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## **National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1**

**Papua New Guinea\***

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## **I. Methodology and consultation**

1. The cornerstone of a democratic society is underpinned by the promotion, protection and safeguarding of human rights. The important work in this area must be documented and submitted to the United Nations (UN) Human Rights Council under UN Resolution 5/1 of 18 June 2007.
2. The status of PNG's human rights situation in the country is presented in this National Universal Periodic Review (UPR) Report. It is a product of a whole of government approach where the Government, Academia, Non-governmental organizations (NGOs), and other interested stakeholders were consulted for their inputs in the compilation of the Report.
3. The National UPR Report was prepared following the general guidelines for the preparation of information under the universal periodic review adopted by the Human Rights Council at its 20<sup>th</sup> meeting on 27 September 2007.
4. The preparation of PNG's National UPR Report had been coordinated by the National UPR Taskforce comprising the Department of Foreign Affairs and Trade (DFAT), Department for Community Development (DCD), Department of Justice & Attorney General (DJAG), National Planning and Rural Development, Finance, Labor & Industrial Relations, Ombudsman Commission (OC); Royal Papua New Guinea Constabulary (RPNGC/Police); and the Correctional Services (CS). Other stakeholder Departments and Agencies that were consulted for inputs include Education, Health, Constitutional and Law Reform Commission (CLRC); and University of PNG.
5. An inter-departmental Core Committee comprising of relevant government Departments - DFAT (chair), DCD (Vice-chair), OC, DJAG and CLRC was established in 2010 with specific tasks which included information gathering through Stakeholders consultations and compilation of this report. Given the importance of National UPR Report, Government had sanctioned the establishment of National UPR Taskforce and its mandates.
6. The UPR Report was approved by the National Executive Council (NEC). The NEC also endorsed for the Minister for Foreign Affairs & Trade & Immigration to present the National UPR Report to the Human Rights Council in May 2011.
7. A Reference Group, which is the bigger group comprising all government agencies and civil society organizations was also established with the task of feeding the Core Committee with all the relevant and necessary information for inclusion in the report. The Core Committee members continued to meet and work on the Report against limited financial and resource support.
8. The Government of Papua New Guinea (PNG), with the support of the UN Office for the High Commissioner for Human Rights, organized a UPR Training workshop in Port Moresby, from 12–16 July 2010. Many NGOs and Community-based organizations attended the workshop and made important contributions. Resource persons from the Pacific Island Forum Secretariat in Fiji and the Secretariat of Pacific Community also assisted in the running of the Workshop.
9. Being aided by the UPR Training Workshop, the National UPR Taskforce convened the First Drafting Workshop in Alotau, Milne Bay Province, from 29 August to 3 September 2010. With the first draft UPR Report on hand, the National Taskforce convened four (4) consultations in the 4 regions of country: Goroka (Highlands), from 22 to 23 November; Lae (Momase) from 24 to 25 November; Alotau (Southern), from 6 to 7 December; and Kokopo (New Guinea Islands), from 9 to 10 December 2010.

10. The regional consultations enabled stakeholders at the provincial and local levels to make valuable inputs and contributions in the preparation and the finalization of the UPR Report.

11. The Final Report was endorsed by the NEC and approved for submission to the United Nations Human Rights Council.

## II. Background and framework

### Country profile

12. PNG is a developing country occupying the eastern half of the Island of New Guinea and shares land and sea borders with Indonesia, Australia, Solomon Islands and the Federated States of Micronesia. It has four main islands, namely New Britain, New Ireland, Bougainville and Manus, as well as numerous small islands and atolls. Geographically, the country has difficult mountainous terrains with rugged valleys. Papua New Guinea is endowed with a number of natural resources. It has a population of approximately 6.5 million people and a land mass of about 461, 690 square kilometers, with diverse cultures and well over 800 different languages.

13. PNG gained political independence from Australia on 16<sup>th</sup> September 1975. It has a constitutional democracy with a Westminster System of Government: one central Government and 22 Provinces. PNG has a unicameral chamber with 109 elected members.

14. PNG has three arms of Government, namely the Executive, Legislature, and Judiciary. The Executive Arm is headed by the Prime Minister and Government Ministers who form the NEC, run the affairs of the country. Also included in the Executive Arm is the Governor General (Head of State) who represents the Queen of England.

15. The Legislative Arm consists of the 109 members of Parliament, both from the Government and Opposition. The National Parliament makes the law for the country. The Judicial Arm consists of the National and Supreme Courts as well as the District and Village Court systems. It adjudicates the enforcement of the laws of the country.

16. For administrative purposes, PNG is divided into 21 Provinces and the Autonomous Region of Bougainville. The recent creation of the Hela and Jiwaka Provinces should result in the creation of additional Districts in the country. This will consequently result in an increased number of elected members in the National Parliament.

17. PNG is predominately a Christian country and majority of the people belong to Christian denominations such as: Catholics (27%), Evangelical Lutheran (19.5%), United Church (11.5%), Seventh Day Adventist (10%), Pentecostal (8.6%), and other Protestants (8.9%).

18. PNG has an agro-based economy with the agriculture sector sustaining the livelihood of over 85% of its population. PNG is endowed with very rich natural resources such as gold, copper, fish and marine resources, and timber. Mineral resources accounts for two-thirds of foreign exchange earnings. PNG has gross domestic product (GDP) of about US\$13.74 billion (2009 estimates.). Its main exports include gold, copper, petroleum, fish and marine products, coffee, palm oil, and cocoa, to name a few.

19. The current economic scenario will change significantly due to the development of the multi-billion dollar liquefied natural gas (LNG) project in the country. Aided by this important economic project, PNG will experience unprecedented economic growth and development and by 2020, the projected GDP would be around US\$24 billion.

20. However, the greatest challenge for the country is the translation of that economic growth to tangible benefits to address the development challenges facing the country, such as the development and improvement of vital infrastructure networks, provision of basic education and health services, and improve the standard of living for the vast majority of its people.

21. The scorecard of PNG's socio-economic development has not been impressive with high illiteracy, lack of basic education, health services, infrastructure and increased lawlessness. Also, PNG is far behind in its Human Development Indicator and is ranked 145 out of 175 countries. This scenario poses significant challenges for the country to achieve the Millennium Development Goals (MDGs) by 2015.

### **III. Promotion and protection of human rights**

#### **National legislation**

##### **Constitution**

22. The Constitution is the supreme law of PNG. Its Preamble accords all persons living in the country the following basic human rights and fundamental freedoms, despite their race, tribe, places of origin, political opinion, color, creed or sex. These rights and freedoms are further expounded under Part III, Division 3 of the National Constitution, which include the following: right to freedom (Section 32); right to life (Section 35); freedom from inhuman treatment (Section 36); protection of the law (Section 37); liberty of the person (Section 42 ); freedom from forced labor (Section 43); freedom from arbitrary search and entry (Section 44); freedom from conscience, thought and religion (Section 45); freedom of expression (Section 46); freedom of assembly and association (Section 47); freedom of employment (Section 48); right to privacy (Section 49); right to vote and stand for public office (Section 50); right to freedom of information (Section 51); right to freedom of movement (Section 52); and protection from unjust deprivation of property (Section 53).

23. The PNG Constitution is one of those few unique Constitutions around the world because it contains almost all those rights and freedoms articulated in the Charter of the UN and more particularly under the Universal Declaration of Human Rights 1948. The above rights and freedoms are specific enough to be enforced by the Judiciary. The National Goals and Directive Principles which is a set of guidelines set out in the Preamble of the Constitution, calls for integral human development, equality and participation of all Papua New Guineans.

24. These sets of rights and freedoms in many ways guarantee the enjoyment of the rights and freedoms expressed in the various international human rights instruments including Convention on the Elimination of All Forms Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), International Convention on the Elimination of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social, and Cultural Rights (ICESCR).

25. Section 117 of the Constitution clearly states that any international treaty that PNG becomes a party to, has to be domestically legislated to have legal effect. There are two ways of domesticating an international treaty in PNG. First is to enact a new law giving effect to the international treaty. Secondly, to review the relevant existing laws and incorporate the provisions of the international treaty into the existing domestic laws.

26. The practice for PNG in terms of domesticating human rights instruments has been the latter. Gradual implementation is not only practical but also more achievable for PNG

than enactment of a new law. Review of the domestic laws relating to children that resulted in the repeal of the *Child Welfare Act 1975* and enactment of the *Lukautim Pikinini (Child) Act 2009* are two examples. The new Act is for the protection and promotion of the rights and well-being of a child and incorporates the articles of the CRC.

27. Section 39 of the Constitution provides for the use of international conventions, declarations, recommendations and judicial decisions concerning human rights as one of the factors that the court may have regard to, in determining whether or not the law or act is reasonably justifiable in a democratic society that has proper respect for human dignity.

28. In PNG, civil and political rights are entrenched in the Constitution. Almost all of them place on the State, a duty not to interfere unnecessarily with civil liberties of individuals. That duty is set out as a prohibition on the part of the State. On the other hand, economic, social and cultural rights as enshrined in the National Goals and Directive Principles remain as directives and policy guidelines; ideals we strive to achieve as a nation but remain non-justiciable.

### Legislation

29. There are other existing domestic laws that promote and protect human rights principles in various fields either specifically or generally. For instance, the *HIV/AIDS Management and Prevention Act (HAMP) 2003* was enacted to give effect to the basic rights and freedoms stated in the Constitution. This law aspires to prevent the spread of HIV/AIDS, manage the lives of those living with Human immunodeficiency virus/Acquired immunodeficiency syndrome (HIV/AIDS), and protect them from discriminatory practices and the protection of public. The *Lukautim Pikinini (Child) Act 2009* which promotes the best interest of the child is another example that promotes and protects the human rights of children specifically.

30. To ensure full protection and safeguard of such fundamental rights and freedoms, the National Parliament had enacted certain laws, which include the following: *Criminal Code (Sexual Offences and Crimes Against Children) Act 2002*; *Criminal Code 1974* (Chapter 262); *Lukautim Pikinini (Child) Act 2009*; *The National Housing Corporation Act 1990*; *Employment of Non-citizens Act 2007*; the *Evidence Act* (section 37A) and the *Juvenile Court Act 1993*.

31. PNG is a Party to certain international treaties and conventions including ICERD (27 January 1982); CRC (2 March 1993); CEDAW (12 January 1995); ICCPR (21 July 2008); and ICESCR (21 July 2008).

32. PNG is yet to ratify other important treaties and conventions. The delay is mainly attributed to resource and capacity constraints. Such international legal instruments include the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families; and International Convention for the Protection of all Persons from Enforced Disappearance.

33. The Government of PNG in its first NEC meeting through Decision No. 3 of 2011 endorsed and agreed to sign and ratify the United Nations Convention on the Rights of Persons with Disabilities.

### The Judiciary

34. PNG is committed to the rule of law and administration of justice to all who seek protection under the law. The Constitution guarantees protection of the people by law and equality of everyone before the law. The Constitution further provides for the enforcement

of guaranteed rights and freedoms by the Courts in instances of abuse or infringements of those rights and freedoms.

35. To take carriage of the implementation of these human rights treaties and conventions as well as the national laws in the area of human rights, the National Parliament established certain institutional and administrative mechanisms in the country. These include the court systems which are the National Court, the Supreme Court, the District Court, and the Village Court; the Police; CS; OC; DJAG; Office of Public Prosecutor; CLRC; DCD; Department of Labor & Industrial Relations.

#### **National Human Rights Institutions and activities**

36. PNG is committed to progress the status of the establishment of a National Human Rights Commission, as envisaged in the NEC Decision No. 21/1997 and 33/2007 respectively. The National Technical Working Committee and the Legal Working Group have completed the Draft Constitutional Amendment and the Draft Organic Law for the Government to consider endorsing. In the interim, measures are undertaken by various government line agencies in promoting and protecting human rights as it relates to their respective areas of responsibility. For instance, the provisions of child protection services is provided by DCD, the public legal services provided by the Office of Public Solicitor, while the OC has an Anti-Discrimination and Human Rights Unit. The establishment of the National Human Rights Commission will strengthen and complement the work of these government agencies in the promotion and protection of human rights in PNG.

#### **Public awareness of human rights**

37. PNG's level of awareness-raising on human rights is at a critical level where there is a lack of information flow from the national level to the provincial and local levels. The regional consultations highlighted the need for awareness on human rights where relevant stakeholders can be informed and educated on their roles and responsibilities in relation to rights and laws. An active network of civil society organizations steps in a little to provide some awareness on human rights education and awareness. These include Individual and Community Rights Advocacy Forum, Angli-care, Save the Children, World Vision, Red Cross and many more. Each of these organizations has its own public education and community awareness raising programmes. The Government on its part is committed to working in partnership with these organizations to enhance the respect, promotion and protection and the enjoyment of the rights and freedoms of its citizens.

#### **Cooperation with human rights mechanism**

38. PNG prepared the National Report on the implementation of the CRC which was submitted on 23 April 2002 and thereafter adopted it on 30 January 2004. The government has developed a national strategic framework for the implementation of CRC Committee's recommendations.

39. PNG prepared a combined initial, second and third UN CEDAW Report of the country's implementation of the CEDAW which was submitted on 22 July 2010. The government has developed a framework for the implementation of the priorities and recommendations outlined in the concluding observations.

40. The UN Special Rapporteur on Torture visited PNG from 14 to 25 May 2010. It was a fact-finding mission on the issue of torture and other cruel, inhuman treatment or punishment of persons in detention facilities throughout the country. The invitation of the Special Rapporteur to visit the country demonstrated PNG's maturity and frank attitude towards addressing issues of torture and other ill-treatment of detainees as well as the need

to improve the general conditions of the detention facilities. The findings of this visit are being pursued by the Government.

41. PNG has an Observer Status to the Asia-Pacific Forum (APF) on Human Rights National Institutions. PNG has been participating at this Forum and at the 13<sup>th</sup> APF Meeting held in Kuala Lumpur, Malaysia, the Forum commended Papua New Guinea's efforts for proposing to establish the National Human Rights Commission.

42. PNG began working on the issue of people smuggling and trafficking in persons in 2009, through the efforts of the CLRC in partnership with the United States (US) Embassy and other UN agencies, such as the UN Women, the International Organization for Migration (IOM), the United Nations High Commission for Refugees (UNHCR) and the International Labor Organization (ILO). Government efforts included hosting of a multi-stakeholder conference in March 2009 to raise awareness amongst key Government line agencies. The two main resolutions passed during the event were for Government to ratify the United Nations Convention on Transnational Crime and the two (2) protocols thereto including the Palermo Protocol on Trafficking in Persons especially women and children. The government is in the process of finalizing the draft amendments on *Trafficking in Persons* and *People Smuggling Bill* which will be provided for under the PNG Criminal Code. A Memorandum of Understanding was signed between DJAG and IOM on human trafficking in 2011.

## **IV. Identification of achievements, best practices, challenges and constraints**

### **A. Achievements/best practices**

#### **Correctional services and rehabilitation**

43. Prison systems need serious rehabilitation programs and counseling systems to prepare inmates for reintegration into society. In the Kokopo consultation, it was highlighted, as an example, that the Kerevat Prison conducts life-skills training such as trade skills, rice and fish farming, animal husbandry and other projects with the support of NGOs and government agencies, such as Organization for Industrial, Spiritual and Cultural Advancement, Japanese International Cooperation Agency and the National Agriculture Research Institute.

44. The UN Special Rapporteur on Torture identified the *Bihute Correctional Institution* in Goroka, as a best practice example, where various educational and recreational opportunities as well as access to counseling were available for women detainees. Also, in this institution, the warders were actively involved in the process of rehabilitation of the detainees and the setting in the institution offered a suitable environment for the children living with their mothers. Medical care was easily accessible, further differentiating it from other detention facilities.

#### **Women participation in politics and senior management**

45. The PNG Constitution calls for the equal participation by women citizens in all political, economic, social and religious activities. In its current efforts to promote women's participation in decision making, the National Parliament proposes to create 22 reserved seats for women. This will be a hallmark achievement in terms of gender equality in political decision making for the country. The Bill to legally institute this arrangement is before the National Parliament.

46. The *Organic Law on Provincial and Local Level Government* also allows for the promotion of equal opportunity and popular participation at the provincial and local-level Government. Part ii, Division I, Subsection A of the Organic Law specifically requires the representation of women-nominated in accordance with an Act of Parliament and appointed by the Provincial Executive Council to be members of the Provincial Assembly. It also prescribes one of the members shall be representative of women's organization nominated in accordance with an Act of Parliament.

#### **Domestic and sexual violence**

47. Within the Pacific region, one of the notable achievements in PNG is the enactment of the *Criminal Code (Sexual Offences and Crimes Against Children) Act 2003*. Amongst other significant changes, the above Act has expanded the definition of rape as well as provides for marital rape. Though the provision on marital rape is yet to be tested in court, the important thing is that PNG has enacted a law making it an offence for husbands or wives to force sex on their spouses. This is a very important aspect of the law especially given the HIV/AIDS epidemic in PNG is on the rise.

#### **Child and young people protection**

48. The Government of PNG ratified the CRC in 1993 which obligated the Government to review its existing laws on child protection. This resulted in the enactment of *Lukautim Pikinini (Child) Act* which was certified in 2009. This child protection law aims to provide wider provisions of protection services to all children in PNG. It further established a specific Court for Child Protection called the Lukautim Pikinini (Child) Court.

49. The *Juvenile Court Act* was enacted in 1997, which specifically provides human rights protection for young offenders aged between 10 and 18 years old. This Act further established the Juvenile Court in PNG.

50. The *Police Juvenile Policy and Protocols* jointly developed by the RPNGC and United Nations International Children's Education Fund (UNICEF) provide an excellent tool for dealing with juveniles in conflict with the law. However, the challenge is in the implementation of the policy.

## **B. Challenges and constraints**

#### **Lack of Capacity**

51. In PNG, lack of capacity exists at all levels of government from the District, Provincial and to the National level. Much development has been hampered with the slow growth and progress of skilled professionals in the various fields including the industry, healthcare and education. This has resulted in the inadequate basic service delivery to especially the majority of our rural-based population in the country. At the Kokopo regional consultation, it was noted that the government needed to be more proactive in the delivery of its services, such as mainstreaming of government funded trainings for capacity building for its public servants.

#### **Lack of appropriate legal framework**

52. Some of the laws have yet to be amended to be on par with the provisions of the relevant Human Rights Conventions that have been ratified by PNG. The responsibility lies with the respective agencies that the Conventions would apply to. Relevant government agencies need to coordinate and review their existing legislation and either amend or propose new laws to give effect to the provisions of these Conventions.



53. For instance, with the advancement of technology there is inadequate legal framework to address issues such as cyber crimes that, contribute to the violation of human rights through easy access to pornography and other illicit materials through the use of internet and mobile phones.

#### **Access to legal and justice services**

54. Due to the geographical terrain of PNG, most of our people live in isolation and do not have access to basic services, including legal and justice services. Coupled with these, they do not have the necessary financial capacities to meet vital expenses when pursuing human right violations in towns and cities. Such expenses include the cost of transportation, upkeep in urban areas and fees to secure legal services. Also, our people lack the basic information on where to access these legal and justice services. For example, the government through the Office of the Public Solicitor provides legal aid to the general public, however, this is confined to few major centers in the country, thus, limiting accessibility to the majority of our rural based people.

#### **Dual system of Law**

55. PNG has two recognized legal systems that complement each other. The first is the formal legal system comprising of the District, National and Supreme Courts that follow strict rules of evidence. The second is the informal court system, which is the Village Court that deals only with customary issues using traditional or customary laws and practices, where strict rules of evidence do not apply.

56. The Constitution of PNG clearly spells out that a customary law cannot be applied if it is inconsistent with a constitutional law or a statute, or is repugnant to the general principles of humanity. The *Customs Recognition Act 1963* regulates the usage of customary practices. However, contemporary PNG is faced with the challenges of applying customary practices and laws in situations where there is mixture of different cultural groupings in a community. The challenge is thus, how best to ensure that these two recognized legal systems can effectively operate together.

57. The *Underlying Law Act 2000* was enacted to provide for methods and processes for developing the underlying law in PNG. This Act adopted the same sources of the underlying law which consists of customary laws and the Common Law of England that came into force immediately before the country's independence. Primarily, it is the statutory duty of the National and Supreme Courts to develop the underlying of PNG.

#### **Police**

58. Police require more awareness and training on human rights laws to protect the citizens, especially women and children. They also require greater logistical support for their work, including support for human rights defenders.

59. The people need to be made aware of their human rights to enable them to identify when their rights are being violated. Public awareness is needed concerning the functions of the respective government agencies within the provinces to assist people to know which forums are appropriate to voice their human rights violations or issues.

#### **Lack of basic service**

60. Another challenge that contributes to human rights violations is attributable to the lack of basic services to our people living in the rural and urban areas. For instance, many remote areas lack proper health and education facilities (personnel and supplies), communication difficulties, poor infrastructure developments (roads and bridges), and these

contributes to the high illiteracy rates, infant and maternal mortality rates and poor economic and social indicators.

61. Due to lack of such basic services in the rural areas, there is dramatic rural-urban migration taking place in the country. Consequently, illegal squatter settlements are growing in our towns and cities. Water and sanitation services as well as electricity are not provided to them. Most of them are unemployed and they also contribute to law and order problems, breakdown in the social and cultural fabrics of families and communities which usually lead to violations of human rights.

#### **Infrastructure development**

62. PNG's geographical composition is complex, in that most provinces are not easily accessible by roads, air or sea transportation services. This poses a challenge for our Government in the delivery of the much needed goods and services to the majority of our people living in the rural areas. For instance, most of our people walk for long distances through rugged terrain, while others cross the rivers and seas for days before reaching the nearest service centers. Access to basic services is therefore a significant challenge for the majority of our people in rural and isolated communities.

#### **Cultural diversities**

63. PNG is a melting pot for cultural diversity in the world and certain cultural practices, beliefs, and their world view presents difficult challenges in the implementation of human rights treaties/conventions as well as relevant national laws in the country. For instance, the regional consultations noted that the cultural methods of disciplining children were effective and that must be taken into account by human rights laws, treaties and conventions.

64. Polygamous marriages were perceived to be good in traditional PNG society. However, in contemporary PNG, this cultural practice often leads to human rights abuses, such as wife beating, ill-treatment of children, broken families. It was noted that most repeated offenders came from polygamous families with past history of repeated human rights abuses. According to PNG culture, disciplining wives is an accepted practice but that comes into conflict with existing PNG law.

65. Deep rooted hatred and tribal animosities result in tribal fights in our communities, especially in the Highlands of PNG. This leads to denial of access to move around to access services, education and health services are affected, disruptions to economic activities, increase in rape incidences and other violation of human rights.

66. Current developments and changes in the lifestyle of our people is a contributing factor to increase in human rights violations. For instance, mobile phones, computers/internet and televisions are means through which pornography and other illicit materials can be spread throughout our societies and affect our way of life of family values, respect for ourselves and our communities as well as corrupting our religious beliefs.

67. Awareness programs are needed on these developmental issues and the consultations called for the private sector to assist by sponsoring such programs through the media and recommended for legislative reviews to laws covering censorship and the work Censorship Board must be more proactive and address such challenges facing the country.

#### **Sorcery**

68. Sorcery exists in certain areas of PNG and it shapes everyday lives of the local people. People kill sorcerers not only as revenge for past death, but they genuinely believe that their actions are the protection of the entire community by getting rid of the suspected

sorcerers, and often such actions are sanctioned by the community. Our challenge therefore is to educate the people on human rights issues including the fundamental right to life. At the same time, the Government is faced with the difficulty of dealing with the concerns of communities who live in fear of sorcery. The CLRC had been issued a Terms of Reference to review the law on sorcery and sorcery-related killings, particularly the *Sorcery Act 1971*. The CLRC has completed the Issues Paper this year (2011) and will embark on a nation-wide consultation to gather the views of all stakeholders at all levels.

### **Lack of institutional framework**

69. There is no specific institution in PNG that is directly responsible for the promotion and protection of human rights. The Government established human rights offices, within various existing Departments or Agencies such as the, Office of the Public Solicitors, OC and the DCD, Labor and Industrial Relations and the Police.

70. The Government realizes the obligation imposed on the country in terms of preparing timely periodic review reports for each of the treaties it has ratified. PNG is committed to upholding its international obligation to prepare treaty specific periodic reports. However, this has not been effectively fulfilled due to resource and capacity constraints. For example, after considerable delays, the Government compiled the CEDAW periodic report that incorporated the first, second and third reports that was presented to the CEDAW Committee in May 2010.

### **Education**

71. PNG has a user-pay policy for its education system, which means the parents bear the cost of paying school fees for their children. With the rise in the cost of living standards generally in PNG, including educational expense, there is a need for greater literacy programs and the need for Universal Basic Education.

72. In line with the MDG goal No. 2 which calls for the provision of Universal Primary Education, the Government has developed a Policy on the Universal Basic Education which provides free education from grade 1 - 3 and is proposed to extend to grade 12 in future. The country still continues its user pay policy on education from grade 4 -12 and to tertiary institutions.

73. Cost of education is getting unaffordable for parents, both in rural and urban areas. In recognition of these difficulties, certain national leaders and provincial governments have taken initiatives to subsidize the cost of education. For instance, the Enga Provincial Government has established the Ipatas Children's Foundation that will subsidize fees for all Engan children attending schools. Under this initiative, the Foundation pays half of the school fees for this year.

### **Girl education**

74. Increasing opportunities for girl's education is critical to reducing gender imbalances and harnessing their input into nation building. The education of girls in particular has a multiple effect. Evidence has shown that educating girls eases the strain on health care system by reducing child and maternal mortality, reduces the increase of HIV/ AIDS and contributes to economic growth by increasing women's skills and knowledge. Mothers who have benefited from a basic education are far more likely to send their own children to school, so the multiplier effect continues onto the next generation.

### **Health**

75. The Government is committed to improving the health situation of the country and its present poor health indicators. It launched its 10-year National Health Plan (2010–2020),

acknowledging that *'the challenges faced in the health sector are many and difficult, but are definitely not insurmountable nor is the trend irreversible'* as mentioned by former Deputy Prime Minister, Hon Sir Puka Temu. Furthermore, the Department of Health is supporting the establishment of Family Support Centres in provincial hospitals and support by social workers.

76. To address high maternal and infant mortality rates in the country, the Government has adopted the following policies: National Family Planning Policy, Nutrition Policy, Maternal Health Policy, Immunization Policy and Early Childhood Care & Development Policy, and National Policy on Women and Gender Equality. Furthermore, efforts to reduce high maternal mortality rate, the government has waived fees for domestic violence, sexual violence and child abuse cases, hence, increasing opportunities for access to health services. The Infant Mortality rate is 79/1000 live births (2000 Census) and under five years old mortality rate is 122/1000 live births (2000, Census). There is a gradual improvement from 79 in 2000 to 69 per 1000 live births in 2003. The Life Expectancy has improved from 41 years in the early 1970s to 54 years (2000, Census).

#### **HIV/ AIDS**

77. Combating the rising HIV/ AIDS epidemic in the country is an on-going task undertaken by the Government in its preventative efforts through the *HIV/AIDS Management and Prevention Act 2003*, which addresses concerns of discrimination, stigmatization and related issues. The National Strategic Plan on HIV/AIDS 2006-2010 provides clear guidelines for the implementation of HIV/AIDS programs in the country. The government has also developed programs for children affected and infected by HIV/AIDS.

#### **Population**

78. The current population of PNG is about 6.5 million and is growing at the rate of 3.1%. With the projected 3.1% annual growth, it is estimated for the population to reach 10 million by 2020. The growing population impedes on the Government's ability to deliver adequate basic services.

#### **Rights of refugees in Papua New Guinea**

79. PNG ratified the Convention relating to the Status of Refugees in January 1986, with 7 reservations to Articles 17(1) (wage-earning employment), Article 21 (Housing), Article 22(1) (Public Education), Article 26 (Freedom of movement), Article 31 (Refugee unlawfully in the country of refuge), Article 32 (Expulsion) and Article 34 (Naturalization).

80. The reservations were made for various reasons at that time. However, the reservations were not enforced as Government policies in the above sectors confer the same rights or benefits to refugees and citizens alike. Therefore, efforts are currently made to withdraw all the 7 reservations.

81. Issues of land ownership affect citizens and refugees alike in PNG, especially in towns and cities. Since, refugees require particular support and assistance, Government is exploring ways to purchase land for resettlement. Further, to address these and other refugee-related issues, Government is in the process of developing a Refugee Policy for the country.

#### **Climate change**

82. The impact of climate change and rise in sea level is adversely affecting the country. The Highlands region is getting warmer and the mosquitoes are migrating to higher altitude areas resulting in the spread of malaria. The low-lying coastal areas and islands are been

affected by the rise in sea level. For instance, the Cataret Islanders of Bougainville are being relocated to the mainland, due to the island sinking. Settling and starting a new life in a new environment is a challenge to the people of Cataret Island.

83. In order to address the issue of climate change, the Government has established an Office of Climate Change and Development. The Office has developed a national climate change policy, known as the Climate Compatible Development Plan that deals with mitigation and adaptation plans for combating the climate change issue.

## **V. Key national priorities, commitments and initiatives**

### **A. National priorities**

#### **Policies**

84. The PNG Vision 2050 is a 40-year long term plan developed and endorsed by the Government in 2010 with the vision that PNG will be a Smart, Wise, Fair, Healthy and Happy Society by 2050. The Vision 2050 focuses on 7 development pillars that *inter alia*, articulates the importance of human capital development and gender, youth and people empowerment as the major pillar that promotes gender equality and participation by ensuring that PNG men and women are well trained and utilized, well paid, fairly treated and are contributing productively to national development. This will ensure more women's participation in employment, politics and public life and as equal national development partners.

85. Under important Government policies, such as the Medium Term Development Strategy (MTDS), National Strategic Plan, Medium Term Development Plan, the Government recognizes the importance of achieving gender equality and empowerment of women. This involves reducing the existing disparity between male and female enrolment in formal education, improving health status of women and their participation in decision making at all levels of governments.

86. At our regional consultations, it was noted that PNG has good laws and policies at the national level but there is lack of implementation at the provincial, district and local levels due to lack of funding, manpower and other resource constraints.

87. Most human rights abuses involve unemployed citizens. Thus, the consultations highlighted the creation of employment, as a very constructive solution to reducing human rights violations in the country.

### **B. Commitments**

88. The government is legally obligated and committed to the promotion and protection of human rights in PNG. The various policies, laws and programs highlighted in this Report, reaffirm the government's effort in its human rights work. To confirm its commitment, the government has ratified five major human rights conventions.

### **C. Initiatives**

#### **Establishment of a Papua New Guinea National Human Rights Commission**

89. An important break-through for the country in its efforts to protect, promote and safeguard human rights is the establishment of the Human Rights Commission. In 1997, the Government approved in principle the establishment of a Human Rights Commission for

PNG with the minimum standards set by the Paris Principles, and reaffirmed this commitment in 2007 by providing the necessary financial support for preparatory work. Consultations were conducted from 2007–2009 resulting in a Draft Organic Law on the Establishment of the Human Rights Commission. In May 2010, relevant government agencies held a workshop to finalize the structure and an estimated operating cost of the proposed Commission. The Government Taskforce is scheduled to submit the Policy Submission for endorsement and once endorsed, the Human Rights Commission will be in operation by 2012.

#### **Law and Justice Sector Program**

90. The establishment of the Law and Justice Sector Program is an adoption of the concept of restorative justice, which entails a shift towards a justice system that is more community-oriented and problem solving approach. It brings together principal law and justice agencies, including those informal and civil organizations groups. This includes the DJAG, the National Judicial Staff Services, the OC, the CLRC, the Police, CS, Magisterial Services, Office of Public Prosecutor and Public Solicitor, and the Department of National Planning and Rural Development.

91. In 2000, the Government approved the National Law and Justice Policy which was revised in 2007. This document's vision is to promote a "*just, safe and secure society for all*" in PNG and was incorporated in the MTDS 2005-2010.

92. The Law and Justice Sector Program recognizes the significance of the HIV/AIDS epidemic in the country and the importance of developing appropriate responses in the Sector. To this end, the sector agencies have developed their respective HIV/AIDS at Workplace and Equal Employment Opportunity Policies. These are efforts aimed at addressing Gender Based Violence and Discrimination.

93. Through this program, the government intends to improve policing, safety and crime prevention; improve access to justice; improve reconciliation, reintegration and deterrence; improve accountability and reduce corruption and improve ability to provide law and justice services in the country. The program is also promoting capacity building through training of sector workers as well as institutional strengthening of the sector agencies.

#### **National Land Development Program**

94. In PNG, land is owned by the people and is central to their lives. The issue of reforms in customary land tenure is a very sensitive and emotional one. Previous attempts made between 1995 and 2001 under the land mobilization program was met with stiff resistance by university students, landowners and the general public where lives were lost. Further, with national and international developments, cash economy and population rise, the need for land is ever increasing.

95. In 2006, the Government established the National Land Development Taskforce (NLDT) that conducted seminars and consultations and produced a report with recommendations on land law reforms. The CLRC was then directed by the Government to review existing customary land laws and advice on appropriate legislative reforms to implement the recommendations of the NLDT.

96. In 2009, the Government passed the *Incorporated Land Groups (ILG) Act* and the *Customary Land Registration Act* on recommendation from CLRC. The ILG Act provides for incorporation of land groups. The incorporated land groups will subsequently be used as the corporate entity for purposes of ownership in volunteer registration of customary land owned by the ILGs. These ILGs provide the vehicle to developing the customary land for economic purposes.

### **Urbanization Program**

97. The movement of people from the rural areas of PNG into the urban centers is increasing. Rural-urban drift occurs when the rural population migrates into the urban towns in search of employment or in the hope of accessing better basic services such as health and education. These results in over crowdedness; increase in illegal squatters and settlements, which further leads to straining of the ability of the town or city authorities to provide adequate basic goods and services to its population. The Government adopted the National Urbanization Policy 2010-2030, which is a 20 year long term plan that aims to address the issue of affordable housing, access to basic health, education, transport system and communication services and providing an orderly environment.

### **Natural resources**

98. PNG is rich with significant reserves of natural resources including gold, copper, oil, gas, timber, agricultural and marine resources. Agriculture is the leading sector, accounting for about one-third of GDP and providing wage employment for about 80 percent of the working population. Additionally, PNG's marine and coastal resources are the most wide-ranging and diverse in the South Pacific region. However, since the early 1990s, the mining and oil industry have made immense contributions to national output whilst the share of agriculture GDP and exports have decreased. The prognosis indicates the growth in this sector (agriculture) will be slow and mining and petroleum are anticipated to play an increasing role. The manufacturing sector contributes less than the actual percent of the real GDP and will continue to remain static for a while.

99. The LNG project has the potential to change the economy of PNG by providing a vast increase in government revenue, royalty payments to landowners, increase in employment opportunities, training and local business, development, contributing to health, education and health programmes and provides a catalyst to expand gas-based industry development. The government has in place several economic programs that stand to benefit from the project and which have the potential to enhance the quality of life of Papua New Guineans. Such programs involve providing adequate services and increasing the country's productivity.

### **Family support services**

100. The PNG Government through its various agencies provides family support services such as counseling services, child adoption and placement, family enrichment, sexual offences support, legal services, child protection and child minding and pre-schools, abuse women and girls support services. These services are supported through the re-current and development budgets. These services are provided for women, youth, children, persons with disabilities, the elderly and infected and affected HIV/AIDS persons.

### **Police oversight**

101. The Police and the Ombudsman Commission under a Memorandum of Agreement, signed in 2007, allows the Ombudsman Commission to oversee issues on police violation of human rights. In curbing police brutality and human rights abuses by police officers, these arrangements allows for police officers to be held accountable through joint investigations conducted by the Ombudsman Commission and Police Internal Affairs officials. Currently, discussions are underway to formalize the arrangement through legislation. The Police Oversight model will soon be extended to CS and Defence.

### **Disabilities**

102. The Government together with various development partners and civil society organizations developed the PNG National Policy on Disability in 2009. This policy was developed through consultative processes led by the DCD. The Policy aims to create a more 'inclusive' society, creating greater awareness on persons living with disabilities and to identify priority areas for action and full participation of people living with disabilities.

### **Social Protection Net**

103. As a result of the increasing vulnerability caused by rapid population growth and the transition to modern way of life, the government through NEC Decision No. 97/2009, decided to develop a Social Protection Net Policy. The policy is aimed at providing social protection services for vulnerable groups of people, such as persons living with disability, the elderly and children.

## **VI. Capacity building and requests for the technical assistance**

104. PNG Government invites the international community to consider providing technical and financial assistance to for the following:

- The establishment and initial operation of the PNG National Human Rights Commission.
- Assist in the area of Report Writing for the various Human Rights Treaties as well as the UPR process.
- Roll out the Law and Justice Sector programs into other sectoral areas such as health and education
- Extend best practices such as those in the Bihute correctional institution to other correctional institutions in the country.
- Undertake public awareness and training on human rights issues and mechanisms.
- Provide human rights training and capacity building for CS and police officers.
- Provide logistical support to human rights duty bearers.

## **VII. Acknowledgement**

105. The Government of Papua New Guinea acknowledges and extends its appreciation and gratitude to the members of the PNG National UPR Task Force, that worked tirelessly in the preparation of this UPR report. The taskforce members comprised of Senior Officers of the Departments of Foreign Affairs and Trade, Community Development, Justice and Attorney General, the Ombudsman Commission, the Constitutional and Law Reform Commission.

106. The Government also acknowledges the invaluable contributions of other government agencies and relevant stakeholders, including the civil society organizations at the four regional consultations in Goroka, Lae, Alotau and Kokopo.

107. The Government also expresses its appreciation to the various Port Moresby based UN agencies including the Office of the UN High Commissioner for Human Rights, Office of the UN High Commissioner for Refugees, and their counter-part regional organizations.



## Abbreviations

APF	Asia-Pacific Forum
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CS	Correctional Services
CLRC	Constitutional and Law Reform Commission
CRC	Convention on the rights of the Child
DCD	Department of Community Development
DFAT	Departments of Foreign Affairs and Trade
DJAG	Department of Justice and Attorney General
GDP	Gross domestic product
HIV/AIDS	Human immunodeficiency virus/Acquired immunodeficiency syndrome
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of Racial Discrimination
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ILG	Incorporated Land Groups
IOM	International Organization for Migration
LNG	Liquefied natural gas
MOA	Memorandum of Agreement
MDGs	Millennium Development Goals
MTDS	Medium Term Development Strategy
NEC	National Executive Council
NGOs	Non-governmental organizations
NLDT	National Land Development Taskforce
OC	Ombudsman Commission
PNG	Papua New Guinea
RPNGC	Royal Papua New Guinea Constabulary
UN	United Nations
UNHCR	United Nations High Commission for Refugees
UPR	Universal Periodic Review
US	United States

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