individual, rather than the community, is the foundation of Western legal systems. Indigenous legal systems differ from this mode of thinking, in that protection of the community is central. This does not inherently indicate that life is not protected or dignified through indigenous legal systems. However, Western scholars have raised concerns that the bifurcation of Bolivia's legal system presents a threat to human rights.

Punishment in Indigenous Legal Systems

In a system committed to maintaining the fabric of a community, punishment serves a more complex purpose than moral retribution or a deterrent. The complexity of the legal systems of three different Bolivian indigenous communities is described in a report on the indigenous juridical systems of campesinos in Bolivia by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). This report presents three cases across the country: the Aymara of Curahuara de Carangas, the Quechua-Aymara people of Sacaca (Potosí) and the Guaraní people of Capitanía Charagua Norte (Santa Cruz).²⁹

²⁸ “Universal Declaration of Human Rights.” United Nations.

²⁹ Schubert, “Sistemas jurídicos indígena originario campesinos en Bolivia,” 17.

A frequently cited concern of critics of indigenous justice are the limits on due process and judicial integrity.³⁰ Judges are often also municipal authorities, and there is no enshrined right to appeal. While these are certainly valid concerns, information gathered about indigenous practices demonstrates the detail and depth of legal customs in these three indigenous communities. Indigenous legal traditions are not acted upon by whim; they have institutionalized norms and structures that govern how and by whom the law is applied. There are a range of systems of authority for indigenous legal systems, and there are clear rules that govern who is eligible to be a community authority.

Every indigenous legal system has its own sets of values, although there are significant similarities between each legal system. Values that form the basis of indigenous justice include harmony, reconciliation and respect for life, among others.³¹ These values are seen throughout the legal process, as indigenous authorities strive for nonviolent punishments, community peace and the rebuilding of intercommunity relationships.

Punishments applied for various crimes include a defendant who performed field labor as a form of community service, a defendant who paid for medical costs incurred as a result of a physical assault, a defendant who was given three whip lashes as a result of stealing llamas and a defendant who paid a fine as a punishment for a public fight.³² The report outlines several example cases for each region; these highlights are relatively representative of the types of cases overseen by indigenous legal authorities. The cases typically involve domestic disputes, are resolved nonviolently and focus on reducing harm and restoring harmony to a community.³³

³⁰ Ibid., 22.

³¹ Ibid., 19.

³² Ibid.

³³ Ibid., 19.

Why Does Indigenous Justice Work?

The system of norms and example cases described in the GIZ report point to the complexity and value of indigenous legal systems. Of course, the strongest advocates for the value of indigenous legal systems are indigenous people from across Bolivia. In my research, I viewed a range of videos in which indigenous people and leaders describe the function and importance of traditional law in their communities. Three videos in particular stuck out as lending a unique perspective to the significance of indigenous law for their communities: “Diálogo entre justicias - justicia indígena originaria campesina y justicia ordinaria,” “Justicia indígena originaria” and “Justicia comunitaria en Bolivia.” Each video presents a different perspective on indigenous law, but in all videos, indigenous leaders and community members are present, explaining their customs and values.

Diálogo Entre Justicias

In the first video, “Diálogo entre justicias,” proponents and opponents of permitting indigenous law to coexist with ordinary law present their points at a roundtable organized by the Fundación TIERRA, a Bolivian NGO focused on land reform and indigenous rights.³⁴ The roundtable took place on June 25, 2016. While the video emphasizes the perspectives of the indigenous representatives present, the leaders from ordinary justice systems hone in on recordkeeping and procedure as their primary concerns with the bifurcated system. Rather than worrying that human rights abuses are taking place within indigenous communities, as some

³⁴ *Diálogo Entre Justicias - Justicia Indígena Originaria Campesina y Justicia Ordinaria (ES)*, YouTube (Fundación TIERRA, 2017).

Western scholars have proposed, the Bolivian ordinary justice representatives are more concerned with the potential lack of systematization in indigenous justice traditions. Cinthia Armijo, the magistrate for the Tribunal Agroambiental, expresses her fear that purely oral tradition can lead to an unjust process or even simply a lack of records. “Nosotros también necesitamos algo escrito. Cuando todo va a ser oral, no tiene todo el desarrollo normativo que tiene el procedimiento civil, por ejemplo,” Armijo says. She continued to discuss how systems of indigenous justice may be faster than ordinary justice, but that in doing so, due process is lost.

However, the indigenous members present argue that one of the strongest benefits of state-sanctioned indigenous justice is that bodies of ordinary justice—police, prosecutors and other public entities—often leave indigenous groups and regions behind. For indigenous communities living in remote, rural villages, indigenous justice is the only justice that is effective. Martha Cabrera, a member of the Nación Qhara Qhara, explained how her indigenous nation oversees justice in her community. “En mi territoria, no conocemos jueces, ni ordinaria, ni policia, ni fiscalias. En los tres ambitos, impartimos justicia,” Cabrera says. Each community of her nation has an authority of justice, Cabrera says, and these authorities enforce the community law. Jose Inca Chocotea, the mallku (the Aymara word for “prince” or “leader”)³⁵ of Nación Charkas near Potosí, echoed Cabrera’s sentiment in his testimony. “Como la policia, los entidades publicas nos desprecian porque no nos toma en cuenta en muchas de las zonas,” Inca says. The public entities and indigenous leaders have a tenuous relationship in his region, he says, because the public bodies that carry out ordinary justice are not understanding of indigenous norms. These perspectives indicate both the reasoning behind the updated

³⁵ Cite this definition

constitution and the current functioning of indigenous law. Indigenous communities felt ignored and disregarded by ordinary justice systems, and sometimes pursued their own justice regardless. Now that ordinary and indigenous justice systems are theoretically equal in the eyes of the state, indigenous communities feel empowered to practice their legal traditions that more often than not fill a need for justice, rather than replace existing ordinary justice systems.

Justicia Indígena Originaria

The second video, produced by Educación Radiofónica de Bolivia and published on October 18, 2013, focuses on indigenous law and its implications for intra-family and domestic violence.³⁶ Isabel Ortega, the vice minister of Justicia Indígena Originaria Campesina, explains that indigenous law aims to find community reconciliation first. However, if indigenous law is incapable of resolving the case, indigenous authorities will reach out to the authorities of ordinary justice.

Ortega describes a few example cases, such as disputes between two women of a community or a case of domestic violence perpetrated by a husband against his wife. She explains how in cases like these, indigenous justice can help pursue justice quickly and with the involvement of the whole community that is harmed by such actions. Indigenous law provides recourse for intercommunity disputes that, while they may be prosecutable under ordinary law, can potentially be resolved in a manner more restorative for the community.

“La justicia indígena es gratuita, es rápida, y es orientadora en la misma comunidad solución,” Ortega says in the video. The value of indigenous justice is not just that it is fast and

³⁶ *Justicia Indígena Originaria, YouTube* (Educación Radiofónica de Bolivia, 2013).

free, as she notes, but that it guides the community to its own solution. Indigenous justice is by and for a community, which for rural and remote communities is likely different treatment than they would receive from ordinary justice authorities.

Ortega also emphasizes the importance of the rights of all parties involved in a given conflict. In a case of domestic violence, for example, the parents are not the only individuals whose rights need to be defended in this situation. Ortega notes that the wife has rights, the husband has rights and their child has rights. While ordinary justice may afford the child some protections as well, the system would ultimately be centered in punishment for the husband. Indigenous justice, on the other hand, is simultaneously focused on appropriately protecting the wife, punishing the husband and ensuring the child's wellbeing, according to Ortega. Furthermore, these aims are not solely to protect each individual's rights, but to seek peace and justice within the community.

Justicia Comunitaria en Bolivia

The third video is a documentary-style survey of three different villages—two in Potosí and one in Oruro—accompanied by brief expert analysis.³⁷ The video, published on December 15, 2016, was produced with the support of the Cooperazione Internazionale, an Italian NGO. It seems intended to push back on claims of human rights abuses by indigenous authorities and to demonstrate how indigenous community members in remote villages view their legal traditions.

In Ulca Tinguipaya, which is a remote mountainous village in the department of Potosí, villagers describe their way of life, focusing on their legal traditions. The resolution of a dispute

³⁷ *Justicia Comunitaria en Bolivia*, YouTube (Cooperazione Internazionale, 2016).

between two women is depicted, and community members are interviewed about the purpose of indigenous justice. In Ulca Tinguipaya, the community members emphasize the tradition and longevity of their justice system. “Nosotros tenemos que solucionar esta de acuerdo a nuestra justicia, como nuestros ancestros sancionaban,” one man interviewed says. He continues to focus on the debate and unanimous vote needed to resolve the issue at hand. “Tenemos que encontrar un arreglo através del diálogo. Una penalidad financiera sería mejor que el látigo. Tenemos que estar todos de acuerdo.” Community members discuss how the matter at hand could have been taken to the police, but the community collectively believes that resolving certain issues within the community is more productive.

However, an interviewee does explain that in his community, the scope of the application of traditional indigenous law is limited. “Los grandes problemas, no podemos solucionar. Los pequeños problemas los solucionamos aquí,” he says. “Nosotros queremos que nuestra justicia se ejecute aquí, en acuerdo a nuestras tradiciones y costumbres, y por nuestros autoridades.” The interviewee expresses that throughout the community, most people would prefer that their own local leaders take charge of local matters—but still acknowledges that very serious or complex crimes or disputes cannot necessarily be resolved via traditional legal means.

The video includes what appears to be news footage of a graphically violent beating, allegedly taking place as a form of traditional indigenous justice. Two scholars in the video rebuke this view, which has appeared in the Western and some Bolivian press when cases of extrajudicial violence, particularly lynching, have occurred. Sociologist Marcelo Fernandez speaks particularly strongly against this view, emphasizing that there is a significant difference between traditional indigenous punishments and lynching. Furthermore, slandering indigenous

justice as lynching attempts to erase the importance, tradition and complexity of indigenous justice, according to Fernandez. “El linchamiento es un nuevo epíteto para desvalorizar la práctica jurídica indígena,” Fernandez says. When lynching is blamed on indigenous law, Fernandez says, it is because of the racist views instilled by colonialism. The idea that indigenous people were violent or uncivilized was rampant throughout colonialist thought, and persists in the attitudes of some today. “Eso es un prejuicio que es mezclado con el sentimiento colonial. Es decir el racismo aún todavía en nuestra sociedad. No han desaparecido,” Fernandez says.

Analysis

These three videos present different formats for understanding indigenous justice: a roundtable in action, an interview and a low-production documentary. In each video, indigenous leaders give their firsthand accounts of the significance that being able to practice traditional indigenous law has for themselves as individuals and for their greater communities. The common threads running throughout these videos are the use of the “nosotros” form as evidence of a strong sense of community, indigenous justice as a solution to poor or distant relationships and the complexity of the principles underlying indigenous justice.

When any of the indigenous community members (leaders and otherwise) spoke about the value of their legal customs, they spoke collectively. In the first video, which included nuanced views from ordinary and indigenous justice leaders, the ordinary justice leaders tended to speak with a mix of “I” and “we,” but indigenous justice leaders and community members throughout all three videos used “we” almost exclusively. While using “we” forms is a common

tactic among politicians, the consistency of this linguistic choice could be indicative of the community-centered mindset among indigenous groups.

All of the proponents of indigenous law, from Ortega to the nameless interviewees in the final video, spoke overwhelmingly about the importance of community as a justification for the practice of indigenous law. This was evident through their explicit statements, like Ortega explaining how indigenous justice guides a community through its own dilemmas, and an interviewee in the final video describing how all of the community leaders must find agreement together through dialogue. The implicit meaning of the consistent usage of “we” further drives the point that the goal accomplished by placing indigenous law on equal footing with ordinary law helps maintain communities.

While many indigenous community members in the videos and other sources describe how when a case is too complex or serious for local indigenous authorities to oversee it they will turn it over to ordinary legal authorities, there is also a clear sense that ordinary justice has often failed indigenous communities. Cabrera’s explanation of how judges, police and prosecutors are not easily available to people in her territory is evidence of this, as well as the interviewee in the third video who describes how his community prefers to execute its own justice customs with its own authorities. There is a sense that distrust of ordinary justice exists in some remote and rural indigenous communities, making indigenous law even more critical for resolving disputes.

Finally, indigenous law is not applied randomly or without serious procedure within the community. There is an investigation process, time to dialogue about the issue and pursuit of a punishment that will result in reconciliation and harmony for the community. Indigenous law is mostly composed of oral traditions, which is a point of concern for some ordinary justice leaders

and Western scholars. However, oral tradition does not equal simple or disorganized. The leadership systems within indigenous communities are complex and the resolution of crimes necessitates dialogue within the leadership of the community. In the case described in the third video, unanimous agreement is necessary for the authorities to resolve the case. The gravity of indigenous legal structures and process should not be underestimated by outsiders with experience with written legal traditions.

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