



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Initial reports of States parties due in 2000**

**PAPUA NEW GUINEA\***

[23 April 2002]

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\* An executive summary and numerous related annexes are available for consultation in the files of the secretariat in the language of submission only.

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**Annexes\***

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\* The annexes are available for consultation in the files of the secretariat.

**List of abbreviations and acronyms appearing in the text**

AIDS	Acquired immunodeficiency syndrome
AusAID	Australian Agency for International Development
BCG	Bacillus Calmette-Guerin
CRC	Convention on the Rights of the Child
HIV	Human immunodeficiency virus
NGO	Non-governmental organization
STD	Sexually transmitted disease
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
WHO	World Health Organization

## **I. GENERAL MEASURES OF IMPLEMENTATION**

### **A. Measures taken to harmonize domestic law and policy with the provisions of the Convention**

1. The Papua New Guinea Government officially ratified the Convention on the Rights of the Child, without reservation, with the formal deposit of the instruments in March 1993. The Government thereby made a commitment to implement the provisions of the Convention through domestic legislation. To date, the Government has not yet invoked the process whereby the articles of the Convention on the Rights of the Child can be domestically implemented through enabling legislation. This would require the introduction of new legislation in Parliament or through amendments to the existing legislation that contains provisions relating to children's rights. These basic steps of implementation have yet to be taken in Papua New Guinea.

2. The following are the existing Papua New Guinea domestic laws that provide for the rights of children and are administered by various government agencies:

- The Constitution;
- The Child Welfare Act;
- The Adoption Act;
- The Criminal Code;
- The Custom Recognition Act;
- The District Courts Act;
- The Evidence Act;
- The Summary Offences Act;
- The Adoption of Children Act;
- The Deserted Wives and Children's Act;
- The Infant Act;
- The Maintenance Orders Enforcement Act;
- The Marriage Act;
- The Matrimonial Causes Act;
- The Defamation Act;
- The Civil Registration Act;

- The Employment Act;
- The Juvenile Courts Act;
- The Information Act; and
- The Reciprocal Enforcement of Custody Orders Act.

3. Review of this legislation is urgently required if they are to harmonize with the standards set down in the Convention. The Department of the Attorney-General initiated a comprehensive legislative review in 1997 and it is now near completion.

**B. Existing or planned mechanisms at the national or local level  
for coordinating policies relating to children and for monitoring  
the implementation of the Convention**

4. There is currently no clear role taken or direction given by the Government of Papua New Guinea regarding implementation of the Convention on the Rights of the Child. There is no policy decision or directive regarding which government agency should take the lead role. Neither is there any policy relating to the process or timing of implementation of the Convention.

5. In 1994, one year after ratification of the Convention, the Speaker of the National Parliament proposed the establishment of a Parliamentary Committee for Monitoring the Situation of Women and Children. This committee met only once or twice before falling into abeyance.

6. There is provision for a National Council of Child Welfare under the Child Welfare Act, which operates under the Department of Home Affairs and Youth and was briefed on the declarations and commitments of the World Summit on Children. In 1995, it declared its intention to rewrite its enabling act (the Child Welfare Act, 1949) to reflect Convention on the Rights of the Child and World Summit on Children priorities. However, the National Council of Child Welfare, led by the Director of Child Welfare, has only functioned sporadically over the past two decades and has been totally non-operational over the past three years.

7. No new national body, commission or institution has been created to coordinate implementation of the Convention or to take responsibility for monitoring and reporting. In the absence of official action, there has been confusion about who has the responsibility to coordinate, monitor and report on implementation of the Convention. The task has moved through three different government departments: the International Treaties section of the Department of Foreign Affairs, the Office of Child Welfare and the Office of National Planning and Implementation.

8. Currently, all responsibility to monitor and report on the Convention rests with a loose Working Committee on the Rights of the Child convened by the Office of National Planning and Implementation and made up of representatives of key government departments and non-governmental organizations. This Committee was first mooted by the International Treaties section of the Department of Foreign Affairs as a mechanism for fulfilling the reporting



requirements, specifically the preparation of the initial report. However, the initial committee met only five times and failed to complete its task. The current Working Committee on the Rights of the Child was reconvened in early 1998, by the Office of National Planning and Implementation, under the First Assistant Secretary for Sectoral Planning, following participation in the Asia and Pacific regional meeting for Convention on the Rights of the Child coordinating bodies. Following a request from the Office of National Planning and Implementation, UNICEF Papua New Guinea provided short-term technical support to the Committee, for the specific purpose of preparing this initial report. That assistance was provided periodically over a period of six months (October 1998 to April 1999).

9. The Working Committee has had no political mandate, status or resources to fulfil an official coordinating, monitoring or reporting role on the Convention. Six years and three successive Governments since ratification of the Convention, the Committee bears the burden of mobilizing public awareness and achieving the political will and commitment required to effectively engage the people and the Government of Papua New Guinea in efforts to promote, implement, monitor and report on the Convention. In September 1998, the Office of Family and Church Affairs was tasked to draft a policy submission to seek official endorsement and a mandate from the National Executive Council for the Working Committee on the Rights of the Child. This high-level official endorsement, plus a clear policy directive by the Government specifying which agencies should take the lead in implementation of the Convention and which areas are to be given priority and the extent of national budgetary commitments, are now urgently required. Meanwhile there is no coordinating body, no policy, no programme of implementation, no priorities and no dedicated budget.

10. The Working Committee is based in the capital city, Port Moresby, National Capital District. Committee meetings and seminars held in the capital city do not include or inform the people, groups and agencies in the 19 provinces of Papua New Guinea who are working in the key sectors related to the rights of the child. Most, therefore, do not yet know about the existence of the Working Committee on Child Rights. The Working Committee recently undertook extensive publicity, outreach and mobilization of concerned agencies, specifically for the preparation of this initial report.

11. From the Committee meetings, it was clear that few personnel of the key government and non-government agencies dealing with the welfare of the child in Papua New Guinea are aware of the fact or significance of its ratification of the Convention. Many people and agencies involved daily and directly in work to promote and protect the rights of children have yet to be informed at the most fundamental level about the Convention. They have yet to be involved in a programme of coordinated implementation through the establishment of State-sponsored activities, monitoring and reporting bodies and functions. This widespread lack of awareness is found even among the government departments and workers who, under the Convention, are regarded as being the most strategically placed to disseminate, promote and implement the Convention: child welfare officers, teachers, youth workers, health workers, police and juvenile justice workers.

12. Membership of the current Working Committee on the Rights of the Child is confined to people living and working in the capital city, mainly because of the geographic and economic constraints facing Papua New Guinea. As long as the Committee is not officially endorsed and resourced, there will be no possibility to directly involve people from the most active agencies in

the provinces, who would all have to travel to meetings by air. This would require a substantial operational budget, and it is a lack of this kind of funding that is allegedly one of the main reasons why the National Council of Child Welfare has not been functioning for years.

13. Many provincial child welfare officers have yet to be informed. An alternative to a national body with provincial representation, to coordinate and monitor CRC implementation, would be regional or provincial bodies. A timely and ideal policy for coordinating and implementing the Convention on the Rights of the Child would be the training of local Convention trainers, advocates and monitors and the establishment of bodies linked to the district infrastructure and operations of the newly revitalized system of local-level government. Current reforms in the structure of government and the decentralization of planning, policy-making and decision-making create a unique opportunity to put children first at the local level. This would require a mass education and mobilization effort among local-level government officials, elected representatives and village-based committees. It is achievable if conducted in strategic alliance with the Churches and non-governmental organizations who maintain extensive rural networks, training and communication systems.

14. The Chair and Deputy Chair of the current Working Committee are two very senior female government officers in the Office of National Planning and Implementation and the Office of Child Welfare, respectively. Both are highly and strategically placed to advocate and lobby the Government to put in process the basic steps of implementation of the Convention, yet both appear not to have a great deal of political power and influence within their respective government offices. This may be, in part, a gender issue and needs to be addressed.

15. At the time of preparing this initial report, the Working Committee had made good links with non-governmental organizations, particularly those operating within the capital. The non-governmental agencies dealing specifically with children include the various social welfare providers in the nation's capital, particularly those church agencies catering for juvenile offenders, street youth, and prostitutes. For example, World Vision, with a wider national development focus, has provided resources for research and policy development to address the needs of street youth and abused children and has taken important first steps to address the problem of child sexual abuse.

16. A number of non-governmental organizations have recently made submissions to the Working Committee for the preparation of this report, but they have done so largely from a position of ignorance regarding the Convention. There is a rapidly expanding number and range of NGOs operating in the 20 provinces throughout the country; particularly those concerned with social justice, social development and child welfare. Indeed, it is the Church-based and non-governmental agencies that now provide almost exclusively, services for juvenile offenders, the homeless and children with disabilities. There is a great deal more work required to adequately inform these NGOs on the Convention, the obligations of government and the ways in which NGOs can participate in implementation, monitoring and reporting. Similar efforts are required to reach out to the national and provincial coordinating offices of the many different churches operating in Papua New Guinea. In line with the Government's reform in the structure of government, there is a need to create bodies charged with the coordination of implementation, monitoring and reporting of the Convention at national, provincial and local levels.

### **C. Political will to implement the Convention**

17. Since ratification of the Convention, demonstration of political will and commitment to the Rights of the Child has been largely confined to new policies and programmes in two key sectors. In health, there has been parliamentary endorsement and promotion of Child Survival policies and programmes through the attempted revitalization of primary health services. In education, there has been political support for attempts to achieve Education For All (EFA) through the implementation of major reforms of the national education system, which should provide greater access and relevance for Papua New Guinea's children. Progress has been systematic, but slow in these two sectors, and many targets set for the year 2000 have now been deferred to 2010.

18. During 1993/94 UNICEF mounted an intensive advocacy programme to highlight the crisis in the nation's health services and the serious deterioration in the health status of women and children. UNICEF highlighted the very poor maternal and child health statistics, indicators and trends and stressed the negative consequences on national development. UNICEF declared the urgent need to mount a "child survival crash programme". Government response was positive. Political commitment was demonstrated at the highest levels with the public advocacy by the then-Governor-General and the active involvement of the then-Prime Minister in the implementation of the crash programme. Over the past five years the follow-on for child survival initiatives have been set back by inadequate budgetary allocations.

19. In the education sector, there has been strong political commitment to achieving education for all, specifically through the promotion and implementation of major reforms in the structure and accessibility of the formal education system at elementary, primary and secondary levels. Education reform promises a breakthrough in the access of Papua New Guinea's children to relevant education at all levels through to grade 12. However, it is seriously hampered by critical operational and logistical deficiencies, and it is operating in the context of larger political reform.

20. Political will to implement the articles of the Convention has been largely confined to these two major sectors. By contrast, child welfare and juvenile justice have lost considerable ground and capacity over the years since ratification of the Convention on the Rights of the Child. With regard to planning and providing for children the emphasis of the Government has been on the provision of basic needs, particularly access to basic health care and education, rather than a broad range of children's rights. There has been no consistent advocate for child rights in the key planning and budgetary bodies.

21. Papua New Guinea's initial report on implementation of the Convention is now four years overdue. This is partly related to the fact that there have been three Governments, numerous re-shuffles of ministries within each successive Government and a high turnover of Members of Parliament in the six years since ratification. The same problem of rapid turnover and change has occurred within the public service and among the heads of relevant government departments, as well as numerous changes, restructuring and reallocation of functions of the key relevant departments since ratification in 1993. Parliamentary memory and consciousness of its obligations as a State party to the Convention appear to have faded out of the national political consciousness and priorities.

#### **D. Proportion of budgetary resources allocated to children**

22. Papua New Guinea is a middle-income country with great mineral, oil and forestry resources and wealth. In spite of a major mineral boom in the early 1990s, there has been an absence of clear policies on the use of mining revenues and no guarantee of sustainable contributions to social and economic development. Heavy borrowing since 1994 has led to the State's external debt matching or outstripping the growth in export earnings.

23. With regard to the obligation of States parties to implement the Convention "to the maximum extent of available resources" Papua New Guinea is believed to have had the economic capacity to provide adequately for its children in the years since ratification. However, a series of economic crises, most often related to problems of financial management, but also exacerbated by a 10-year secessionist war and many natural disasters, have meant that many children in Papua New Guinea still have no access to the most basic State services like water, health care and education. Most children in Papua New Guinea do not benefit from any social services provided by Government, yet many in-country economic and political observers believe that Papua New Guinea is rich enough to provide support to single mothers and pensions to the disabled. In fact the institutions and formal services provided for the disabled and disadvantaged are all Church-run, and are severely under-resourced by the Government.

24. In education, budgetary allocations for elementary, primary and secondary level have been steady at about 10 per cent of the total national budget since 1993. Current reforms in the national education system are guided by a National Plan of Action for Education for All and a drive within the education department dating back to the mid-1980s, to make education more relevant. In the newly reformed system, children will progressively be able to access the first three years of education in their first language, often in community-sponsored and community-based institutions. They can then proceed and continue primary school through to grade 8, rather than grade 6 and if they reach high school continue to grade 12 instead of grade 10. The laudable education reforms are proceeding at a slow pace, with considerable problems in the more remote rural areas. Moreover, the education reform is heavily dependent on Australian Government project funding and World Bank and Asian Development Bank loans.

25. Government expenditure on health has been maintained at the level of 8 per cent of the total annual budget since Papua New Guinea gained independence in 1975. Budgetary allocations to health indicate a large proportion (approximately 43 per cent) is spent on the operations of the national General Hospital, located in the capital, which is quite inaccessible to the majority of the population. There has been a very serious deterioration in the rural health infrastructure in the period 1993-1998, particularly in the provision of primary diagnosis and treatment and an effective system of referrals through rural "aidposts". The provision of routine mobile maternal and child health services, particularly immunization, has declined dramatically since Papua New Guinea achieved political independence and is considered the single most determining factor in the rising infant and maternal mortality rates.

26. When UNICEF first documented, lobbied and graphically presented to Parliament the national crisis in the health system and its severe and negative impact on women and children, there was a clear demonstration and declaration of political will to rectify the situation. However, this occurred at the beginning of a prolonged period of financial crisis for Papua New Guinea. Project Aid from the Australian Government, the New Zealand Government

and loans from the Asian Development Bank have been necessary to sustain the special initiatives for child survival set up during that period. Australian Government aid and International Development Bank loans remain crucial to support and sustain a range of current projects aimed at improvement of access and quality in the health and education sectors (see table 12, annexes).

27. During the period following ratification of the Convention (1993-99), Papua New Guinea also embarked on a major reform in the structure of government, under the 1995 Organic Law on Provincial Government. This reform aims at decentralization to district and local-level government of all major decision-making for development planning and budgeting for basic services: water, health, education, transport and social order. Under these new arrangements, provincial governments submit annual plans and budgets and secure lump-sum operational grants for district level infrastructure, service and project initiatives. Each of Papua New Guinea's 20 provinces sets its own budgetary priorities, including the allocations to education and health (except for the allocations to provincial hospitals). Children have no advocates among planners and decision makers at provincial, district or local government levels and their needs and rights are often being overlooked.

28. There is no specific mention of plans to provide more effectively for children under the newly reformed system of government. Provision has been made for the representation of women through the creation of a nominated woman member to all local-level governments and the participation of women in the Ward Development Committees. However, the participation of women in the male-dominated structures and operations of local-level government falls far short of gender balance and equity. Research indicates that rural women have very different priorities to men in the allocation of family incomes. Rural families rely almost exclusively on women's incomes for the payment of school fees and the purchase of goods and services, which ensure survival, development and the quality of life for children. Women in local-level government are likely to prioritize family welfare and basic children's rights issues. However, if their representation is low and they are not sufficiently empowered and educated into their new roles, their voices and concerns may be drowned. Officers of provincial affairs have publicly expressed a rather simplistic and naïve gender-based assumption that the women who are nominated representatives on the local level decision-making bodies will automatically represent the interests of children, and that this is all that is required to ensure that a reformed government system addresses the needs and rights of children. The emerging role of women provided by the reformed system of government calls for a response through special training designed to equip them for their new and potentially groundbreaking role in local politics.

29. There are some very significant differences among the 20 different provincial governments regarding the priority accorded to the provision of basic needs of and services for children. Most provinces have given budget priority to the maintenance and expansion of health and education facilities and services. However, there are also serious financial management problems in the administration of some provinces. When funds are overspent, the daily operations may be affected. In recent years there have been extensive closures of provisional, district and village-based health and education facilities due to lack of funds, shortfalls in funding, principal budgetary allocations.

30. Under the new organic law on provincial government, there is still an absence of clearly defined planning and decision-making procedures at local and provincial levels. These policies and practices will be the key to resource allocation and the provision of services, and can potentially make the difference in reaching all children and promoting and protecting their rights. Currently, there is no policy at local or other levels of government that prioritizes social services or other programmes and services for children. Large numbers of villages and children do not yet have the most basic access. It has yet to be demonstrated whether the new reforms will build the motivation and capacity required to overcome the logistical and economic obstacles to the delivery of basic services.

31. In the light of Papua New Guinea's relative wealth, resource shortage cannot be an excuse for inaction on the Convention. Furthermore, there is a large community of church and non-governmental organization workers already committed to child rights and at work to ensure them, who could be officially recognized and strategically involved in a national body, plan and strategy for the implementation of the Convention. Political will is the key. Workable plans and programmes for mass awareness and nationwide training on the Convention are urgent priorities.

32. The debate on how national wealth is being invested in the provision of basic needs and social services for its citizens can be advanced through more awareness about the situation of women and children. In spite of public commitments at the United Nations to Health for All, Education for All and the protection of human rights, Papua New Guinea still falls far short of fulfilling these promises. In both the health and education sectors there is still a dangerous reliance on large volumes of overseas aid. Aid dependence characterizes most efforts to improve the police, juvenile justice, and correctional systems. Aid dependence also underpins the work of the wide range of NGOs and Church-based agencies that currently provide the only services for children with disabilities, street youth, homeless youth, neglected children, drug and substance abusers and popular and community-based education for pre- and out-of-school children. These are all programmes largely financed by overseas government and NGO aid. These should, in principle, get more direct support from the Papua New Guinea Government in acknowledgment of their large contribution to services for women and youth.

#### **E. Child-impact assessments of government budget, policies, laws**

33. There have not been any systematic assessments of the impact of Papua New Guinea's budget, policies and legislation on children. There has not been any government policy formulated on child-impact assessment, nor has there been any research commissioned or body established to address this matter.

34. Some members of the non-governmental organization community have researched the impact on children of particular economic policies and formulated a position, specifically on Papua New Guinea's various structural adjustment programmes and the current laws on the family and child welfare, environment and law and order. Their information and recommendations are set out in a 1997 Individual and Community Rights Advocacy Forum publication, *Justice and Freedom: An NGO Programme for Human Rights, Gender Equality, Land Rights and Natural Resources for the 21st Century*. This document makes specific reference to the impact of current government policy on social and economic development and existing and outmoded family law on families, women's and children's rights and future generations. It is intended to guide NGO programme priorities and national and local lobbying

and campaigning. It is a widely used reference among NGOs throughout Papua New Guinea that are involved in community development and basic needs service provision. It also serves as a framework for monitoring and assessing of government policies and for advocacy and action for greater resource distribution, social justice, human rights and environmental protection.

35. Some of Papua New Guinea's local non-governmental organizations have undertaken preliminary work in monitoring and documenting the impact of structural adjustment programmes on children. Over the past seven years, NGOs have worked with other interests in the community to raise the collective voice of civil society on critical governance and development issues: regarding the handing down of destructive and short-sighted resource development policies; the imposition of draconian and unconstitutional responses by the State to the law and order crises, and the national budgets which threaten children's basic rights, and accord the provision of basic services low priority or inadequate annual budgets. Save the Children-Papua New Guinea has done some very basic work to alert its local NGO and other partner organizations to the impact of economic restructuring on children, by encouraging and training them to document case studies, particularly in the rural areas.

36. To date, the non-governmental organization sector of Papua New Guinea has not planned or activated lobbying and advocacy related to the impact of government policies or fundamental legislative reform to promote and protect basic children's rights.

#### **F. Active and appropriate measures to make the Convention widely known to adults and children**

37. There have been only very limited measures taken to make the Convention widely known to adults and children throughout Papua New Guinea. In 1996, the Government and UNICEF jointly prepared a situation analysis on children, women and families in Papua New Guinea. The preparation of the document involved a series of multisectoral team meetings and consultations with relevant government departments, agencies and non-governmental organizations. Drafts were circulated widely throughout Papua New Guinea for comments and contributions. The situation analysis is a comprehensive account set in the framework of the Convention and provides a guide for planning and programming at national and provincial levels. Three thousand copies have been distributed and a revised and updated edition went to press in late 1998.

38. The situation analysis has been summarized and published in a very accessible popular format in simple English. Five thousand copies have been printed and are being distributed nationwide to all public libraries, individual school libraries, to all members of Parliament, heads of all government departments and through church and non-governmental organization networks. The situational analysis is a useful basic resource for raising awareness on the situation of children with the key leaders and decision makers who are implementing the foundation and pioneering work under the local-level government reforms.

39. The National Department of Health, has, to a limited extent, and with assistance from UNICEF, promoted the Convention as part of the child survival crash programme. This was a national campaign to revitalize essential primary healthcare services for children, especially immunization. There has been a lack of general awareness on the Convention outside of the health sector and the networks and spheres of operation of a handful of national informed and

committed non-governmental organizations. Prior to the writing of this initial report, there has been no specific action or application of funds or resources by government to generally and widely publicize the Convention in a manner that would overcome the difficult geography, language diversity and low literacy levels of Papua New Guinea.

40. Public discourse on children's rights is largely restricted to the minorities who read English and have access to the national newspapers. UNICEF has published illustrated "spot items" in the national newspapers, drawing attention to each of the articles of the Convention, one by one. Since Papua New Guinea ratified the Convention, articles and letters to the editor have regularly appeared in the national newspapers, reporting on various rights of children. Letters from the public reflect community concern that the most basic rights of children are being violated. The letters often refer to the rights of children in a general sense. These letters appear to be prompted by occasional news and features that remind the readers that Papua New Guinea has obligations and commitments under the Convention. Others repeatedly raise the issues of an elusive policy and promise of free education, the burden imposed by the fees demanded in provincial hospitals and rural health centres, widespread youth unemployment, drug abuse, child sexual abuse and violence and brutality that juvenile offenders experience in the criminal justice process. Readers also write to the newspapers about the persistence of controversial cultural practices, particularly those that violate the rights of the girl child through bride-price payments and other traditional marriage arrangements and the inter-clan transfer of girls as part of compensation packages in the settlement of clan disputes. In this debate there are many male apologists for male domination and discrimination against women and the girl child and for maintenance of aspects of "Melanesian or Papua New Guinean ways" and culture which reinforce and maintain male dominance.

41. The public voice could be much more effective if it was raised and presented in the framework of the Convention, and through local bodies specifically established to advocate and monitor child rights and child welfare. Without such bodies in place many people feel that their concerns about children's rights are not heard by anyone in authority. Rural teachers report that rural communities are tolerating hundreds of cases of discrimination, abuse and neglect of children, because they have no clear concept of what rights or standards are being upheld by the Papua New Guinea Government. In addition, they have no sense of the official body to whom people should report exploitation or abuse of children. In the rural areas, teachers, parents and community workers express alarm that no one has any idea regarding whom they could report their concerns to about the progressive decline in the quantity and quality of health and education and a rise in the incidence of child abuse.

42. In 1996 a small group of senior government officers and community organizations worked with UNICEF-Papua New Guinea to establish the Intersectoral Social Mobilization Group to promote collaboration on key development issues related to the welfare of the child. The intersectoral group chose to focus on child rights and developed an advocacy plan to publicize and promote the Convention. A presentation to the group by a visiting officer of Save the Children from the Solomon Islands detailed its work on information and awareness, including the establishment of a National Advisory Committee on Children, and promotion of mass public awareness through a range of popular media. This prompted the intersectoral group to formulate a plan and strategy to advocate and undertake awareness to win commitment at



the highest political levels in Papua New Guinea. This strategy included plans to produce a film on the situation of children in the framework of the Convention and to present it first to key members of Parliament. The operations of the intersectoral group were set back by the national political crisis of March 1997 and the plan has not yet materialized.

43. A song in English, on the very basic elements of child rights, was produced by people associated with the intersectoral group and has been played with great regularity on national radio. However, this only reaches and informs adults and children who understand English and have access to radio.

44. Save the Children-Papua New Guinea has taken measures to promote awareness and implementation of the Convention. Activated by their participation in the intersectoral group and their Solomon Islands counterparts, Save the Children began to raise the profile of the Convention and the importance of understanding child rights in clarifying the goals and objectives of a range of rural development programme organizations. Save the Children took on the challenge that the intersectoral group had articulated: to formulate a strategy for communicating, gradually and in a culturally appropriate way, the concept of child rights. Save the Children has introduced and explained the Convention, its history and significance to all of its partner organizations in Papua New Guinea through three partner-awareness and capacity-building workshops conducted in 1996 and 1997.

45. Non-governmental organizations associated with Save the Children have prepared and disseminated the initial translation of the Convention into *Tok Pisin*, the lingua franca of Papua New Guinea. It has now been further refined and illustrated and is available through HELP Resources, a new NGO, now developing introductory training on the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women. Many agencies and organizations have been encouraged to disseminate the translated version of the Convention to develop grass-roots and popular media to promote the Convention. Other non-governmental organizations have developed their own local programme specific strategies to promote the Convention and the introduction of the concept of child rights to community and institutional settings in Papua New Guinea.

46. Baua Baua, a provincial popular education theatre troupe, has written original songs in *Tok Pisin* on child rights, spelling out the rights to survival, protection and development and including the rights of children in especially difficult circumstances. These have been performed before thousands of people, the majority being rural children, but also their parents and children, teachers and politicians. The songs are recorded on cassettes of which 500 have been distributed, many to rural health and education institutions, community organizations, Churches and women's groups. The songs are easily learnt and sung spontaneously by the children, who multiply the awareness among them. They have demonstrated in one province that low-cost mass popular awareness on child rights that reaches both adults and children is possible. More recently the national Health Department's health promotion section has emulated this initiative.

47. The Red Cross community-based rehabilitation programmes have built the Convention on the Rights of the Child into their teacher-training and community-awareness programmes. Village kindergartens (*Kindergarten long Ples*) have built the Convention into its teacher-training programme. More recently, a small non-governmental organization, HELP Resources, has

developed Papua New Guinea's first comprehensive set of human rights training and information materials in *Tok Pisin*. These materials introduce, explain and link the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the basic rights enshrined in the Papua New Guinea Constitution. These materials will be widely available to government and NGO agencies, and will be used in the pilot training of local-level government officials, elected representatives and committees in the East Sepik Province.

48. The Individual and Community Rights Advocacy Forum has, since 1992, promoted the rights of the child as part of a broad human rights advocacy and training programme. To date, this group has addressed children's rights through a women's desk and a women's refuge/crisis centre. It has established a national children's rights desk, as a joint initiative together with Save the Children and UNICEF, but the programme is yet to become operational. It is anticipated that the Forum, through its child rights desk, could play a key advocacy role, with government and non-governmental organizations at the national level and through grass-roots NGO networks to promote the Convention and publicize Papua New Guinea's obligations. This NGO initiative is important, given the failure of a government office or body to assume a lead role in promotional and implementation of the Convention.

49. Increasingly, non-governmental organizations are recognizing the Convention as an important framework for their operations. World Vision-Papua New Guinea, has traditionally concentrated on child sponsorship and child-focused areas development programmes. However, more recently they have financed important research on street youth and meetings to support the establishment of agencies to combat child sexual abuse. As a result of their participation in the Working Committee on Child Rights, World Vision has introduced the Convention into all of its policy, programming and staff development work.

#### **G. Training on human rights, the Convention on the Rights of the Child and child rights for people in professions working with children**

50. Few professional groups, other than the staff of the non-governmental organizations specifically mentioned in the preceding paragraphs, are receiving thorough or systematic training on the Convention. UNICEF, through its social mobilization training in the main regions of Papua New Guinea and in association with UNICEF-implemented projects in selected provinces and regions, is introducing the Convention on the Rights of the Child to government health workers, community workers, planners and administrators. The Individual and Community Rights Advocacy Forum, through its network of NGOs and community groups, is providing human rights training and texts to a range of community workers but it has yet to develop materials and workshops for teaching child rights.

51. The Convention on the Rights of the Child is not specifically included in the courses taken by lawyers, social workers or social science teachers at the University of Papua New Guinea. Lecturers in these tertiary programmes claim that they themselves need more basic information, education and resources about the Convention before they can incorporate it in their teaching. While teacher trainers and curriculum writers have a basic

awareness of child rights, there is little evidence of the Convention being specifically addressed or incorporated in teacher training or the formal school curriculum. Curriculum writers have expressed a great interest in integrating the Convention into existing courses, but do not yet have ready access to appropriate texts and materials.

52. Health workers involved in in-service during the peak years of the Child Survival Crash Programme are superficially aware of the Convention on the Rights of the Child, but the Convention has not been taught in a manner that might change fundamental attitudes and behaviour and influence policy and practice in the workplace.

53. Throughout the juvenile justice system and pre-dating the preparation of this initial report, some senior lawyers among the public solicitors and prosecutors declared that they were not aware of the existence of the Convention. It is therefore extremely unlikely that the Convention has ever been invoked in the Papua New Guinea courts or in the daily application of the law.

54. There are three groups of professional workers who are lobbying at the policy level for legislative change and training their staff and developing their programmes within the framework of the Convention. They include the Church and non-governmental organization personnel who are running programmes for children with disabilities, victims of child abuse and exploitation and children in conflict with the law, respectively.

55. The promotion of special education for children with disabilities has been spearheaded by Church and non-government agencies. Over time they have substantially influenced national education policy on special education. Addressing the root problem of rejection or non-recognition of the rights of children with disabilities, the key agencies offering training in this area now emphasize basic awareness on the rights of the child. The training of special-education lecturers and teachers and advocacy for government recognition and support makes specific reference to the Convention, particularly to article 23, regarding the rights of disabled children. Papua New Guinea's eight national teacher-training colleges are already using this material. By mid-1999 all teachers in Papua New Guinea will have completed in-service training on special education, which highlights child rights. Similarly, Church and non-governmental organization workers in agencies dealing with victims of child abuse and with street kids and homeless youth are starting to use the Convention to highlight the rights of children marginalized from the mainstream.

56. The only known training manuals on the Convention available for use in Papua New Guinea are the products of international and regional offices of UNICEF and Save the Children. Limited use has been made of these materials. Save the Children has found them to be inappropriate in introducing the concept of child rights to Papua New Guinea community workers. There has not been any development or production of a training manual or package on child rights specifically written or adapted for the current social, political, economic and cultural context. This is a challenging and urgent need for non-governmental organizations to fill.

57. UNICEF could play a valuable role in making known many of its excellent reference and resource publications on the Convention and available to the people who are in a position to train and rapidly multiply awareness of and commitment to the Convention. As a matter of course,

these materials should be ordered and placed in the libraries of tertiary training institutions and the National Planning, Child Welfare and Attorney-General's office, as well as with the police and Correctional Services.

58. The lack of appropriate training strategies and materials for human rights, the Convention on the Rights of the Child and child rights education for people in professions working with children has slowed down the awareness and implementation of the Convention. Distribution and use of the available awareness or introductory texts and packages has been restricted to the programme-related work of UNICEF and a handful of non-governmental organizations. However, without a government policy and body to coordinate the implementation of child rights, the training of professionals who work with children will remain ad hoc, piecemeal and uncoordinated.

#### **H. The process of preparing the initial report**

59. This report has been prepared in a context of low levels of public and political awareness of the Convention, the absence of a National Plan of Action or the appointment and endorsement of an official body or bodies to coordinate, monitor and report on implementation of the Convention. The Working Committee on Child Rights has developed some simple strategies. There has been equal involvement of government and non-governmental organizations and within the prevailing limitations, every effort has been made to be consultative, accurate, objective and transparent. These efforts included: mass media awareness, a call to the public for submissions to the Committee, a broadened base and inclusion of NGOs in the Committee, several seminars to hear directly from key legislative, judicial and administrative bodies, service providers, researchers, welfare councils, committees, organizations and associations on the range of issues covered by the Convention.

60. Publicity of the process of the Convention on the Rights of the Child report-writing and a call for submissions has been largely restricted to the literate who buy the national newspapers. Remote rural communities have not been effectively reached, informed and invited to get involved. Plans to use the more popular media of radio and TV were not followed through on. The Working Committee acknowledges the urban and capital-city bias in the submissions they have received. However, there have been a few significant submissions presented by a doctor, an educationalist, urban mothers and a politician to describe and document the day-to-day deprivations of child rights in rural villages and urban settlements, as well as from non-governmental organizations involved in work at the community level. Furthermore, the writing of the initial report was completed over an extended period, giving those involved an opportunity to read drafts and verify the reports through additional community consultations. Press releases, radio programmes and interviews were used to reach out further to the provinces and particularly to non-English speaking and non-literate audiences.

61. Additional efforts were made to reach out widely to those who could respond by phone and letter. However, there was a serious lack of working knowledge of the Convention among people throughout Papua New Guinea. Much of the publicity associated with the writing of this report has in fact served to provide initial awareness of the Convention rather than to promote participation by an informed community in the reporting process. The process of writing the initial report has thus provided an introduction and an invitation to relevant provincial and district-based people and organizations to get involved in planning and programming for

implementation of the Convention. More meaningful participation, especially of remote communities, non-literate and non-English-speaking people, requires a well-planned, long-term awareness campaign followed by strategies to develop a national plan of implementation.

### **I. Translation, publication and dissemination of the initial report**

62. It is the intention of the Committee to circulate the draft report to all people and agencies that have been involved in its production as well as other selected agencies. It will be available to any member of the public who requests it. It will be disseminated widely through government, Church and NGO networks, and published in the local newspapers in both English and *Tok Pisin*.

63. Currently there is no plan to translate this report. However, several NGOs specializing in literacy, popular awareness and human rights education are in a position to summarize and translate the report into the lingua franca, *Tok Pisin*, in association with the Office of Child Welfare and with nominal financial support.

64. Beyond the work associated with the preparation of this initial report, there has been very limited distribution of the Convention on the Rights of the Child. Much greater distribution of the English and *Tok Pisin* versions has been carried out by small but widely scattered non-governmental development organizations, particularly those with substantial rural networks. While government will be responsible for the dissemination of this and future reports, it would be wise to involve the national Church and non-governmental organization networks in dissemination. This would ensure further outreach into the rural areas, into networks and communities actively and directly engaged in programmes and service delivery for children who are able to utilize this material in their staff training programmes.

### **J. Legislative reform and reference to the Convention in the courts**

65. A legislative review to make recommendations on the drafting or reform of domestic law, and to harmonize it with the Convention, has yet to be conducted. Most senior officials in the Department of Justice and the Law Reform Commission were, until recently, not aware of the Convention, or conscious of the obligations of the Papua New Guinea Government as a party to the Convention. Lawyers, social workers and court officials are not trained in the Convention. It is therefore highly unlikely that the Convention on the Rights of the Child has ever been referred to, let alone invoked, in cases before the courts in Papua New Guinea. There have been no new legal codes adopted in the spirit of the Convention. Only a new NGO, People Against Child Sexual Abuse (PACE), has reviewed the laws relating to child sexual abuse. PACE's proposed amendments to existing legislation address the inconsistencies in ages and across gender, has been drafted and is to be presented to Parliament as the Child Sexual Assault Bill.

66. The Papua New Guinea Law Reform Commission is suffering from serious under-resourcing and lack of political influence. There has been some activity in the Attorney-General's Department to have the report and recommendations endorsed by the

National Executive Council for amendments to domestic legislation on family law and domestic violence as proposed in the recommendations. It is anticipated that once the National Executive Council has given its approval, the amendments will then be presented in Parliament. Due to the recent changes in the department in terms of personnel, priorities have also changed. The departmental Committee on Domestic Violence chaired by the Law Reform Commission has not met yet.

#### **K. Measures for collecting data to design programmes for children**

67. Health and education are the only sectors of government where institutionalized monitoring, evaluation, reviews and research, involving the systematic collection of statistics are being undertaken for the purposes of designing programmes for children. The collection of gender and urban/rural-disaggregated data has been normal practice, and has been mainstreamed or institutionalized in the Education Department and in education research for more than a decade. Gender-disaggregated data are not consistently available from the Department of Health.

68. Basic and systematic monitoring with attention to age, gender and urban/rural disaggregation of statistics is sorely missing in the fields of juvenile justice, substance abuse and family violence. Several non-governmental organizations and agencies concerned with promotion and protection of the rights of children in exceptionally difficult circumstances engage, on a small scale, in the systematic collection of data and trends among children.

69. This is the case in selected agencies working with children with disabilities, children in conflict with the law, child victims of violence and particularly sexual exploitation and children who are homeless or living on the streets. Most of these agencies are meeting the urgent needs of children on a day-to-day basis while trying to document the situation and bring it to the attention of government and donors.

70. The major bilateral donors providing aid do conduct monitoring and planning exercises which provide substantial information on statistical trends. This is particularly the case with the Australian Government's programme of project aid, which conducts surveys and assessments with the Office of National Planning and Implementation in the course of planning, monitoring and evaluating projects. Updated statistics trends are published and made widely available through annual reports.

71. The writing of this initial report has brought into sharp focus the Papua New Guinea Government's lack of awareness, commitment and action on the Convention on the Rights of the Child. There have been pockets of activity in a few government departments, which have direct links with UNICEF and are influenced by United Nations summits and government commitments to health and education for all. However the limited work on the implementation of child rights through Church and non-governmental organization programmes and services, has occurred in a virtual vacuum of government policy and coordination. No one in Papua New Guinea is yet using the Convention as a tool for effecting cultural change at the community, bureaucratic and political levels.

### **L. The need for technical assistance**

72. Technical assistance is needed and would be best placed in the Office of National Planning and Implementation, working in close association with both the offices of Child Welfare and the Attorney-General's Department. Together these three key government departments must mount the lobbying campaign for political and popular lobbying commitment to the Convention. They could directly involve the child rights desk officer of the Individual and Community Rights Advocacy Forum as a potential lead agency in coordination of non-governmental organizations working to promote and provide services for child rights. Meanwhile the Committee must be trained, strengthened, and empowered until such time as Parliament endorses and resources an official body tasked with coordination of awareness, implementation and monitoring of and reporting on the Convention.

73. Technical assistance is also needed to develop a long overdue National Plan of Action for the implementation of the primary and essential actions and tasks that are presumed to follow ratification, but which have not yet been undertaken in Papua New Guinea. One is the task of ensuring that at the highest political, legislative, judicial and administrative levels laws, policies, programmes and processes are put in place to ensure that the Convention is recognized as a framework and benchmark for the provision of children's basic needs and the protection of children's basic rights. The second, but equally important task is to plan and conduct mass public awareness campaigns and the development of appropriate training content, methods and materials for everyone, and particularly for non-literate and non-English-speaking people. More government-supported awareness and training is required for all agencies, including the churches and non-governmental organizations with policies, programmes and service provision for children, at national, provincial and local level.

## **II. DEFINITION OF THE CHILD (art. 1)**

74. Article 1 of the Convention defines the child as every human being under the age of 18 years. Following ratification of the Convention, this definition sets out a new working definition in the Papua New Guinean context and points to the need for reform of the legislation which states or implies different definitions. A problem is posed by the fact that there is no such thing as "chronological age" in traditional Papua New Guinean society. A substantial proportion of citizens, including those under the age of 18 years, do not know their birth date and have not had their birth recorded or registered with any State institution.

75. Chronological age became an issue during the period of colonial administration, in the course of early census-taking. Recording of age became increasingly important in the planning and provision of basic services, especially the gradual geographical expansion of formal institutions like schools, health centres and hospitals. With the spread of Christianity, records of age were required for the purposes of baptism or marriage. In the absence of access to birth certificates and registration throughout the rural areas, many parents interacting with colonial administration or missionary institutions were likely to make a mental or an unofficial written record for their own purposes of the birth date of their children. This is usually a more accurate record than might be expected. Many mothers can mentally recall the exact time and date of birth of their children. Throughout Papua New Guinea in all kinds of situations, the

Department of Health's "Baby Health Record Card" or the local church baptism records may be the only document people have to estimate their date or year of birth and that of their children. Many people still have no record at all. In remote areas where schools and health services have never existed or no longer exist, chronological age still has little relevance to people's daily lives.

76. Civil registration documents play an essential role in providing evidence of chronological age. Birth registration is a right (art. 7 of the Convention). However, the majority of parents in Papua New Guinea, even those in the capital city, for whom civil registration services are reasonably accessible, do not make any attempt to register the birth of their children. This is not helped by the fact that the Civil Registry itself is understaffed, under-financed and lacking political support or the most basic materials and equipment for the promotion and provision of universal registration services.

77. There are several sources of law in Papua New Guinean society. One is customary law. The Constitution recognizes customary law, unless it involves cruel, inhuman or degrading treatment of a human being. Judges have the power to denounce customary practices on the basis of the Constitution. A large proportion of the population, throughout the 19 provinces, and in some places more than others, people are living in village societies where many traditional norms and standards still prevail.

78. Many of Papua New Guinea's diverse traditional values and norms are not compatible with the definition of a child under the Convention. In many traditional settings, custom differentiates the children from adults, based on certain culture-specific criteria. In traditional society, childhood ends according to community consensus that these criteria have been met. The criteria vary significantly from region to region and according to the habitat and basic means of survival. The assignment of certain duties and responsibilities and the acquisition of certain privileges also define adulthood. In most societies these traditional rights and responsibilities are assumed following formal initiation processes and ceremonies. These are very often associated with puberty and reproductive capacity for girls and with the attainment of certain physical capacities of self-reliance for young men. The definition of adulthood is closely tied to the determination of whether a male or female is deemed to be of marriageable age.

79. One of the common determining criteria applied to males is the ability to independently and successfully make gardens, build a house and hunt, i.e. be able to live by their own means and provide for a family. A young man able to satisfy these criteria is for all intents and purposes an adult. In some cases this could be achieved at 14 years of age or less. In the eyes of the community, the onset of menarche renders the female child ready for marriage. Thus parents and the community may accept marriage of children at the age of 14-15, even though the Criminal Code makes it unlawful.

80. The Constitution, domestic law and the Convention are not yet meaningful in the lives of many rural children. Prevailing "traditional acceptance" regarding the age of marriage and other issues relating to the protection of the child make both domestic law and the Convention insignificant in the lives of children in many remote and traditional villages. This fact poses serious problems, even though it is considered to be a temporary situation.



81. The situation is pervasive because of the current weak and underdeveloped nature of the Papua New Guinean State. Government representation and law enforcement are very weak in many rural and remote areas. With low levels of literacy and education and no permanent presence of police or courts, it is difficult to make law known, understood and enforced.
82. There is no definition of the child under the Constitution but it does refer to two different ages, specifically in relation to the political rights of citizens. At 18 years of age all citizens may vote. This was a political decision of the Constitutional Planning Committee, specifically aimed at giving youth a sense of political rights and participation in the building of a new nation. However, no one can stand for election to Government under 25 years of age. The preamble to the Constitution is significant when considering the rights of the child because it expressly endorses equality for all, and this covers all children. However, the regime of rights is very restricted when compared to the Convention. While there is no specific statement of rights of the child, the Constitution prescribes certain rights that can be enforced in the courts of law. With few exceptions, based on the need for special protection, the child is accorded the same rights as adults, especially the right to full protection of the law.
83. While the Constitution and the Organic Law (1995) recognize the attainment of majority, or the right of all to vote at 18 years, this is not in harmony with domestic law where there is no universally applicable working definition. There is a confusing lack of uniformity between domestic laws. There are problems of different definition, overlap and gender disparities between the different provisions under the Child Welfare Act, the Criminal Code, the Village Court Act, the Juvenile Court Act, the Deserted Wives and Children's Act, the Marriage Act and the Information Act. Law reform is required not just on the legal definition of childhood, by chronological age, but on the whole regime of social legislation dealing with family life in Papua New Guinea. Domestic law related to family law is regarded as outdated and culturally and politically inappropriate. To date, Parliament has not responded to a recommendation made by the Law Reform Commission in 1978 to repeal all colonial family law and replace it with a single statute, set down in the submission of a draft bill.
84. The ages set for children requiring protection and acquiring legal responsibility and culpability are inconsistent across various relevant domestic laws. This lack of uniformity creates problems in the administration of the law and in reconciliation with the articles of the Convention. Notwithstanding the lack of uniformity between laws and across gender, there has been some measure of protection guaranteed to children under existing domestic law.
85. Under Papua New Guinean law, a person is only a person when completely separated from the mother's womb. The unborn has no protection under law; however, there are very strict anti-abortion laws.
86. A legal "minor" is a person under the age of 18. In the Child Welfare Act (276, sect. 1) a "child" means a boy or girl under the age of 16 years. In the Juvenile Courts Act (sect. 2) an "infant" means a person aged less than 7 years. A "juvenile" is interpreted as a person aged not less than 7 years, and less than 18 years. A child over 7 years therefore assumes legal culpability. The court requires that under the age of 10 years, the prosecution must strictly prove age. Under the Criminal Code (sect. 30) a juvenile under the age of 14 is not considered

criminally responsible for any act or omission unless it is proven that at the time of the act of the omission he had the capacity to understand not to act. A juvenile between 7 and 14 years of age is not considered fully responsible for an act unless the Court is satisfied that the child fully understood the law at the time a crime was committed.

87. The Child Welfare Act applies to juveniles 16 years and below. It establishes a Children's Court with jurisdiction over children who come into contact with the law that has been superseded by sections of the Juvenile Courts Act and the provision for Juvenile Courts.

88. In the Adoption of Children Act (275, sect. 1), a child means a person who has not yet reached 21 years of age or who has reached that age and an adoption order is being sought. In the National Youth Services Act (sect. 2), youth means a person who meets the age qualification as fixed by the Board in relation to participation in programmes. In the Correctional Services Act (sect. 2), a young detainee means a person under the age of 18 years.

89. In the Deserted Wives and Children's Act (sect. 1), a child means a person under the age of 16 years, meaning in particular, that a child over 16 is presumed to be able to fend for himself, and not to require the protection of maintenance laws.

90. In the Infants Act (chap. 78, sect. 8), a guardian has custody and manages the estate of an infant until the infant turns 21 years of age. In the Matrimonial Causes Rule (chap. 282, sect. 1), an infant means a person who has not attained the age of 21 years.

91. In the Marriage Act (chap. 280, sect. 1), a minor is a person below the age of 21 years. Marriageable age for males is 18. Marriageable age for females is 16 years. In exceptional and unusual circumstances, following an inquiry into the relevant facts and circumstances, males of 16 and females of 14 may obtain authorization from a judge or magistrate to marry a particular person of marriageable age. In the Public Health Act (sect. 1), a child is a person below the age of 16 years.

92. Education is neither universal or compulsory in Papua New Guinea, therefore the law does not specify a legal age of entry to school or an age at which children are permitted to leave school. Officially, children are eligible to enrol at 7. However, due to the problems many children have in accessing education, they usually do not enrol until 8 or 9 years of age. Some commence school as late as 15 years old. The biggest problem then is to get children into school and to keep them in school. However, at this stage they are free to leave whenever they choose. Trying to stay in school is a much bigger issue for most Papua New Guinean children and their parents, rather than trying to leave early.

93. In the Employment Act (sect. 103, 3), persons under 16 shall not be employed outside the home. Exceptions are made for a child of 11-16 years, if the employer obtains a medical certificate to certify the child fit for that type of employment or the written consent of parent or guardian. In addition, the employer must prove that employment is outside of school hours or not prejudicial to the child's education. A child of 14 or 15 years of age may be employed, except in industrial undertakings and the fishing industry, where it can be demonstrated that he is no longer attending school. There is no real ability to police these laws in Papua New Guinea. Furthermore, the issue of schooling is not so relevant when so few children have access to education beyond 12 to 14 years of age.

94. The Village Court Act defines a child as a person under 17 years of age. However, the rights protected in village courts are customary rights. In most village court cases this means that children have little or no rights at all. The girl child, in particular, is very likely to be denied her most fundamental rights in cases of customary dispute settlement related to inheritance, marriage, polygamy, divorce, adultery, rape, carnal knowledge and other forms of sexual assault and abuse.

95. According to the Motor Traffic Act, a young person can obtain a licence to drive at 16 years of age. However, in practice no one under 18 is issued a licence.

96. In many cases the Papua New Guinean courts tend not to follow existing law regarding definition of a child because the age-limits do not reflect the economic and social reality of family life. The practice of the courts tends to conform more to the definition of the child according to the Convention. For example, in the imposition of maintenance orders, or the awarding of compensation for loss in motor vehicle accidents, it is the view of the court that a young person of 16 and 17 does not have the means to fend for himself or dependants. The courts consider that in most cases children under 18 are mostly dependent on their families for basic needs.

97. The Criminal Code has explicit provisions for protection of children, but in many cases the ages set for the victims of various offences are below the age of 18. Further, different ages are set for boys and girls, reflecting greater protection for female victims. In general this apparent discrimination is not upheld in the courts, because the courts tend to rely on general provisions to compensate for these inconsistencies.

98. With regard to child offenders, many provisions of the Juvenile Court Act are not being enforced, including the failure to provide separate children's courts. Properly trained magistrates or prosecutors are not always available to deal with offenders less than 18 years old. There are serious problems of the courts relying on estimated ages, in the absence of any official record of birth. This particularly affects female victims under 16 years, and male offenders under 16 who may look older than their chronological age, and who have no record of birth.

99. There is no domestic law that sets the age at which a person can legally drink alcohol. Legislation has been drafted as the Control of Substances Bill, and is currently before Parliament. Under this bill, the legal minimum age for the purchase and consumption of alcohol is 18.

100. The Criminal Code has explicit provisions for the protection of children, but in many cases police are not enforcing them. When offenders are arrested and charged, the courts of Papua New Guinea tend to take a tough stance concerning the protection of children, particularly cases of sexual offences.

101. There are considerable anomalies in the laws protecting children less than 18 years. In particular, there is no protection for boys 14 to 18, while there are numerous provisions for protection of girls in the same age bracket: section 211 refers to the indecent treatment of boys less than 14; section 213 refers to the defilement of girls less than 12; section 214 refers to a householder defiling a young girl on his premises, but gives no specific reference to age; section 215 refers to the attempt to abuse girls under the age of 10; section 217 refers to the

defilement of girls under 16; section 220 refers to the abduction of a female less than 18; section 221 refers to unlawful detention with the intention to defile or keep a brothel; and section 222 covers conspiracy to defile a girl and section 223 refers to advances by men towards girls of 18. Section 351 refers to the abduction of girls under 16 and covers an unmarried woman (sic) removed from her family against her will. Section 361 refers to child-stealing and covers the stealing of a child less than 14 from his or her parents.

102. Except for section 223, which refers to advances by men towards girls of 18, the Papua New Guinean Criminal Code falls far short of the provisions of the Convention. It fails to deal with the protection and needs of children 16 and 17. It also suffers from serious gender inconsistencies. In 1998, a new non-governmental agency, PACE-PNG (People Against Child Exploitation in Papua New Guinea), was established. PACE is particularly concerned with the widespread existence of paedophilia and other forms of child abuse in Papua New Guinea. PACE has already addressed the anomalies of Papua New Guinean law and has prepared comprehensive draft amendments to the outmoded laws currently in use. The proposed amendments, called the Child Sexual Assault Bill, are currently before Parliament.

103. There are many serious factors and difficulties hampering the task of harmonizing the national laws of Papua New Guinea with the Convention on the Rights of the Child. They are related to the status, capacity and effectiveness of the departments and bodies charged with administering, reviewing and drafting laws and the political interest and will of the politicians of the day. Currently Papua New Guinea lacks a comprehensive review of all domestic laws relating to children. Furthermore, the Law Reform Commission itself is not sufficiently resourced. Some outstanding relevant amendments and recommendations already prepared on Family Law (1978) and Domestic Violence (1992) have failed to get a response from Parliament.

104. With low levels of education throughout the country, no government agency and very few non-government agencies are effectively engaged in informing the people of the provinces about their Constitution, their laws and their rights. There is a problem of ensuring protection of children. This is further complicated by the fact that a significant proportion of the population of both remote-rural and the disenfranchised-urban poor live their lives in communities and societies in which customary law take precedence over the national laws and even the Constitution.

105. With lack of education, awareness and understanding of the laws and a weak presence and functioning of government, particularly in remote areas, many citizens, to the detriment of children, are accepting this situation. This has serious implications for Papua New Guinea's fulfilment of its commitments under the Convention. In the current economic and social climate, it has particularly negative implications for the rights and protection of the girl child and for male children who are subjected to sexual and other forms of abuse.

### **III. GENERAL PRINCIPLES**

#### **A. Non-discrimination (art. 2)**

106. The principle of non-discrimination is dealt with in the Constitution (sect. 55 (1)) which states that all citizens have the same rights, privileges, obligations and duties, irrespective of race, tribe, place of origin, political opinion, colour, creed, religion or sex. However, the

Constitution does not specifically make reference to discrimination on the grounds of age or disability. In the Constitution there is reference to the restriction of certain rights to citizens only, and provision for making future laws that might cover citizens only, so there is some uncertainty as to the extent Papua New Guinea ensures the protection of the rights of all children within its jurisdiction, including non-nationals. The principle of non-discrimination is not reiterated in any other laws.

107. The principle of non-discrimination as set down in the Constitution is not widely known or invoked. Furthermore, whereas adults can fend for themselves and in the absence of legal protection are likely to develop their own strategies for redress, many citizens believe that there is no accessible government authority or institution to which matters of discrimination against children could be reported.

108. Gender discrimination is universal in Papua New Guinea, and begins at birth. Among the many diverse cultures and customs of its traditional society, male dominance and son-preference is common. The majority of Papua New Guinea's diverse cultures are patrilineal and patriarchal. Except in places with a strong matrilineal tradition, the girl child has few or no traditional inheritance rights. There is a common desire on the part of parents and the wider family and community for the first-born to be a son, and for the family to have more than one son. In the past it was common to pity families with only daughters, and the husband in particular might never be satisfied if his wife failed to bear him a son. "Compensatory" customary or informal adoption of male children is common. In cases of poverty or remoteness, gender factors may directly decrease a female child's chances of survival, particularly in the case of decisions regarding access to food in times of scarcity or travel to distant and therefore costly health care.

109. In the traditional and contemporary divisions of labour, girls begin providing important, and often arduous, domestic labour at a relatively early age. In rural areas, particularly, girls would commonly contribute substantial labour to family gardens and even make their own gardens and market their fresh food and handicraft products independently to provide cash for the family from as young as 10. Girls are given babysitting and childcare responsibilities at an even earlier age. In contrast, boys are not burdened with regular tasks, and typically do little work until early adulthood. In rural areas the importance of girls' labour for family subsistence and survival has been a reason for parents denying or preventing their access to education. When family finances are tight, parents are less willing to pay school fees for daughters. Parents tend to remove their daughters first if they cannot maintain all of their children in school. There is an institutional gender blindness in schools which permits many teachers to favour male students. They become oblivious to the fact that boys bully, threaten and intimidate girls at both primary and secondary levels, especially when the girls excel, are praised by their teachers or given some responsibility or authority. Female students are likely to attain puberty in their primary school years and may be subject to sexual harassment or abuse committed by male teachers. The Department of Education is the only government department that systematically collects gender-disaggregated data and develops proactive policies aimed at achieving equality of opportunity and participation in education. This has borne fruit at the level of primary education, where 47 per cent of all enrolment is female. Much work is yet to be done to achieve equality at the secondary level.

110. There is a high incidence of reported and unreported rape and pack rapes in Papua New Guinea and a widely held fear of potential sexual assault on girl children. Parents, particularly those in urban and semi-urban centres, severely restrict the freedom of movement and association of girls in their care. Parental anxieties and sometimes excessive preventive measures burden many girls psychologically and physically in Papua New Guinea today. As victims or potential victims of violent sexual assault, girls are often unjustly blamed and punished. They may be accused of looking for trouble, be denied free association with their peers, even beaten severely for simply looking at a boy.

111. Children born out of wedlock were once regarded with shame and subjected to taunting, although attitudes are now much more liberal. Aborting or killing of newborn illegitimate children by mothers was not uncommon in the past, and persists in some remote rural and poor urban areas, although there is little reporting to authorities. Among the many unofficial and few official reports of babies killed, dumped or abandoned, many are attributed to unwanted teenage pregnancies or pregnancies resulting from rape amid overwhelming poverty in urban settlements.

112. Children are often adopted in Papua New Guinea when the natural parents cannot take proper care, when the mother dies, as a way of redressing gender balance, as a means for barren couples to acquire a child or as a way of strengthening ties with other families. It can also be a means of passing on the responsibility for unwanted children of single or abandoned mothers. Customary adoption is widespread throughout the country and is not regulated by the State in terms of pre- and post-placements as the arrangement is done with no prior knowledge of the authorities. Most instances of adoption of children are not legal. There is a common positive perception that widespread social safety nets exist and ensure care for children in need. This notion of traditional social security includes the commonplace, informal absorption and integration of orphaned or unwanted children into other families, without adequate consideration of the immediate and long-term welfare of the child.

113. While there may be many cases of loving and caring adoption, motivated by people who wish to promote the best interests of the child, the incidence of discrimination against adopted children is sufficiently common to justify urgent attention, intervention and regulation. The administration of the existing Child Welfare Act and the Criminal Code is totally inadequate in promoting the general principles of the Convention.

114. Discrimination against adopted children occur often. "Adoption" in the loose informal manner that is practised throughout Papua New Guinea is likely to mask discrimination, exploitation and abuse of children. This phenomenon is all too common within Papua New Guinean families, perpetrated most commonly and pro-actively by the "adoptive" mother, who may herself be under pressure from overwork, ill-treatment or economic stress. Adopted children are likely to be less loved or unloved, made to work hard at an early age to relieve the mother's heavy workload, denied education and sometimes health care, dressed and fed differently and denied many of rights and privileges accorded to the natural child/children by the adoptive parents. The worst cases of discrimination against adopted children involve young girls brought into a family at a very young age as babysitters, or later, on the pretext or promise to the parents that they will be educated, only to let them fall gradually into strenuous, cruel and abusive domestic servitude.

115. Contemporary Papua New Guinean society accepts and condones highly informal adoption practices, which may never come before the courts, be documented or sanctioned by government authorities. This permits the widespread transfer of children between families, within the extended family or clan, and increasingly among friends and distant relatives. Children are often taken into the care of other families for many different reasons, not always in the best interests of the child. Sometimes this “adoption” is specifically in the interests of one or both parents or the interests of a natural child of the adoptive family.

116. Children removed from difficult circumstances in their natural family and taken into an adoptive home may be constantly made to feel beholden to their adoptive parents. Traditional adoptions made in and across the family or clan involved traditional payments and could be monitored. These days, payments and ceremonies are disappearing and adopted children can be removed to places far from their natural parents, unchecked by law, and with no legal obligation to ensure contact with the natural parents. Such loose and, by law, illegal adoption practices (sect. 42 of the Criminal Code) render many children vulnerable to long-term daily discrimination.

117. Children of mixed parentage, whether between cultural groups, provinces or regions of Papua New Guinea or between national and non-national parents, may experience discrimination, which denies their acceptance, participation or inheritance in traditional village settings, or in urban settings their access to education. It is not uncommon for the paternal in-laws to reject a wife from another province and sometimes her children, especially if the parents have made their own plans and financial transactions for their son to take a bride from within his home village.

118. It is evident that some policies do discriminate on the basis of economic and educational background. In rural and urban areas, poverty denies many children their most basic needs. School enrolment policies may discriminate against children of families who cannot pay the annual fees by removing them from school, denying access to books or certificates of attainment. Children who have not been formally educated or who have not completed their education may suffer discrimination in contemporary Papua New Guinean society. They are labelled disparagingly as “dropouts” or “failures” and sometimes rejected, blamed, scorned and beaten by disappointed parents or guardians. Socialization into a strict gender division of labour and burden of domestic and family obligations and circumstances of security usually leads to the more ready absorption of female early school-leavers into the village or home. Boys are less restricted and carry the burden of needing to prove their capacity to provide for their parents and a future family, ideally through participation in the cash economy. Many leave home or otherwise disengage from the normal family routine and regulations, drift to urban centres, live their lives on the fringes of relatives’ and friends’ homes and in the streets where they are readily stereotyped as “rascals” and troublemakers. They are discriminated against in many passive and actively violent and abusive ways.

119. In urban settings, children who are neglected or extremely poor may be discriminated against on the basis of their appearance alone. They may be denied access to shops, offices and public places or subjected to arbitrary body searches upon entry and exit. Male youth who adopt a particular demeanour and style or fashion of clothing or who are poorly dressed, may be denied freedom of movement in commercial and residential areas and be unjustly suspected or accused of petty crime. If they commit or are suspected of committing petty theft, security guards or

mobs may beat them mercilessly, even fatally. Although there is training available for social work professionals, there is no provision of government institution or programmes for this large group of alienated and marginalized male youth, through which professional specialized work with them can be channelled. The Government has established probation services, but they are understaffed and under-resourced. Most community-based services to address and counter discrimination against Papua New Guinea's thousands of alienated and excluded male youth are being provided by various churches working with juvenile offenders and a few para-legal non-governmental organizations working to protect the constitutional rights of citizens.

120. The most pervasive form of discrimination in Papua New Guinea, which has particular impact on the child, is the greater access of the urban populations to basic education, health and general protection under the laws of the land, as compared to rural areas of the country. This fact was clearly demonstrated in the National Statistical Office's 1996 Demographic and Health Survey. There is a dramatic rural/urban difference in basic health indicators, particularly infant and maternal mortality rates and supervised deliveries.

121. The more remote a child's village is, the less likely he or she will enjoy their basic rights as a citizen. There are many pockets of rural Papua New Guinea where children have never had access to schools or health facilities, or where these services have been closed down permanently or sporadically over the last two decades. This is particularly true for health facilities. An estimated 50-70 per cent of the nation's rural aidposts are barely or not functioning. Rural children not only have far greater problems of geographical access to school, they are more likely to have difficulty paying fees and comprehending or identifying with many alien, westernised and urban allusions and references in the curriculum. Many rural schools do not have a new intake every year, and do not have important facilities such as libraries. Some rural children may have to wait until they are 10 before they can enter grade one, thus lessening their chances of continuing to higher education. In rural schools, teachers experience many severe logistical and management problems which lead to repeated and extended absenteeism. In severe dry seasons many schools across the country may close for weeks and months because there is no clean water available to the children.

### **B. Best interests of the child (art. 3)**

122. A preliminary review of Papua New Guinea's domestic legislation has suggested that the principle of "the best interests of the child" needs to be adopted and defined clearly in any amendment of existing domestic legislation relating to the rights of the child, specifically to ensure that the courts or other relevant decision-making bodies consider the following aspects, based on case law in Papua New Guinea and in line with the spirit and intent of the Convention.

123. The existing Child Welfare Act (chap. 276), written during late colonial period, is widely considered to be inappropriate for today's circumstances. It has no provision which adequately addresses the principle of "best interests". This is a key issue for the long-overdue legislative reform. The Deserted Wives and Children's Act (chap. 274), provides for the maintenance of children but does not include any reference to "the best interests of the child" in the provision empowering the court to make orders (sect. 14). However, the Matrimonial Causes Act (chap. 282, sect. 74 (1)) states explicitly that "the interests of the child shall be regarded as the paramount consideration in proceedings with respect to custody, guardianship, welfare, advancement or education of the children of a marriage". To be completely consistent with the



Convention, the exact wording of the law should be amended to match the wording of article 3. Further, rule 204 (1) of the Matrimonial Causes Rules needs to be amended to omit the restriction to “a child of a marriage”, so as not to discriminate against children born out of wedlock. The Infants Act (chap. 278, sect. 4 (1)) deals with custody orders based on the welfare of the infant, and the conduct and wishes of the parents. Children in most cases are not given the chance to freely express their feelings and wishes when they are able. The law balances the parent’s interests with the child’s rather than setting the child’s interests as paramount, and therefore clearly does not accord with the Convention.

124. The Adoption of Children Act (chap. 275) covers both statutory adoptions and customary adoptions. Under statutory adoption, section 5, it states that “the welfare and interest of the child will be regarded as the paramount consideration”. However, the fact is that the large majority of adoptions in Papua New Guinea are informal and never documented or sanctioned by law. The local court does not require any pre- and post-supervision reports on customary adoptions to ascertain the sincerity and suitability of the adoptive parents as well as the promotion of the welfare and child’s best interests. Under customary adoption, the case of a child adopted under traditional arrangements is brought before the courts, there is no provision for consideration of the child’s best interests. Currently, the local court can issue a certificate of adoption, pursuant to the Act without reference to the child’s best interests.

125. There is currently no specific provision in the Village Courts Act requiring the court to have regard for the best interests of the child. This is a serious issue given the wide scope for interpretation of local custom associated with these courts.

126. There are many competent lawyers and welfare workers in Papua New Guinea who understand and would apply “the child’s best interests” as a paramount principle in all legal and administrative matters. However, the reality in Papua New Guinea today is that many custody cases and the majority of adoption cases are not decided in the courts but in familial and traditional settings where consideration of the child’s “best interests” may not be considered or applied, let alone considered to be paramount.

127. There has been no policy or practice of assessing and determining the impact of particular policies on the well-being or rights of the child. Child-impact assessments are not built into the plans, policies or workings of governments nationally or locally and continuous monitoring is not institutionalized in the Office of National Planning or at local levels of government. There is a dearth of research or studies to guide policy law or practice. A series of poverty studies commissioned by the World Bank in 1994 included some assessment of the impact of structural-adjustment policies on children, in particular the imposition of fees for education or health services, and the effectiveness of various traditional and contemporary safety nets.

128. In the practices of juvenile justice, many court hearings do not take the child’s “best interests” into account. Many lawyers, magistrates and probation officers lack the necessary training to create an environment and use strategies which are child-friendly or likely to give sufficient consideration and interpretation to their best interests, in the absence of proper records of chronological age, and alongside the widespread discrimination and scapegoat attitude toward

young male offenders. Young offenders are often handled roughly. This sometimes involves extreme violence and intimidation by the police and other law-enforcing or prison authorities. Children are not always separated from adult offenders, primarily because the State has not made adequate provision in this area. The Juvenile Court Act, which looks good on paper, often lacks effective administration to reach its intended benefits.

### **C. The right to life, survival and development (art. 6)**

129. In the contemporary Papua New Guinea context, there is a very high and increasing incidence of preventable diseases and preventable infant, child, maternal and perinatal deaths. Immunization coverage rates were allowed to drop dramatically over the past decade, and have only been redressed through inadequate annual emergency measures prompted by UNICEF and substantially financed by overseas aid. There has been a widespread decline in the volume and quality of primary health care. The rural "aidpost" system and the routine systems of monthly maternal and child health mobile clinics have been abandoned in most parts of the country over the past 15 years. Attempts to revitalize these essential services are hampered by serious management motivation and morale problems throughout the government system, particularly afflicting the rural health workers. Regular supply of basic equipment and medicines is often erratic and unreliable. Government rural health infrastructure is characterized by disrepair, lack of the most basic supplies and insufficient funds to maintain routine operational transport and the emergency referral and transport of patients. Church health services are providing an estimated 60 per cent of the volume of health care and strive to maintain supplies, standards and quality care. However, they are also negatively impacted by the failure of some provincial governments to disburse their budgetary entitlements in a reliable and timely manner. This problem has led to frequent and extended closures of vital church health services, including district hospitals, over recent years. The Government has a clear policy of giving priority to rural health and particularly maternal and child health. However, rural children remain severely disadvantaged in their access to health care. Most overseas development assistance directed to the health sector is providing for ameliorative or rehabilitative projects and the long-term sustainability of these inputs and interventions is a serious issue.

130. There are serious child malnutrition problems throughout Papua New Guinea, but malnutrition is rarely recorded as the cause of death. During the first decade after independence, Government-supported popular grass-roots nutrition education programmes reached and inspired mothers through village women's groups, many thousands of children in schools and children out of school and through radio and films. These community-based popular nutrition education programmes have disappeared over the past 15 years. Periodic nutrition surveys in the first decade after independence traced the impact of government policies and widespread community-based self-help efforts to eliminate child malnutrition. It is now almost 20 years since the last nutrition survey, and Government and overseas-funded nutrition projects have diminished rather than expanded community effort in this important area of development. Malnutrition persists in Papua New Guinea and is widely recognized by paediatricians as a major risk factor for mortality. In the highlands region, for example, 5 per cent of all child admissions have severe protein-energy malnutrition, and 10 per cent of those children die. There are also deaths due to severe protein depletion. Malnutrition contributes to death from pneumonia, diarrhoea and other diseases. The causes of malnutrition are not just food shortage, but include poor maternal education, maternal malnutrition and resultant poor lactation, and the social structure which gives women low status and makes child abandonment and dangerous adoption

practices common. Social practices where children are readily and informally “adopted” contribute significantly to malnutrition rates and infant mortality, and this is well documented in the highlands, where it is estimated that in one province alone, there are about 300 infants each year who are adopted in early life who develop severe marasmus or kwashiorkor. At least 10 per cent of the marasmic babies die and 25 per cent with kwashiorkor babies die. Traditionally, this was unlikely to happen because children were adopted out to mothers who lived in the vicinity of the natural mother, and the child was not denied access to its mother’s breast milk.

131. In the past the Papua New Guinea Government has enacted important national legislation to address common and preventable nutrition problems. An amendment to the Pure Food Act (1995) regulates the iodization of salt. Papua New Guinea labour laws allow time for breastfeeding mothers to leave the place of work to attend to suckling infants during the workday. The Baby Feed Supply Act of 1977 restricts the sale of baby-feeding bottles and cups to prescription from a registered health worker only, and until recently ensured that universal breastfeeding was the norm. Recently policing and enforcing these laws has been less effective. Surveys indicate that paid employment and the adoption of infants by non-lactating mother have contributed to a significant rise in the use of bottles, and more than half were bought without a prescription.

#### **D. The child’s rights to express views and be heard in judicial and administration hearings**

132. The Constitution (sect. 35 (1)) clearly sets out the right to life of all citizens, except in the application of the death penalty, the reasonable use of force in the enforcement of the law for the suppression of a riot or insurrection or terrorism, or as the result of a lawful act of war. The death penalty is a general provision and does not mention ages of offenders to which it may be applied. Criminal cases of offenders are brought before the District Court for trial under the Juvenile Court Act and age is considered as a mitigating factor in sentencing. Juveniles (aged 7-18 years) are not given life imprisonment or the death sentence. The right to life is further acknowledged in the “Basic Rights” section of the Constitution.

133. A child’s right to life and survival is also protected under the Criminal Code Act (chap. 262) which covers the acts of wilful murder, infanticide, manslaughter, and acts of omission that may prevent a child from being born alive at the time of delivery. It is unlikely that the latter provision is ever invoked, considering that there is significant evidence of neglect of obstetric emergencies in many districts and other rural facilities of the ailing national health system. In many cases, too, a lack of education associated with traditional taboos and fear associated with the potency of birth fluids contributes to many avoidable infant and maternal deaths in rural villages. The current emphasis on village birth attendant programmes is an attempt to address this problem. Infanticide is not unknown in Papua New Guinea. In traditional times, in some parts, it was practised in cases of unwanted births, twins, disabled children and in times of scarcity. In contemporary times, most people know that infanticide is against the law, yet children born into particularly difficult or poor circumstances or where young or unwed mothers have feared loss of face, education or employment opportunities are still the invisible victims of infanticide borne of urban and economic stress.

134. The provision of children with the necessities of life is addressed in the Criminal Code (Part V, Div. 2, sect. 283) regarding the duties of the parents and guardians to ensure the survival of their “charges”. It requires that the head of household provide for children under 14 years, and any breach are considered a crime. The age must be amended to 18 to accord with article 6 of the Convention, and it should make reference to the responsibility of both parents. Due to the large numbers of children roaming the cities getting caught up in crime and drifting away from their families, there is ample evidence that many thousands of children are not being adequately fed, clothed or housed by their parents, guardians or through their carers. Although there are provisions in the country’s Child Welfare Act for destitute children, there is no State monitoring or intervening mechanism. Consequently, the community have come to accept the neglect of children’s basic needs as a fact of life, about which the State is neither concerned nor accountable.

135. It is also a criminal act to fail to allow life-saving medical treatment to be given to a child. Part XIV of the Child Welfare Act (sect. 94) goes beyond the responsibility of the parents to include the responsibility of any person failing to provide for a child in their care. This law has few teeth in a context of weak and inadequate rural health services, isolation, poverty and gender issues affecting access and where such loose and unregulated adoption practices are normalized.

136. Section 95 deals with ill-treatment, including assault, sexual assault and exposure, but this is difficult to police. There is no strong tradition of reporting cases of child abuse to authorities. Moreover, in the Papua New Guinea context, fear of retribution for interference in a neighbour’s family matters serves as a powerful deterrent to reporting. In rural areas people do not know where to report. Moreover, there are cases of people in positions of high Government and Church authority committing such offences. It is not unknown that expatriates who are highly placed in Government, Church and private enterprise are known to indulge in paedophilia and appear untouchable. This deters police, and contributes to the worsening situation.

137. There is little legislation in Papua New Guinea providing for the right of the child to be heard, as set out in article 12 of the Convention. The Infants Act (chap. 278) dealing with, inter alia, custody and guardianship of infants, recognizes the power of the court to consult the wishes of “the infant” and the right of the infant to a free choice. However, this needs further qualification setting out the timing and manner in which the wishes of the child can be expressed. There is no other legislation in Papua New Guinea which mentions the freedom of choice of the child in court proceedings. Amendments to all relevant acts in line with article 12 of the Convention are urgently required.

138. There is insufficient provision for in-camera or other special arrangements to allow children to speak freely in court, especially when they are the victims, or when their best interests must be paramount. There are many recent cases of very young girls being traumatized and completely unable to speak when expected to testify in rape hearings before a full and crowded court. The work of PACE-PNG and the draft amendments to the Evidence Act deal with this issue. However, the introduction of the Child Sexual Assault Bill, prepared in November 1998, has been stalled by a very long adjournment of Parliament.

139. There is no government policy of consultation with children in the formulation of policies and programmes intended to support them, or likely to impact on the rights.

#### IV. CIVIL RIGHTS AND FREEDOMS

##### A. Name and nationality (art. 7)

140. Article 7 of the Convention deals with the rights to registration after birth, the right to a name and the right to a nationality. The Civil Registration Act (chap. 304) provides for a system of registration of births based on the issue of a certificate containing the child's name and those of his parents. Birth registration in Papua New Guinea is in principle free but in fact a payment of K10 (roughly US\$ 2.50) is required for a full certificate and K15 for a registered copy. The majority of parents in Papua New Guinea are not conscious or convinced of the importance of registering births, in relation to safeguarding rights, recording the age, establishing parentage of children or the marital status of the parents. For as long as this is the case, even a relatively small fee may serve as a disincentive. The official registration of births in Papua New Guinea commenced in 1892, in the early colonial period. From 1892-1996 registration was compulsory to non-nationals only. Since the introduction of the Civil Registration Ordinance in 1967, registration has been centralized in the Registrar General's office in the capital and has occurred among citizens and non-nationals on a voluntary basis up until the present. It is true to say that the majority of the population in Papua New Guinea is undocumented.

141. In 1998 it was estimated that less than 1 per cent of all births in Papua New Guinea were officially registered, the majority of which were non-nationals. The centralized Civil Registry suffers from a serious lack of basic operational resources. There are times when the central registry cannot make birth certificates available even to the nearby major national hospital in the capital. The Registrar General has reported that, of the 800 children born in Port Moresby General Hospital each month, only one birth per month is ever officially registered. Registration requires the simple act of presentation of a birth certificate to the Civil Registry office. In most parts of Papua New Guinea, people have no access to registration facilities, and the colonial tradition of recording village births, deaths and marriages has long since disappeared. The low levels of education of many parents, and the levels of literacy required to fill an official form, may also limit registrations.

142. In many rural areas, in the absence of a strong government presence, many people use their children's baptism records as a de facto record of their child's existence. In 1992, under a major policy aimed at coordinating and rationalizing village-based services, plans were made to re-establish a village record system. Impressive "Village Books" were printed and distributed widely throughout the country. These simple village registers could have made universal birth registration at the local government level attainable. This programme was abandoned for political and budgetary reasons well before all of the village recorders could even be trained. The current political reform revitalizing local-level government and decentralizing government services could include re-establishment of comprehensive, decentralized birth registration. Rural health workers are often the first to see a new baby and if they have birth certificates as well as Baby Health Record cards available for issue, they could accurately record the birth date. Village birth attendant programmes, now being widely promoted could further facilitate birth recording and registration.

143. Part IV of the Constitution (sects. 65 and 66) sets out the specific requirements which must be met to obtain Papua New Guinea citizenship. These requirements are based on the eligibility of a candidate's parents to obtain citizenship at the time of independence, specific years of residency, parentage and the nationality of status of the grandparents. In Papua New Guinea, citizenship is politically protected, based in the first place on race and ancestry. Children of mixed parentage are permitted to hold dual citizenship of both parents until they are 18 years of age and able to make their own informed and independent choice of nationality. However, the Constitution does have provisions for some exceptional circumstances, wherein a child born in Papua New Guinea who is not or has never been a citizen of any other country, and who is not or has never been entitled to acquire citizenship of a foreign country, can be granted citizenship by the minister. This could apply to refugees and non-refugees. Unlike many other countries, Papua New Guinea did not make any reservations in regard to the provisions on a child's right to a nationality as set down in the Convention, and is therefore obliged to make the existing constitutional provisions agree with the Convention.

144. The issue of a name is complex in Papua New Guinea and varies greatly across the nation's diverse cultures. Traditionally, in many Papua New Guinea cultures the child is not given a name at birth. There may be days of rituals and celebrations required first and it is usually essential to consult close relatives. One or another relative may have the right to name the child, and in general the grandparents' and community's wishes are considered. Disputes over the name between parents and grandparents often become serious conflicts. Children born into a village community will inevitably be given a traditional village name. The name given has significance in the local language and culture, represents the child's bond with the family and clan and relates directly to their access and user rights in the village setting. Increasingly, children born into urban settings are given only western names at birth. Rural children will very likely take on a western name, given and accepted if they are baptized in a Christian church.

145. Christian missions have actively contributed to the loss of local names and name-giving customs, by allowing local names to be regarded as being synonymous with heathen. In the past, Church sponsors in Europe paid to have their names given to Papua New Guinea children at baptism. Schools and other government, formal or non-traditional institutions have perpetuated the practice of expecting Christian names. Naming a child at times poses problems where the meaning may be obscene or insulting according to other language groups, which violates the dignity of the person. To this day many children in Papua New Guinea are ashamed or embarrassed by their traditional names. A foreign name with less meaning is likely to be changed over and over again during the child's life, creating further complications of identity and other bureaucratic and institutional problems. This issue could be dealt with through a campaign to legitimize village names by making birth registration universal and by making the local names given at birth the child's official name.

#### **B. Preservation of identity without unlawful interference (art. 8)**

146. The Constitution (sect. 74) permits the minister to lawfully remove a child's citizenship if the parent loses citizenship, if it is for the welfare of the child. This would only apply to parents who have gained citizenship by naturalization, and is subject to appeal. However, in principle it may take place without reference to "the best interests of the child", and "the right of the child to be heard". This provision poses the danger and the child could be penalized for the parent or parents' acts.

147. The children most at risk of losing name, nationality and identity are those children who have been adopted out of their family and clan, including the children of Irian Jayan refugees and children whose lives were disrupted and whose families displaced during the decade-long civil war on Bougainville Island.

148. A number of Irian Jayan refugee children were dispersed into the Papua New Guinea community during the period when refugees were held in remote rural holding camps. There were no legal procedures followed and no records kept. These matters are clouded by the often-contradictory concepts of customary versus statutory child and parental rights and responsibilities. During the early years of operations in the official State refugee holding camps, access to education for refugee children was severely restricted. Many refugees put their children in the care of Papua New Guinea families. No official records were kept. However a problem of much greater magnitude exists where soldiers from mainland Papua New Guinea have removed children from their island during the Bougainville war. These cases are not documented, the names of children affected are not recorded, and no one knows whether parental consent was obtained or the child's best interests were in any way considered. Children from Bougainville are distinctively different in ethnicity, and with a 10-year secessionist war now in truce, the political future of Bougainville is not yet clear. Adoption in these cases could affect the child's right to a name, nationality, family relations and the maintenance of identity. When considering intercountry adoptions of Papua New Guinea children, child welfare officers usually put these issues of identify, especially ethnic, cultural and social identity, first. Consequently, very few children are adopted out to families residing permanently outside Papua New Guinea.

149. The current reforms in the national education system recognize that formal education provided exclusively in English was detrimental to children's cultural identity and self-respect, as well as their chances of fulfilling their academic potential. Education reform now ongoing throughout the country has provided for the first three years of education to be provided in the children's first language, most commonly their local vernacular, through provision of a universal elementary education programme in the local mother tongue.

### **C. Freedom of expression (art. 13)**

150. The Constitution (sect. 46) guarantees the right of freedom of expression to all persons, and is qualified pursuant to section 38. The provision for a law that might restrict non-citizens (children) is the only way in which the Constitution potentially fails to comply with the Convention.

151. Section 46 also encourages access to and use of mass media, specifically for the enabling and encouraging of freedom of expression. Except the work of the National Censor, whose task is to prevent the sale, rental and dissemination of obscene material in any medium, children of Papua New Guinea in principle have the right but not always the possibility to seek, receive and impart information. There is no single cultural pattern governing the way parents, families and communities encourage children to express themselves. The culture, the social and economic circumstances, the influence of Christianity and western norms and standards and the education of the parents may affect this. Different Christian denominations may have different influences, some promoting dogma and imposing strict taboos on some topics. In many cultures children

can be actively discouraged or may even be forbidden to express themselves openly in public, or on particular personal and sensitive topics. Generally speaking, it is true to say that the participation of children in Papua New Guinea has been mostly in activities where they are used for the purpose of being seen but not heard.

152. In particular there is a distinct gender disparity in the freedom of expression, with exceptions in only a few matrilineal societies, whereby girls are often socialized into thinking that they have no right to speak. In some cultures this becomes more pronounced at puberty. Education should serve to counter cultural factors that inhibit the girls' sense of their right to speak, but many studies confirm that male classmates and male teachers also discourage female students from expressing themselves freely. However, it is difficult to discern relative impact of gender, cultural, religious and educational factors.

153. In Papua New Guinea there is no strong tradition of discussions between parent and child whereby the child is routinely consulted and encouraged to speak. Discussion between children and parents is not the primary means of resolving differences and conflict within the family. Counselling by parents who allow the child to express his or her opinion and beliefs, and to be heard and considered, is not a usual method of guiding the child. In disciplinary matters, parents and teachers often forbid children to express their opinions or feelings.

154. There is very little opportunity for children to express themselves through the mass media, largely due to lack of access. Generally the major mass media do not make enough effort to get children involved. One daily national newspaper has a weekly "Children's Corner", and the national radio and television stations have participated in the International Children's Day of Broadcasting. There is a lot more scope for provincial radio stations to involve and reach and inspire many children. There is a vibrant local music industry, which encourages potential songwriters and singers all over the country.

155. In Papua New Guinea most people do not have access to electricity. Television and sometimes even radio are considered luxuries. The Internet is alien and unobtainable. The most important medium for children to express themselves is the nation's large and vibrant popular theatre movement. Popular theatre gives voice to children in public places and on sensitive and controversial issues where they might be otherwise culturally, politically or socially silenced. In schools, churches, youth groups, community organizations and non-governmental organizations in their training, workshops, meetings and public events, dramatic and comic performances and role-plays are presented. In this medium children are given relatively free rein to speak out on a wide range of political, social, cultural and economic issues. Through popular, public theatre performances, young people have participated in many local and national celebrations, campaigns and protests on key environmental, health, reproductive health, educational, human rights and governance issues. Speaking through drama and songs for popular education, many Papua New Guinea children find voice, speak collectively on behalf of their peers and are influencing public opinion, attitudes, behaviour and local and national policies. Boys' participation in popular theatre is greater. Very gradually girls are also enjoying active participation in this medium of expression. It offers them a chance to break through many traditional and contemporary gender barriers.



#### **D. Access to appropriate information (art. 17)**

156. The Censorship Act (sect. 38) restricts the flow of information that is deemed unsuitable for children. Films, songs and video material deemed obscene are banned or sold on an age-restricted basis. It is a crime to produce obscene or pornographic material. However, there is a lot of foreign pornography smuggled into the country. Furthermore, many urban and some rural people have access to satellite television, which cannot be regulated by Papua New Guinea's censorship laws or standards of propriety and decency. Computers are expensive and inaccessible to most people; only a small minority has access to the Internet.

157. The Natural Cultural Commission Act of 1994 makes no specific mention of programmes to create and maintain cultural awareness and identity among children and there is no other legislation, policy or programme to promote such objectives. The National Cultural Council has 273 registered cultural groups, but most do not involve children and most are based in the capital. A calendar of cultural events highlighting national and provincial cultural events is distributed to schools and encourages all provinces to stage large cultural festivals that encourage children to participate actively as well as watch. At these events, officials from the National Cultural Commission take it upon themselves to highlight and question the absence or low levels of participation of children in the performing groups. In the rural areas throughout the country, many communities proudly maintain their cultural heritage and pass all they can on to their children. Most schools make an effort to keep traditional dancing alive and to promote a sense of pride in the diverse and often spectacular traditional "sing sing" dress. Some fundamentalist churches have proceeded unchecked to "outlaw" traditional decorating, dancing and singing. The more enlightened churches encourage the young people to get involved before it is too late. Children without any traditional finery and without knowledge of their people's songs and dances will feel removed and alienated from their village community, communication and cooperation.

158. The one and only local television station is privately owned and in addition to a range of popular local programmes, broadcasts a large volume of very old and culturally alien American programmes. With the advent of cable television, satellite broadcasts, and so much culturally diverse and even sometimes alien material, there is great need for more media education for parents and children. This is vital in Papua New Guinea, if parents are to be supported, to give appropriate guidance on and interpretation of foreign programmes for children. Without this education, many parents lose credibility and control, for they are unable to assist their children to interpret or control outside messages, meanings and influences. Explicitly violent and sexual material is particularly likely to have a negative or confusing impact if perceived and internalized literally and out of context. There are currently no checks on the distorted influence of television and there is a widespread belief that foreign television and film creates many confusing messages on sexuality and sexual behaviour to young Papua New Guinea males and that this is one of the factors contributing to the rising levels of rape and sexual assault.

159. Local (provincial) radio stations are provided by the Government and broadcast in the local vernacular and lingua franca and generally provide a good mix of local and national news, current affairs and traditional and contemporary culture. Thousands of children in Papua New Guinea, often those in the most remote rural communities, are able to participate in provincial radio by means of letters conveying their greetings, messages, stories, jokes and requests. In recent years this important and decentralized arm of public broadcasting has

suffered badly from budget cutbacks and serious technical and operational and maintenance deficiencies. Government national and provincial radio stations could be used much more effectively for the purpose of creating awareness on and popular participation on child rights. Programmes for children to discuss their rights and express their views could follow the format of popular national radio "Talk Back" programmes, which involve people from all over the country.

160. The national Literacy and Awareness secretariat works alongside the media to promote literacy. The print media often cover news and publish features on children's rights, but much more could be done. Newspaper distribution into the rural areas is not always reliable, and rarely extends out beyond the province to the district level. Children's rights could be very effectively promoted through the *Tok Pisin* newspaper. This requires strategic negotiation by the Working Committee on Child Rights because commercial rates for space and inserts are prohibitively expensive. The Constitution (sect. 46), under freedom of expression, also covers the freedom of the press and other mass media, and access to mass media for interested persons and associations for the communication of ideas and information. Papua New Guinea has a vibrant and free press, which enables children who are literate to have access to information on world, national and local current and political affairs plus sports. There is good coverage of local news and features, many of which are of interest to children. There is a weekly newspaper in the lingua franca, *Tok Pisin*, that provides many engaging forms of information and expression for children. One weekly newspaper has a regular section devoted to education, which carries stories and news related to schools. It also profiles students excelling in studies, good citizenship and sports.

161. Many children in Papua New Guinea now have access to commercial video libraries, most of them purely for entertainment and many uncensored. The videos available for loan are of somewhat poorer, pirated quality, portraying worlds and lifestyles quite unlike their own. No substantial research has been done to measure the impact of foreign films and television, and the real effects remain unknown and largely unquestioned.

162. The successful local music industry provides for a good balance in local pop music and music broadcasts. The local film industry is still very small and extremely expensive to establish. Local theatre is also a very important vehicle for information and sometimes the only vehicle reaching very remote rural communities. Twenty years ago the Government actively promoted local theatre for development and cultural purposes. This support was maintained for more than a decade but has gradually waned. For the first decade after independence, there was substantial political and budgetary support for local theatre. State subsidies encouraged and contributed to the formation of a mass community-based theatre movement sustained by local communities and the NGO sector. Government provides minimal support, direction or leadership. In recent years the health and education departments have increasingly recognized the value and effectiveness of theatre as a medium of appropriate information. In some provinces, health workers, in particular, often engage local theatre groups for the purposes of mass popular health education in urban and rural areas. Local theatre groups are able to use local vernacular and lingua franca to get the message across. They are able to pitch their performances to their particular audience of children and youth, both in schools and

communities. They allow children to get directly involved, and encourage them to participate and express themselves. As a vehicle and tool for appropriate information, local theatre could benefit and contribute much more if more government interest and support was made available.

163. Under subsection 3 of the Constitution, there is provision for the formulation of policies and procedures by which citizens may have ready access to official information. Prior to independence, the colonial administration established a Department of Information and Extension Services that was loved and appreciated by the grass-roots communities. The department used 16 millimetre film, radio, booklets and posters, and later video, to develop information relevant to government administration policies and development projects. The department ran the provincial radio stations and brought information to all corners of the country. Shortly after independence, the department was downgraded to an office, and the office was then axed in 1982 during the first national public service retrenchment exercise. No effective government information service exists. Both the departments of health and education have developed in-house capacity to produce educational and information-based videos. During the past decade, it is the many rural non-government development organizations that have used video most effectively and extensively to deliver community information and education programmes to thousands of rural and remote communities. These programmes have particular appeal to children and can be very effective in getting through to youth on many critical development issues and sensitive law-and-order and health issues. There are some very good Papua New Guinea or Melanesian educational and development documentary videos already produced, but not yet enough. The Institute of Papua New Guinea Studies, which records and promotes traditional and contemporary Papua New Guinea music, and produces documentaries and docu-dramas, has been long-starved of adequate funds, and has had its operational funds denied under the most recent national budget.

164. Children in remote areas and poor communities are disadvantaged in their access to media, and particularly media derived from many different sources. Libraries and increased literacy could together help to overcome this problem and help open up the world to children in isolated communities. The National Office of Libraries and Archives administers the National Libraries and Archives Act, 1993. Wherever libraries exist in Papua New Guinea, children are the main clients. Provincial libraries were established before independence, and were once directly associated with the National Library.

165. In recent years libraries have been managed by provincial education authorities, financed under their respective provincial governments and subjected to varying and inconsistent levels of support. The result is that some have closed several years ago and others operate from inadequate, dilapidated and temporary buildings. Many are not centrally located, contain old and outdated collections and are run by passive and timid librarians. There is a small public-libraries grant scheme available from government, through assistance provided by the World Bank. The World Bank is also assisting with funds to subsidize school libraries. Currently high schools are adequately catered for. Less than 25 per cent of the 3,100 existing community and primary schools in Papua New Guinea have libraries and they are virtually non-existent in the new elementary school system. This means that around 424,000 of a total enrolment of 565,000 pupils do not have easy access to books and other information sources. Under the education reform the growth of elementary and top-up schools is far outstripping the Government's ability to meet the library and information needs of the nation's children. The aim of a good, well housed, stocked and managed library in every school would need a concerted

effort from authorities at the local, provincial and national levels. Lack of funds and the failure to recognize the value of libraries and books to quality education are the major problems. When Government funding to libraries fell to inadequate levels in the 1980s, the World Bank came in to support school library subsidies and sets of books were purchased and placed in provincial libraries, specifically to support extension-studies students. The World Bank is considering funding a three-year library development project to the value of K5 million (roughly US\$ 1.25 million). The project aims to enable 100 per cent of high schools, primary and community schools and elementary schools to benefit from library grants, provide library training workshops and a library supervision system, develop library skills syllabuses for grades 1-10 and to strengthen general technical and support systems.

166. Both provincial and school libraries are an important source of extracurricular materials for teachers and students. The absence of libraries reduces children's motivation to become literate, because many feel that there is nothing to read. Libraries cannot only be an important source of appropriate information but an aid to raising the scope and standards of education.

#### **E. Freedom of thought, conscience and religion (art. 14)**

167. The Constitution (sect. 45) deals specifically with the freedom of thought, conscience and religion. The reference to religion includes a reference to traditional beliefs and customs of Papua New Guinea and allows for parental guidance and consent. Section 38 further supports article 14.

#### **F. Freedom of association and peaceful assembly (art. 15)**

168. The Constitution (sect. 47) deals with the freedom of assembly and association, qualified or restricted in line with the Convention, except for the provision to permit laws that might restrict non-citizen children. Currently no such laws exist. The Criminal Code, in its sections 63, 64, 47 and 38, creates criminal responsibility for unlawful assembly which breaches the peace and therefore could conflict with the Convention. The Internal Security Act, which was passed in 1993, gives extensive powers to politicians whereby they can prevent individuals and groups from meeting. It can also prevent individuals and groups from going to a place where the Government does not want them to go. It can also enable police and politicians to keep rejected or rebellious youth off the streets. This law contradicts the basic human rights guaranteed in the Constitution.

169. Similarly, the proposed Peace and Good Order Bill attempts to amend the laws to reverse the onus of proof that would give the police wide ranging powers to arrest and detain youth congregations. Further, a law requiring identification cards aims to control young peoples' movement into urban centres. If these amendments are made there is a high likelihood that many urban youth would be subjected to unjust punishment and imprisonment, especially given the fact that the public prosecutor does not have enough human resources to defend people, and judges are under-supported and overworked. Freedom of movement and association is an essential part of people's right to participate in social, political and economic life. The problems presented by youth need more policies and programmes aimed at a better distribution of the nation's wealth, rather than repressive controls of their basic freedoms.

### **G. Protection of privacy (art. 16)**

170. The Constitution (sects. 44 and 38) deals with freedom from arbitrary search and entry and section 49 covers unlawful interference with privacy or correspondence. The Criminal Code (Act Div. 8, sects. 169-74, 179) further protects all persons, including children, from unlawful interference with correspondence. The Constitution does not sufficiently deal with honour and reputation of the child. The Defamation Act (sect. 18) makes the publication of testamentary matter unlawful and the publication of defamatory matter an actionable wrong, and accords with article 16 of the Convention. Living conditions for most children in Papua New Guinea afford them little privacy and allow for transparency regarding any harmful goods being hidden. Furthermore, in crowded urban centres, the household head may agree to accommodate visiting men from his village. This traditional and unfailing hospitality may not only invade the child's privacy, it may also render children vulnerable to the risk of sexual abuse.

### **H. The right not to be subjected to cruel, inhuman or degrading treatment or punishment (art. 37 (a))**

171. The Constitution (sect. 36.1) covers the first part of article 37.1 of the Convention. Sections 37.17 and 37.19 of the Constitution reflect 36 (1)(c) of the Convention. Section 42 deals with circumstances permitting the deprivation of liberty and accords well with articles 36 (1)(b) and (d) of the Convention. The Criminal Code sets out the kind of punishment that can be inflicted, but the Summary Offences Act limits the kinds of punishment that can be inflicted on children. Reports of brutality, particularly against male youth by police, military and correctional services personnel, are increasingly common. Most people feel that they have no access to legal protection or redress and feel powerless to complain. Youth often die at the hands of brutal mobs, private security guards, police or warders. This State violence against youth occurs in a wider context of escalating violence and contributes to the cycle of violence that indirectly involves and negatively impacts many children in the community.

172. Young women all over the country are at high risk of rape, gang rape and other forms of violent sexual assault, and the attendant fear accompanies them in many aspects of their daily lives in urban and rural settings. It severely limits their rights to freedom and to assembly, and their right to participate equally alongside young men in all forms of social, political and economic life.

173. Beatings and excessive punishment of children at the hands of parents or guardians, or the adults charged formally or informally with the care and protection of children, are common. Existing laws to protect children from cruel and inhuman treatment are inadequate and often not enforced. The low level of community knowledge of the law limits participation in the enforcement of the law. This combines with a lack of community consciousness regarding alternative ways of guiding and correcting a child. Many parents believe that strict corporal punishment is essential and even acceptable, in order to guide and discipline the child. Children who may be subjected to strict and severe parental discipline may suffer without any protective sanctions of such treatment.

## V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### A. Parental guidance (art. 5)

174. Article 5 of the Convention is closely related to sections of the Preamble of the Papua New Guinea Constitution, which recognizes the central role of the family, as the fundamental group of society and the principal agent in the rearing of the children and the protection of their rights. Article 5 is further reflected in the National Goals and Directive Principles 1 (5), which call for “the family to be recognized as the fundamental basis of the society”. Under section 25 of the Constitution, the National Goals are non-justiciable, but it is the duty of every government institution to give them effect. The section on “Social Obligations”, in the Preamble of the Constitution, clearly sets out the responsibilities of the parents, married or not, to assist, educate and enable children to understand the National Goals and their basic rights and obligations.

175. The Infants Act (chap. 278, sect. 3) covers the custody entitlements of both parents. The Matrimonial Causes Act (chap. 282) gives power to the Government to make orders as to custody and access, but does not recognize custody or guardianship rights. The Child Welfare Act (chap. 276) does not recognize the rights, duties and responsibilities of parents and the members of the extended family or the community as provided for by custom.

176. Neither the Constitution nor domestic law in Papua New Guinea adequately reflect the flexibility of the Convention in the definition of the family, whereby the responsibilities of the extended family or community are recognized. Furthermore, the Constitution, domestic laws, and the Convention make constant reference to “the parents” or “the guardians”, while the fact is that thousands of children in Papua New Guinea, through a range of loose, ad hoc, accidental and obligatory circumstances, are living for years in families where no one is their real parent or willing to assume the full responsibilities of a “legal” guardian. In many households there may be no single adult who has a legal duty or has made a conscious commitment to provide for the physical or emotional needs of an informally adopted child. There is often confusion regarding guidance responsibilities and the needs of the child may be completely overlooked.

177. In the 1990s, nuclear families were not necessarily the rule. This does not mean that the majority of children are raised in a traditional extended family situation. The larger social safety net, in which Papua New Guinea children are presumed to be raised, is no longer stable or guaranteed. Traditional practices of name-giving, ascribed relationships, ceremonies, payments and exchanges may give and deny responsibilities and rights to certain relatives, rather than the natural parents, to guide or discipline a child from birth onwards. Ceremonies and conferring of roles and rights do not always take place these days. Certain individuals, like maternal uncles, are no longer automatically assigned or assuming particular customary roles and responsibilities in child-rearing and protection. Often these ties are purely only symbolic because the people responsible are not physically around to perform them.

178. Existing domestic law in Papua New Guinea does not provide adequately for the protection of children who are growing up in any of the diverse forms of the transitional, evolving and adapting families that make up contemporary Papua New Guinea society. The national census, health, education and juvenile justice records do not always distinguish whether

children are residing with natural parents, legal guardians, a close or distant relative, and whether the child is under the care of a particular adult through a customary or formal family adoption arrangement or through a loose and more accidental congregation of dependants around a *wontok* breadwinner.

179. Loose adoption arrangements, high mobility of children across various units within the larger extended family, customary arrangements which accord both disciplinary and protective rights to certain members of the family and bride-price and “child-price” protocol and payments complicate the situation. This is particularly important in planning and providing for the stress and tensions associated with rapid social, cultural, economic and political transformation of Papua New Guinea society. Social change is so rapid that the parameters and pitfalls are not known or understood by the parents or guardians. Government must give attention to the confusion and powerlessness expressed by the many parents who now find themselves in great difficulty trying to guide their children, develop their evolving capacities, and enable them to know and enjoy the exercise of their rights in highly stressed urban and rural social environments.

180. There is not a strong tradition of parents or guardians spending time talking with their children as problems arise or new phases of their life begin. In traditional society, the role models and the future options were much clearer, albeit much more limited. In the extended family situation, children might approach or be approached by different people or relatives for particular discussions or information, for sex education or for understanding the responsibilities of future marriage and parenthood. Aspects of the traditional rules and counsel for young people were often formalized and institutionalized in customary rituals, relationships and initiations and other rites of passage. Traditional authority vested in the community or family is being rapidly eroded. Many of these traditions may be ill-fitted to guiding children into their rights and responsibilities in a rapidly changing world. Adults without formal education and urban exposure are not well placed to educate children in matters of reproductive health, pornography or the danger of drugs.

181. In some rural areas, desperate community leaders and parents have resorted to the revitalization of strict traditional initiation rites, including long periods of male separation, scarification and engagement with the spirits in a bid to restore some social control and respect for traditional authority. This is an attempt to ensure discipline and obedience by instilling fear of retributive action by the elders and the spirits for transgressions. It is an easy option pursued by leaders and parents rather than dealing with the real problem of intergenerational value and norm shifts and a general communication breakdown. The Government and the family are challenged with the urgent task of discerning how best to guide their youth through the new options and risks. Many families in urban areas and communities turn to the Church to help them maintain discipline and respect in the home and constructive participation by children in the building and maintenance of social order and control of the larger community. However, the churches are not always equipped to help the families to reconcile respective rights and the new ideas, attitudes and behaviour of children with the social and cultural evolution of traditional Melanesian ways.

182. Papua New Guinea parents are often accused of being too strict and too ready to use harsh corporal punishment, particularly against girls. On the other hand, many parents are accused by the police, teachers and community leaders of being too lenient and liberal, providing

little or no guidance and basically allowing children to do as they please. The problem of physical violence, increasingly used by both parents and children to resolve conflict and differences of opinion, further complicates the matter. There is widespread community awareness of inter-family violence, but due to shame, fear and intimidation, there is also an unwillingness to acknowledge and discuss it or seek help.

183. In Papua New Guinea the urgent issue of guiding and supporting male youth is much aired and discussed. There are many unanswered questions for families and welfare workers. How are parents to cope with boys in their care who may already be living far from their village home and community and the guidance and care of their natural parents? What do “adoptive” parents do if the child chooses to live as a virtual street youth, entering the family “home” for occasional food and shelter, thereby avoiding communication? How do the parents re-establish communication and create an environment that will support sharing and consultation on issues of drugs, crime, sexuality and high-risk sexual activities? How do parents guide their children to deal with exposure to pornography and the risks of HIV/AIDS? By their own admission, with lack of knowledge, experience, support and guidance themselves, many parents in Papua New Guinea are unable to fulfil their role as set down in the Convention or the Constitution. In urban areas, when children have no close relative or accepting household to turn to if disagreements and conflict arise at home, they very readily escape to life on the streets.

184. Government provides few supporting or enabling services for parents. Government welfare services are totally inadequate to deal with this growing problem, and case workers and counsellors are rarely committed to work with families outside main district centres, outside their normal public-service working hours and their own comfortable and safe government office environment. Counselling in such a setting may be awkward for all parties. Probation officers and youth workers are much more likely to go out to the youth and families on their territory and on their terms but they lack the professional training and guidance and counselling skills and strategies to deal with the magnitude and complexity of the existing problem.

185. Some Church groups and fellowships provide peer and cross-generational support systems and services, but they are largely developed along the lines of western youth counselling and often narrow and fundamentalist in their approach, overemphasizing and oversimplifying the obligation to please God and live righteously. There are no existing secular human rights or development agencies able to work with families to increase their understanding of the fundamental concept of mutual rights, obligations and respect as set down in the Constitution and confirmed in the Convention as the basis for achieving peace and harmony in the family and the wider community.

186. There is an urgent need for research, documentation and the development of culture- and age-sensitive strategies to support parents communicate more confidently and effectively with their children. This work is vital in order to prevent continuing family and community breakdown, and in order to stem the rise in frustrations manifesting in domestic, street, institutional and state violence. Furthermore, the laws on adoption need to be urgently reviewed. They must better fit the reality of family in contemporary Papua New Guinea, while providing some clear, enforceable guidelines and rules regarding the responsibility of parents, guardians or other socially-sanctioned carers to provide children with the guidance and support that is their right.



**B. Parental responsibilities (art. 18, paras. 1-2)**

187. The Preamble of the Papua New Guinea Constitution, and the “Basic Social Obligations”, recognize both parents’ obligations to support, assist, and educate their children, whether they were born in or out of wedlock. The Basic Social Obligations are non-justiciable but encourage compliance of all legislative, judicial and administrative bodies. Article 18 of the Convention is not sufficiently reflected in other domestic legislation. The long-term development of the child in line with the “evolving capacities” is not sufficiently addressed in the existing legislation covering custody and access. The Infants Act (chap. 278) states the rights of parents to custody but does not accord to them the primary responsibility for the long-term care, welfare and development of the child. The Matrimonial Clauses Act (chap. 282, sect. 74) provides for orders to be made as to the guardianship of a child, which could also establish orders regarding the long-term care, welfare and development of the child.

188. The issue of parental responsibilities to provide for the child becomes blurred in Papua New Guinea where family relationships and guardianship are fluid, flexible and often not stable for long periods of time. Lack of birth registration, formalization, documentation and monitoring of adoption and the frequent name and residential changes among parents and children pose additional challenges to implementation of article 18 of the Convention. Moreover, in Papua New Guinea culture, there is a strong belief that the adult who invests effort and money to provide for the child can exert control and claim rights over and beyond the rights of the natural parents, regarding application of the child’s future labour or income, marriage and residential rights. The best interests of the child are not always a concern, let alone the paramount concern. Feeding, clothing, housing and paying for children’s education and food is understood by many parents and guardians as an investment in the parents’ own long-term social security as much as for the child’s own future, or as being out of obligation and responsibility under law. Little heed is given to the rights of the child to be cared for, free from an oppressive sense of indebtedness and gratitude. Parents, guardians or other carers may reject the child who is unable to find wage employment and therefore make the parents’ or carers’ investment pay off.

189. In the Papua New Guinea context, there are few sanctions applied to parents or guardians who do not provide properly for their child. It is rare for the State to intervene and prosecute a parent or remove a child. The Convention refers to the responsibilities of parents and “legal guardians”. A very significant number of family and childcare arrangements in Papua New Guinea are neither legal nor stable. This fact, combined with the lack of registration of births or adoptions, and the shortage of professional child welfare resources presents great difficulty for the State to enforce the laws requiring parents and guardians to fulfil their responsibilities.

190. In spite of various provisions in the law, State support to parents through direct assistance or support institutions is non-existent in Papua New Guinea, where no State-provided social security system exists. Many people believe that Papua New Guinea is sufficiently wealthy to provide small pensions to families with children with disabilities, single mothers and others in difficult circumstances. However, State authorities charged with administering the most basic preventive legal provisions on childcare and support, often use the excuse of resorting to the deteriorating traditional social security net instead of enforcing the most basic prevention and intervention responsibilities set down in both Papua New Guinea’s Child Welfare Act and in article 18 of the Convention.

191. There are certainly many situations where the *wontok* tradition or system of loose adoption or absorption of children works well as a safety net to lift children out of situations of great danger of deprivation and abuse. This is more the case in the villages, rural districts and provinces. In larger, urban centres where communities are more ethnically diverse, and families more anonymous and stressed, these informal systems and safety nets are less likely to work well. The *wontok* system is considered to be Papua New Guinea's social safety net. Expectations that families will care for children in addition to their own persist, but the responsibility, once assumed, may become oppressive and stressful for the providers. It becomes increasingly harder to care for and provide guidance for extra dependent children, especially in urban situations, where conditions are cramped, and money for food, school and hospital fees is short. The rejection of disobedient or delinquent children is not uncommon. A few turn to begging, whether they stay at home or not. Many others turn to the streets and often crime, to survive. When the State cannot hold the people or person in the guardian role accountable to the child, or to the child's natural parents, thousands of children can easily become rejected and destitute.

192. In the capital city of Papua New Guinea, Port Moresby, many church and private voluntary agencies are providing essential services for the hundreds of child victims of neglect and deprivation. These are young people from homes or families where the adults in charge are unwilling and or unable to provide for the child's basic necessities. This work is being done with little or no government support. There is no relevant government body, authority, institution, programme or budget in existence. The National Council of Child Welfare, which has a monitoring and policing role with powers to intervene and remove neglected or mistreated children, is as good as defunct. The Council was able to function only with the Government providing operational costs and sitting allowances.

193. In the past, the Government provided welfare services alone, with an annual budget of K0.5 million. In 1999, subsequent levels of government support dropped dramatically below the minimum level of K100,000 to K150,000 needed to function. During the few times that it met, the Council planned several programmes, including studies of child sexual abuse and the long overdue review of the Child Welfare Act. The Council's members were demoralized when they were unable to make any progress, and eventually even unable to meet.

194. With no national government office or department assuming leadership or authority in the critical area of child welfare, there is lack of coordination and strategic action among the provincial welfare offices and a tendency to serve as passive counsellors rather than proactive social workers and welfare administrators. There are very few counselling services offered outside the official government welfare programme. Lifeline is one. The Salvation Army and the Sacred Heart Brothers provide emergency and remand services for children in trouble with the law and counselling for their charges and willing parents or guardians. NGO-established and -run women's crisis centres in several provinces provide counselling and support services where there is violence in the home and when women, girls and mothers and children seek help.

195. Polygamy is a major problem throughout Papua New Guinea and poses serious problems regarding the formulation and enforcement of laws regarding parental responsibilities. Since independence, polygamy has spread and has been increasingly generalized and normalized in different cultural contexts throughout Papua New Guinea, often where it never previously existed. The privilege claimed under the title of "big man" may involve the taking of many and

progressively younger wives. Families may arrange for young daughters to marry older and/or powerful men who apply pressure and promise, or who thrust large bride-price payments upon them. These days “big man” status is assumed out of the traditional context. It is relative status, readily taken on by men with any wealth, education and authority in the community. It is thus common for ordinary teachers, health and welfare workers to have more than one wife. Most men in elected office claim that *right*. These days, in urban settings and the cash economy, polygamy is usually accompanied by continuous arguments, high levels of stress and physical violence, with constant jealous and antagonistic competition among co-wives for the affection, attention and material resources required to provide for their children. There is a very high incidence of murder committed between co-wives in the highlands region of Papua New Guinea, where the practice of polygamy is deeply entrenched, and murder usually leads to the long-term imprisonment of women. Children of polygamous marriages are very likely to suffer emotional and material deprivation, particularly where the father does not command wealth or have the ability to provide for multiple sets of children. A new bill to amend the Criminal Code (chap. 262) proposes that a person intending to take multiple wives is guilty of an offence punishable with a sentence of up to five years in prison. Under the amendment, men wanting to take a new wife must first legally end their current marriage.

### **C. Separation from parents (art. 9)**

196. The Child Welfare Act (chap. 276) allows for “destitute, neglected, incorrigible and uncontrollable” children to be removed from parents without warrant and requires the immediate notification of the Director of Child Welfare. Section 36 states that when a child is taken into custody, a welfare officer, commissioned by the police, or a person authorized by the Minister takes responsibility for the child to ensure that he or she is not treated the same as an adult prisoner. Section 38 requires the director to bring the child before the Children’s Court within seven days, allowing the court to put the child in the care of the director or an institution. If, after seven days, the child has not appeared in court, he or she should be released from custody, but this often does not happen in practice. The order may remain in force until the child is 16 (sect. 41 (5)), unless under section 41 (2) the director declares he remains to 21 years.

197. The Child Welfare Office, under the Office of Family and Church Affairs, is responsible for administering the Child Welfare Act other than provisions relating to juvenile institutions, which became the responsibility of the Department of the Attorney-General under the Juvenile Court Act of 1991. The Chief Probation Officer is the Director of Juvenile Institutions, all of which are administered by churches, not government. There are two juvenile remand centres in the capital, one in the second-biggest city and one in a distant province. The Government nominally, but inadequately, finances all. No institutions exist to cater for juvenile female offenders.

198. State welfare services function passively and reactively, rather than proactively and in a preventive manner. It is the responsibility of the State under law to remove any child at risk. This responsibility is unenforced in Papua New Guinea today. Where possible, children in high-risk situations will themselves escape, but with few places to go and a high risk of sexual danger, girls are more likely to stay put and endure long-term neglect and abuse. Boys who

leave will often be taken in and cared for by another branch of the family or even strangers. However, if the “adopted” family cannot provide, or the child gets involved in a crime, drugs or aberrant sexual behaviour, the new carers may reject him once again. Thus after moving through a series of households and rejections, many boys end up on the streets.

199. In studies and discussions on the causes of delinquency in Papua New Guinea, there is constant reference to “broken homes”. Marriage breakdown is increasingly common in Papua New Guinea and the law is often not invoked in the settlement of marriage disputes. The child’s best interests are not always considered. In a more traditional setting, issues of payment or non-payment of bride-price or “child-price” come to the fore and are accorded serious consideration in the divorce and custody decisions of village courts. In urban areas, where people are presumed to have more access to the law, desertion by fathers, and increasingly mothers, with little legal redress or recourse for the deserted spouse or the children, is common. There are also cases in which both parents desert (the children) in order to remarry.

200. Among educated urban families, the law is more often invoked. When parents are living separately, the Village Court Act 1989 (sect. 47) allows the court to make an order for custody or guardianship of parents married under custom, but it will not be recognized if it is contrary to the best interests of a child under 16 years (Customs Recognition Act, sect. 3). The Deserted Wives and Children’s Act (chap. 277) allows for custody for mothers left without support, based on the welfare of the child. However, there is need for amendment if these laws are to harmonize fully with article 3 of the Convention.

201. Under the Infants Act (chap. 278, sect. 2 (1)), the National Court can appoint or remove a guardian regarding custody and access to a child up to 16 years of age. This requires further amendment to conform with articles 3 and 1. The Matrimonial Causes Act (chap. 282, sect. 74) refers to custody, guardianship, welfare and access and is in accord with the Convention, but needs a clause on “best interests” inserted.

202. With regard to the chance for interested parties to participate and be heard, no domestic legislation provides for anyone other than the Director of Child Welfare to attend and be heard in custody hearings. The Infants Act (chap. 278) does not provide for other parties to be heard. In the Deserted Wives and Children’s Act (chap. 277) only a mother can make an application with regard to the separation of a child from the parents.

203. Regarding the right of the child to maintain a personal relationship with both parents, the Village Court Act 1989 makes provision for custody, but not for access or contact. The Deserted Wives and Children’s Act (chap. 277) makes provision for custody but not for access of a non-custodial parent.

204. The Infants Act (chap. 278) allows for access of either parent, but is based on the parents rather than the child’s right. The Matrimonial Causes Act deals with child/parent contact, access at discretion of court but not the child’s right to request access.

#### **D. Family reunification (art. 10)**

205. Article 10 is relevant only to particular cases in Papua New Guinea, where the parents of children are from different countries, and travel between countries is requested for access or

reunification purposes. This would include children with parents or close relatives in Irian Jaya, Indonesia, or children with one parent from Papua New Guinea and another from Bougainville Island, which has waged a secessionist war but is currently in a truce. In the case of Indonesian (Irian Jayan) refugees, cross-border travel would depend on whether the parents are considered political refugees. In some cases, this might limit travel, however in general, Papua New Guinea and Indonesia provide special family permits so that contact can be maintained.

206. In the case of Bougainvillean children, the matter concerns not two separate political States, but the Government of Papua New Guinea and an island province, which has been embroiled in a decade of battle for political autonomy. The war prevented free movement in and out of Bougainville for a decade and, during that period, many children were denied access to a non-Bougainvillean parent (both Papua New Guinea nationals and non-nationals) who were forced to leave Bougainville, under emergency circumstances at the peak of the crisis. In some cases the Bougainville Revolutionary Army used arms to prevent Bougainvillean mothers and children from accompanying their departing non-Bougainvillean husband/father. While there is now freer movement between Bougainville and Papua New Guinea, no one has yet adequately studied and documented the impact of the Bougainville Revolutionary Army (BRA) or the Papua New Guinea Government's actions on the separation of families and children of mixed parentage and the extent to which they have been successfully reunified.

207. Papua New Guinea authorities usually cooperate to permit intercountry visits for family reunification. However, a non-national parent would have difficulty staying for long periods without a special extended visa or a proper working permit.

#### **E. Recovery of maintenance for the child (art. 27, para. 4)**

208. Papua New Guinea's law complies with article 27 (1). Provision for maintenance orders have been implemented in domestic legislation for some time, but enforcement procedures are complicated and subject to detailed provisions. The principle of both parents' responsibility to maintain the child is recognized in three acts: the Child Welfare Act (sects. 54, 67), the Deserted Wives and Children's Act (sect. 3), and the Matrimonial Causes Act (sect. 73).

209. The Deserted Wives and Children's Act (sect. 8) covers breach of orders and punishes with a fine or imprisonment. The Matrimonial Causes Act (sect. 88) sets out in great detail matters covering earnings schedules of the responsible parents. The Maintenance Orders Enforcement Act (sect. 279) is an entire act providing for enforcement of maintenance orders in Papua New Guinea and in reciprocating countries.

#### **F. Children deprived of a family environment (art. 20)**

210. Special protection by the State is well covered in Papua New Guinea law through provisions for adoption, placement in foster care and suitable institutions. These acts refer to the welfare of the child but do not make specific reference to ethnic, religious, cultural or linguistic background except those protections under the Constitution. However, the law bears little or no

relation to the reality of the adaptive and informal provisions, services and protection for children existing in many places in contemporary Papua New Guinea. Formal foster placements are a thing of the past, as the Office of Child Welfare has no budgetary provision to cover the cost incurred by foster arrangements.

211. The Government also has no institution set up for the care and protection of wards of the State. There are no orphanages or temporary facilities for children in crisis provided by the State.

212. The Child Welfare Act (chap. 276) provides for destitute or neglected children to be placed in the care of the Director of Child Welfare, to be placed in foster care by a person willing to accept terms and conditions that the court thinks proper, or in an institution. The State lacks the resources, committed officers willing to work beyond the physical buildings and routine office hours, and operational budgets that are required to deal with neglected children in the manner set down in the law and the Convention.

213. It is a myth in contemporary Papua New Guinea that there is no such thing as an unwanted child because every child has somewhere to go and someone to care for him or her. While it is true that most Papua New Guineans would not want to leave a child homeless or hungry, there are clear signs in rural and urban communities that the burden of extra children has become too great for families with stretched physical, social and economic resources. Many families now do say “no” and increasingly children are left neglected, abused and destitute with no escape route. Some families now say no to needy children from their own or other families because they do not want to jeopardize the precarious survival of their own immediate family. In the case of juveniles in conflict with the law, families may be ashamed or feel unable to cope with the child’s behaviour and fear their links with criminal gangs on the street.

### **G. Adoption (art. 21)**

214. The Adoption Act (chap. 275) (a) allows for statutory and customary adoption. Statutory adoption requires consideration of parents’ and guardians’ consent and suitability of adopting parents. There is a legislative framework, which provides for safeguards and procedures in compliance with article 21 (a) of the Convention. Part VI provides for a local court to grant a certificate that the child has been adopted according to custom, if the local court is satisfied that it is in accordance with local custom. This is called customary adoption.

215. The State does not take the lead in placing children in adoptive homes. It is all pre-arranged informally and if people apply for adoption it is for a child they know and have chosen, indeed whom they may well have raised for a good many years before coming before the court to make their case and legalize the adoption. This has serious implications for the decision that a court might make. This situation reflects the failure of the State to provide workable machinery for the policy, direction and oversight of child welfare matters. Most things to do with child welfare are being done in an ad hoc and inadequate manner if they are being done at all.

216. A third and most common form of “adoption”, which is not sanctioned by law, is the ad hoc, undocumented and informal *transfer out* and *absorption in* of children in many families in Papua New Guinea. This happens mostly across the families of relatives in extended families,

but also includes the movement of children into other casual arrangements outside their own family line. These so-called adoptions are not known to or regulated by the State. In many cases they take place against the wishes of one of the natural parents. The mother may give in if she feels that pressure to surrender her child is applied in such a way that she just can't refuse without offending the requesting in-law or relative. These informal customary arrangements are ubiquitous and vary from place to place and from situation to situation. Many mothers live to regret the day that they gave their child away. Very often the wishes, consent and best interests of the children are not taken into account. The notion of "best interests" may be viewed from a very narrow perspective, for example taking the child out because the adoptive family can, in principle, afford school fees, or because they have a bigger house. Many parents thus surrender their children because they very sincerely want the best for them or because they want them to have the opportunities that they, the parents, did not have. In other cases the child may be given up to meet the emotional and long-term practical and security needs of the adoptive adults.

217. Child welfare authorities claim that if and when families seek to formalize an ad hoc adoption, it is usually after the child has already been living with the prospective adopting parents for many years or even for all of his life. Magistrates inevitably take this fact into account. Furthermore, in the Papua New Guinea context, the natural family may feel that it is too late to reclaim their children once other carers claim to have spent large amounts of money on them.

218. In Papua New Guinea there is great diversity of culture and customs. It is not always possible for court officials to determine which different customs require consent of both parents and guardians. If adoptions pass through Village Courts on the claim that one or the other side can decide on their own, then this allows for situations which contravene the Convention.

219. With regard to intercountry adoption, Papua New Guinea has not ratified the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption, as obliged under 21 (e) of the Convention. However, with regard to expatriates wanting to adopt Papua New Guinea children and take them to reside overseas, the Adoption Act (sect. 38) is detailed and usually applied stringently in compliance with articles 21 (b) and (d) of the Convention.

#### **H. The illicit transfer and non-return of children (art. 11)**

220. Many of the informal adoptions of children described in the above paragraphs and in other sections of this report constitute the illicit transfer and non-return of children. The existing law on this matter would apply to cases in which Bougainvillean and Irian Jayan parents in times of stress permitted other people to take their children, but have since lost contact with their children and are unable to get them back. The Papua New Guinea Government has no policy for dealing with such cases. Cases of relatives or friends pressuring or obliging mothers to give up their children, then refusing to let them have access, contact or to return them are also examples of the illicit transfer and non-return of children. In these cases the appropriate representatives of the State hardly view it as a priority problem.

### **I. Abuse and neglect (art. 19) and psychological and physical recovery (art. 39)**

221. The situation of neglect that characterizes the lives of many children in Papua New Guinea is often accompanied by different forms of abuse, particularly sexual abuse. This may drive children on to the streets where they become vulnerable to abuse. Over the past six years, since ratification of the Convention, ordinary people and authorities have become increasingly aware of the reality of child abuse and child sexual abuse already well established in pockets of Papua New Guinea society. Non-governmental organizations have taken the lead in creating awareness, but child welfare workers and law-enforcing authorities increasingly recognize the problem and are joining in efforts to address the situation to prevent Papua New Guinea becoming a new venue within the global child-pornography and trafficking networks. Together, the relevant people are starting to organize and educate themselves to deal with child abuse more effectively.

222. On the side of the offenders, there are currently no services available for rehabilitation and social integration. There are also only four psychiatrists in Papua New Guinea and they are not available in the courts or to any rehabilitative programmes for victims or offenders of child sexual abuse, including physical and psychological recovery and social reintegration (art. 39).

### **J. Periodic review of placement (art. 25)**

223. The Child Welfare Act (chap. 276) deals with placement of children in foster homes or institutions and for mentally defective children to be put in a home, with provision for periodic reviews on a monthly basis by a welfare officer. However, these laws have no real application in Papua New Guinea today. The only institutions available are the juvenile remand centres.

### **K. Disaggregated data on the numbers of children affected**

224. None of the relevant statistical indicators requested in this section by the Committee on Child Rights are available in Papua New Guinea. There are simply no records in most cases, and most certainly none that are disaggregated by age, sex, ethnicity and whether they come from an urban or rural environment. Papua New Guinea has no formal government records on homelessness, child sexual abuse, neglect or adoption, including the large numbers of children who are living and growing up apart from their own natural family. It is, however, noted as services address these needs; it will definitely bring about better and more accurate data collection and reporting.

## **VI. BASIC HEALTH AND WELFARE**

### **A. Survival and development (art. 6, para. 2)**

225. Women's role is pivotal in the survival and development of children in Papua New Guinea. Maternal death may spell crisis for the family, particularly for the surviving baby and the older children. The complications of pregnancy and childbirth are the



primary cause of deaths among women of childbearing age. This fact reflects the low status of women and the inadequacy of the existing health services. The maternal mortality rate is estimated to be 370 per 100,000 live births (DHS, 1996). This is considerably less than earlier estimates of 930 per 100,000, which led to Papua New Guinea's maternal mortality rate being rated as one of the worst in the world. However, precise figures are elusive. There is no ongoing surveillance of maternal mortality, which makes the National Health Plan goal of reducing the maternal mortality rate by 25 per cent neither measurable nor achievable. Supervised deliveries increased from 24 per cent in 1990 to 34 per cent in 1993, but fell in 1994. Health records from 1995 suggest that 49 per cent of all deliveries were supervised by a trained attendant or health worker (see table 13, annexes), however, this may reflect a direct impact of the UNICEF Child Survival Crash Programme, which was very active in the country at the time, but has not been sustained.

226. Most maternal deaths in Papua New Guinea are attributed to post-partum haemorrhage, puerperal sepsis, prolonged labour or anaemia. It is considered that women attending antenatal clinics are less likely to die, but attendance depends greatly on the geographical and financial accessibility of the health facilities and Ministry clinics. The majority of mothers in Papua New Guinea do not have any guarantee of accessible antenatal services, referral and transport in case of obstetric emergency, or family planning services (see table 13, annexes). Many operating health facilities cannot ensure these services on a reliable, ongoing basis. Furthermore, the majority of women in Papua New Guinea are subjected to overwork, lack of economic resources and minimal decision-making power within the family and poor nutrition (dating back to their early childhood). The high risk of malaria, sexually transmitted disease transmission, and domestic violence make pregnancy difficult and a high-risk for many women. Iodine deficiency disorders are also common and particularly damaging to children in the womb. Most other family members are unaware of the risks to the mother and her need for special attention, care and support during and after pregnancy. Abortion is not legal in Papua New Guinea, however many private doctors do provide a clandestine service for those who can pay a very high fee. In the rural areas it is common for women to attempt to perform abortions by traditional or other means. Many of these cases end in infection and death, but the health facilities do not provide a clear picture or recognize the seriousness of the problem.

227. Lack of quality maternal care is the most important causal factor for maternal deaths. It is estimated that 70 per cent of pregnant women reach antenatal clinics and 65.5 per cent are within one hour walking or paddling distance of the nearest health facility. But this does not match up with the observation of many development field workers; there are vast areas where these services have not been available for many years, where facilities are bereft of the most basic equipment and staff. The mid-term review of the National Health Plan found that antenatal coverage has dropped from a peak of 72 per cent in 1995 to 66 per cent in 1997 and is below target. Furthermore, the harsh reality of heavy childcare responsibilities and lack of control over personal security, time, travel, labour and other family resources hinder access to essential services. In 1991, 35.4 per cent of those seen at antenatal clinics had to walk or paddle more than one hour each way, while 4 per cent had to travel more than six hours. The provision of consistent and safe delivery services at village level is a stated goal of the National Health Plan.

However, this goal could not be achieved without partnership and close cooperation between the Church, NGOs and other private agencies which have established Safe Motherhood programmes in many pockets of the country. Teenage mothers are often inhibited about attending existing antenatal services and this area also needs attention.

228. An Australian Government-funded national Women and Children's Health project has been four years in the planning stage and is ready for implementation. It is exerting tremendous effort to coordinate, link and rationalize the wealth of existing community-based church, NGO and government Safe Motherhood and Women and Children's Health initiative projects. There is a wealth of long-term experience associated with these initiatives and a variety of different approaches to the provision of training, back-up equipment and support for networking, sharing and workshopping. A more grounded, practical and appropriate approach is needed to make standardized Safe Motherhood services available more widely in Papua New Guinea. The United Nations Population Fund has supported a reproductive health programme aimed at providing facilities for permanent contraception and obstetric emergencies in selected district health facilities; however, in some settings apathy and demoralization are overriding the gains made in terms of provision of physical resources and retraining of key health providers. There is also an issue of many male health providers being involved in polygamous marriages, which contradict some of the most basic reproductive health messages and recommendations.

229. The infant mortality rate in Papua New Guinea declined by 49 per cent between 1971 (134 per 100,000 live births) and the period 1992-1996 (69 per 100,000 live births). By 1996 it had climbed again to 77 per 100,000 live births. This figure has been qualified by questions about the reliability of the data and speculation on the gravity of the socio-economic changes in Papua New Guinea over the past decade. The mortality levels are typically higher for males (88 per 100,000) than for females (77 per 100,000). The extent of this gender difference of survival of infants in the first five years varies across provinces in Papua New Guinea. The national census (1990) and Demographic and Health Survey (1992) confirm that women outlive men in Papua New Guinea.

230. Poor maternal nutrition and general health, the perinatal conditions and prematurity commonly cause neonatal deaths. Sexually transmitted diseases passed from mother to child cause deaths and disabilities. Neonatal tetanus is a major cause of neonatal deaths and infant mortality since the collapse of the child immunization programmes. Pneumonia caused 51 per cent of infant deaths in 1990. From 1990 to 1994, the average rate of children less than 1 year contracting pneumonia was 7.5 per 100,000. The other main causes of death were meningitis (1.5 deaths per 100,000), malaria (0.8 per 100,000), diarrhoea (0.6 per 100,000) and anaemia (0.4 per 100,000). The main causes of child mortality (1 to 4 years) were pneumonia (2.5 per 100,000), malaria (1.6 per 100,000) and meningitis (1.1 per 100,000).

231. Cold wet seasons and damp living conditions, overcrowding and poor ventilation combine with poor nutrition and low resistance to render many children in Papua New Guinea susceptible to pneumonia. A reduction in mortality from pneumonia in 1995 and 1996, probably resulting from the Child Survival Crash Programme initiatives, has been reversed in 1997 when there were widespread shortages of antibiotics. Priority is being given to encouraging mothers to seek prompt attention for their children, ensuring correct diagnosis and treatment and adequate supplies of medicine and oxygen. Malaria is endemic to many areas of Papua New Guinea and

the mortality rates from malaria rose in 1995, 1996 and 1997 in line with an increase in the incidence of the disease recorded at clinics. Malaria has overtaken pneumonia as the most common cause of admissions, after obstetric causes. A national treated-bed-net campaign, sponsored by the Australian Government and facilitated by Rotary, has failed to come close to the goal of 30 per cent with bed nets by the year 2000. Only 2 per cent of the at-risk population were supplied with nets during 1996 and 1997. The recent rise in net prices will compound an existing problem of non-affordability and poor outreach and distribution. Under-5 mortality from diarrhoea has improved steadily since the late 1980s, with hospital admissions greatly reduced.

232. Diarrhoea reflects poor community and family-level knowledge of health, hygiene and sanitation. Less than 5 per cent of the population had been covered by the national water supply project during the 1995-1998 period. The Division of Health, the Asian Development Bank and the European Union have funded different water supply projects, and much work was catalysed during the 1997 drought relief programme. By 1997 the European Union had completed 647 water systems serving a population of 187,027. However, this falls far short of the real need. The programme was suspended in 1998, even though the demand from rural villages remains extremely high. Programmes to replace outmoded, unhealthy bucket toilet systems in urban areas fell far short of the 100 per cent target under the National Health Plan. Health education and campaigns could make a big difference to the management of prevention by families and communities. Planned and systematic health education has not happened at provincial or district level for more than a decade, since the first dramatic restructuring and cutbacks in the health department. Only recently has there been a big push in health promotion, but it is still very centralized.

233. Current work focuses on creating new ideas and products in the capital, rather than working with the thousands of community and youth groups, schools and theatre groups that are already in place, close to the people, and wanting technical and financial support for basic health education. Many different NGOs have taken the initiative to provide lively health education through popular media - songs, plays and engaging participatory activities - that reach the village level, specifically target and engage children and often directly associate with community-based health programmes, village women's organizations and literacy programmes. The Division of Health has produced some recorded songs and plays, but they are not prepared in a way that can be easily picked up and multiplied among children. Popular health education is best developed at local levels where young people can be mobilized to be the educators for small children and their parents. This is where the Division of Health's Health Promotion section could more fruitfully put its support. Partnership with NGOs could greatly increase the outreach and effectiveness of national health promotion efforts.

234. Under the National Health Plan, the Division of Health continues to train health educators, and there are now a total of 129 deployed, but not actively monitored, coordinated or supervised. The main health education/promotion effort by the Division of Health is in the production of booklets and posters. There is a need to measure their impact in non-literate communities.

235. Child malnutrition rates are high in Papua New Guinea. Thirty-four per cent of children under 5 years old are affected. The last National Nutrition Survey in 1982 clearly indicated the 15 districts with the most serious problem (see tables 14 and 15, annexes). They remain the

worst off in 1999, including the western province where mining has brought considerable infrastructure development and cash incomes. A National Nutrition Policy was approved in 1995, but has yet to be translated into practical programmes and projects.

236. There has been no discernible improvement in nutritional status between 1996 and 1999. The numbers of moderate and severely malnourished children seen at health facilities continue to rise. In-service training on the diagnosis and treatment of malnutrition was undertaken as part of the Child Survival Crash Programme in 1996. The mid-term review of the National Health Plan recommends attention be given to operationalizing the national Nutrition Policy and reducing the high levels of anaemia among pregnant women.

237. The main forms of malnutrition among Papuan New Guinea children are protein energy malnutrition, nutritional anaemia and iodine deficiency disorders. Pneumonia, TB, diarrhoea and measles exacerbate child malnutrition. Anaemia is one of the main causes of hospital admissions of children, and is related to poor diet and repeated malaria and hookworm infestation. Iodine deficiency disorders have been documented in Papua New Guinea since the 1950s. There was a decline following mass treatment in the 1970s, but recent surveys in schools report a 28 per cent incidence of goitre. Legislation through the Pure Foods Act of 1995, to ensure that all salt is iodized, has not had a big impact due to the non-availability of commercial salt in many rural areas. Vitamin A deficiency is not documented as a major health problem among Papua New Guinea children; however, it is believed to be a factor contributing to deaths from the complications of malnutrition and disease. Children growing up in urban settlements risk vitamin deficiencies. Current planned priorities include revival of a National Food and Nutrition Committee, improved nutrition surveillance and an iodine deficiency disorders control programme.

238. Early legislation to prohibit bottle feeding and baby cups with spouts (Baby Feed Supplies Control Act 1977, plus amendments in 1984) and the lack of inhibitions about feeding or vanity about personal appearance among rural women have preserved almost universal and very often long-term breastfeeding in rural Papua New Guinea. The 1996 DHS found 97 per cent of children “ever-breastfed”. Studies on breastfeeding in Port Moresby Hospital (1998) indicate that only 74 per cent are exclusively breastfed. Constant vigilance is required to prevent the sale of bottles and feeder cups without prescription, especially to urban, educated and working mothers. Labour legislation allows for nursing mothers to have two 30-minute breaks to feed infants, but this baby-friendly provision is not always known, understood or practical. Few working mothers could reach their home in such a short period of time. More education is required to ensure that colostrum is fed to newborns. Division of Health policy 1992 banned the distribution of infant formula in hospitals. The Baby Friendly Hospital Initiative targeting 18 hospitals since 1992 reinforces the efforts to maintain breastfeeding as the norm in feeding children. Four hospitals have achieved the goals set. A small non-governmental organization provides additional education and training for mothers in hospitals in and around the capital. In the past, breastfeeding by the natural mother was maintained throughout customary adoption processes. However there is now alarming evidence from the Eastern Highlands Province that this is no longer the case. With the rise in maladaptive adoption practices, serving the adults’ interests rather than the best interests of the child, many breastfeeding children are being transferred to non-lactating mothers, becoming malnourished, and very often dying.

239. Papua New Guinea's children suffer many preventable diseases and unnecessary deaths. The review of the National Health Plan indicates that immunization with triple antigen has fallen and coverage with measles did improve in 1996 and 1997. The collapse of the routine immunization services has been linked to the breakdown in management, programming and outreach of the overall system of health services in Papua New Guinea. In general, statistics suggest that immunization rates have increased significantly over the last two decades, except for a low point in 1992. Except for bacillus Calmette-Guerin (BCG), the coverage has never exceeded 80 per cent. In rural areas, immunization coverage has been low and inconsistent, and totally missing in many parts of the country for up to 10 or 15 years, until the recent remedial immunization efforts (see table 16, annexes).

240. UNICEF has done much through advocacy and the popular media to impress upon the Government the full meaning of the ongoing crisis in child health. The Child Survival Crash Programme was mounted in the early 1990s, but over the years evolved into rushed patrols for only one or two weeks of the year, focused on National Immunization Days, to immunize for certain diseases only. In 1996 a total of 6,977 staff from 17 provinces were trained in immunization, cold chain and safe-injection, as well as planning, budgeting and logistics for National Immunization Days. This effort to mobilize resources and reach out does not result in the return to institutionalized, routinized maternal and child health services. In most cases it is the Church health facilities which maintain routine services and it is likely that the overall coverage rates are greatly influenced by their dedicated and committed service, and good management and supervision systems.

241. The main causes of death of children 5-14 years old are malaria, pneumonia, meningitis, tuberculosis and anaemia. The mid-term review of the National Health Plan indicates that tuberculosis treatment completion rates have remained static and are below set targets. The number of cases has risen steadily and is likely to be exacerbated by the AIDS epidemic. There is evidence of widespread hunger and malnutrition among schoolchildren, particularly among those in poorer rural areas, living in crowded urban settlements, and where children must still travel long distances or board for long periods with relatives in order to be able to attend school. Nutrition and school lunch programmes have been piloted in many parts of the country with impressive results over the past two decades, but none were sustained or institutionalized at a provincial or national level. Such programmes had the added benefit of motivating children to participate in food production, which is the foundation of rural livelihood, and the lifestyle that today's male youth are rejecting in favour of a mass urban drift and marijuana addiction.

242. The National Health Plan provides for the inclusion of schools in the maternal and child health programme, and outreach of urban clinics, involving third doses of BCG and tetanus vaccinations and assessments of nutritional status and signs of disabilities. In 1994 only 18 per cent of schools were being reached. The plan proposes that at least 80 per cent of schoolchildren be vaccinated by the year 2000. Schools are also officially incorporating health education, first aid and health promotional activities. The mid-term review of the National Health Plan suggests that the targets set were overambitious, but reconfirms the emphasis on vaccination of schoolchildren (with donor programme support) and expansion of a new Health-Promoting Schools Programme. This programme was introduced in 1996 through the collaboration of the World Health Organization and the Division of Health and addresses the high child morbidity and poor health status associated with urbanization, poor diets, poverty and the isolation and lack of education in remote rural areas.

243. Traditionally, women of Papua New Guinea were protected from closely spaced pregnancies by communally monitored post-partum taboos and the customary separation of the sexes throughout many special periods, seasons and events. Herbs, spells and rituals were bought and applied to achieve contraception or abortion. Communal living arrangements disallowed frequent sexual contact. Radically changing notions of sexuality and sexual behaviour, increasing mobility, urbanization and extended social networks make it unlikely that old prohibitions will be adhered to, and require that women and men be informed about and able to access modern contraception. The National Health Plan and the poorly articulated National Population Policy actively promote contraceptive knowledge and access. Only 5.1 per cent of women of reproductive age use some method of family planning. Condom use has increased in response to STD/AIDS education, but is still alarmingly low. In most provinces health staff are the main promoters or providers, but in some rural areas, the promotion and provision of contraception has been built into community-based health and education programmes conducted by churches and NGOs (see tables 17 and 18, annexes).

244. Traditional and religious (Christian) anxieties and inhibitions cloud issues of sexuality and reproduction. The reluctance to talk about or take planned decisions on child spacing, or to see women empowered with contraception, is also greatly influenced by the gender politics of the family and the community, which maintains women's subservient role and emphasizes her obligation to constantly bear and rear children. Over the past decade and with the support of large donors (USAID, AusAID, World Bank, Asian Development Bank and currently UNFPA), many efforts have been made to train, retrain, equip and resource health staff to promote greater use of contraceptives. More health facilities are supplying modern contraceptives than ever before, and family planning constituted the bulk of Division of Health training efforts in 1997. These programmes have had limited impact because they are all top-down and largely dependent on effective mobilization of existing health facilities and trained staff rather than informing, educating, counselling and supporting people through their own social groups and organizations and thereby empowering people to manage their own reproductive health. The mid-term review of the National Health Plan (1998) indicates a drop in family planning new acceptor rates, but an increase in the re-acceptor rates in 1996 and 1997. Targets have been reset and attempts will be made to extend Community-Based Distributor programmes to provinces interested in family planning issues.

245. The HIV/AIDS epidemic has hit Papua New Guinea at a time of economic and social crisis and there are major problems in trying to contain it. An assessment of data by a group of experts in 1996 estimated that there might be 10,000 HIV cases throughout the country and by the year 2000 there could be up to 15,000 people infected. Most cases stem from the capital, but cases have been detected in all provinces indicating widespread transmission. The number of cases increased by 70 per cent each year, and within 10 years one in four will be infected. Health services will not be able to cope with the rising incidence of HIV/AIDS infection. The changing, often confused, sexual norms and the dramatic increase of poverty, crime and sexual violence make awareness and preventive action extremely challenging. Studies show that many girls are likely to have their first sexual encounter before they reach 18 and very often in circumstances of force and violence, ignorance and fear. Papua New Guinea has a much higher rate of transmission of HIV infection than other Pacific Island countries, surpassing Australia and on a par with some African countries. The first cases appeared in 1987, with the incidence increasing slowly until 1994, with exponential growth up to 1998, reaching 426 new cases and a

cumulative total of 1,344 (see tables 19 and 20, annexes). HIV infection among women attending the PMGH antenatal clinic has doubled each year since 1995. Rates of infection among young people attending STD clinics have also increased. Fifteen per cent of sex workers in the capital have tested HIV-positive. HIV-infected female cases tend to be younger than male, and are concentrated in the 15-19 and the 20-24 age brackets. Division of Health statistics show that young people are a high-risk population. Forty per cent of diagnosed cases are in people aged 10 to 30 years.

246. Papua New Guinea lacks adequate testing and diagnosis facilities. The incidence of HIV/AIDS is also masked by the fact that the opportunistic diseases, which may cause death, are already so prevalent and often fatal. Further, most people still very readily explain away illness and death as sorcery-induced. The mode of transmission of AIDS in Papua New Guinea is documented for only half of all known cases. They are 81.6 per cent transmitted by heterosexual intercourse, 7 per cent through bisexual or homosexual transmission and 10.4 per cent from mother to infant (see table 21, annexes). Only 0.9 per cent were transmitted through blood. The national health supply has been screened for AIDS for more than a decade, but there is great concern about the lack of adequate sterilization procedures with syringes, and protective measures taken among workers in rural health facilities. Without adequate testing, community understanding and widespread education on prevention and identification, the spread will continue unchecked for many years. Youth are a critical but challenging target for education. As they are being pulled towards engaging in more casual sex through exposure to non-traditional behaviours and sexual relationships, they must be informed and cautioned about the very high level of risk involved.

247. Young women need to be educated and supported to maintain their basic right to bodily integrity and reproductive health in a charged and changing social context. Women's groups are grounded and almost universal throughout Papua New Guinea and are thus ideally placed to fulfil this task with young people, especially with young women and girls. However, they must first be educated themselves to overcome taboos and the tendency to judge and blame young people. Sex education must also happen in schools and every home, but there are layers of traditional and religious inhibitions to peel away first and a very focused, creative and long-term campaign is required.

248. The high rate of STD transmission suggests that high-risk behaviour is common. Studies of reproductive behaviour and the high incidence of rape and pack rape suggest that women and girls are in an extremely vulnerable position. HIV disproportionately affects young adults between 20 and 39, but there are distinct gender differences within that, most cases for girls being at the lower end, while the males affected tend to be above 25. This may mean that girls are more sexually active, by force or by choice, at an earlier age.

249. Papua New Guinea is now experiencing more and more cases of babies born with AIDS. By December 1997 there had been 25 recorded deaths from AIDS in the 13 to 24-year-old age group. A further 192 were diagnosed as HIV-positive. In 1997 there were 13 known cases of HIV in children, 9 with AIDS. Among teenagers, there were 22 HIV cases, 12 with AIDS. Most cases can be traced back to heterosexual transmission. HIV-positive children and mothers are very likely to suffer discrimination. Unwanted AIDS orphans have been sold in Port Moresby to unsuspecting "parents". Papua New Guinea has little or no counselling and support services in place for these people or their families and communities. Sexually transmitted diseases are

diagnosed at all levels of the health services in Papua New Guinea, but young women are often very reluctant to attend STD clinics. STD statistics by age are only available from the specialist clinics at the provincial hospitals. The available statistics suggest that most sexually active young people are practising unprotected sex.

250. Widespread malnutrition and the high incidence of disease among children are likely to mask the real incidence and spread of AIDS for many years. With the current transmission rates it is estimated that thousands will be affected over the next decade. The country is ill-prepared for this situation and is now challenged to urgently revitalize and extend all possible services to support child survival in the face of a looming national AIDS disaster. A major AusAID-funded Sexual Health and HIV/AIDS Prevention and Care Project has initiated a lot of important work. Various non-governmental organizations and UNFPA are also active. The Papua New Guinea Institute of Medical Research has provided very important research and a ground-breaking peer education programme.

### **B. Disabled children (art. 23)**

251. Many children in Papua New Guinea suffer disabilities, which could be remedied or alleviated with early screening, intervention and treatment. These include hearing, sight, and intellectual and motor disabilities. Currently there is no adequate data to indicate the main forms and causes of disability in Papua New Guinea. Given the problem that many rural people have in accessing the most basic health services, it is not surprising that children with disabilities often miss out, or that neglect of many common, treatable health problems causes serious disability. In addition to congenital problems, children may suffer fractures, malnutrition, eye and ear infections, long-term infection and ulceration associated with cuts and burns, and which can cause disabilities that may never get medical attention. Violence against women, especially pregnant women, beating children around the head and ears and other excessive physical discipline of children are becoming more common and may cause disability.

252. Government has provided few or no services in many provincial centres and the majority of funding for services is provided by NGOs, church and service groups. The institutionalization of children with disabilities is being gradually phased out as nationwide NGO programmes are becoming coordinated, rationalized and linked with mainstream government health and education services.

253. Testing of eyes and ears, screening and assessment of motor disabilities, programmes of visiting specialists to provincial hospitals, provision of physiotherapists and training for early intervention and community-based rehabilitation efforts are gradually being established throughout the country. The distribution of services still hinges very much on the establishment of church and NGO services and remains uneven across provinces. Only a few provinces have brought substantial programmes out into the districts.

254. In a traditional setting disability is commonly associated with spirits and sorcery and a disabled child may suffer taunts and discrimination born of ignorance and fear. Parents and extended family usually care for disabled children, providing food and shelter, but children with disabilities are very often overprotected, even secluded and prevented from developing their potential. There is increasing attention being given to developing appropriate technology aids for the disabled and to make wheelchairs available. In some very difficult environments, like



swamps and mountain regions, disabled children may be extremely limited in their capacity to move around freely, even with such aids. Like so many services for people with disabilities, the provision and monitoring of prosthetics is very much dependent on visiting specialists and donor funds. Some local workshops are now being established, but the supervision of children from remote areas and the motivation of parents to undertake the long, costly and demanding trips and stays in town to ensure that their children are seen and treated and periodically reviewed remains a great challenge.

255. Programmes to educate the community and to de-institutionalize services and integrate children into mainstream education are gradually enabling communities and institutions to accommodate and provide practical support to children with disabilities. There is no formal training for physiotherapy or occupational therapy, and limited but growing training for special education. Agencies currently providing services currently devote much of their resources to staff training under visiting or short-term volunteer specialists.

### **C. Health and health services (art. 24)**

256. Government provides public health services in Papua New Guinea, as do non-governmental organization partners, significantly the Churches. Policy and standards are formulated nationally. Provincial divisions of health are responsible for provincial plans and activities, with functions being decentralized to districts in line with the national reform of provincial and local-level governments. From the village level, access to services depends on which agencies are operating in which areas. If NGOs or Churches operate community-based health services, using trained volunteer health workers and village midwives, then communities may have a range of primary clinical and reproductive health services and education on their doorstep. There are a number of such community-based health programmes established in various parts of Papua New Guinea. They still only reach a minority of rural people, but are extremely important to some very remote areas. Churches and NGOs run them and there is little coordination, standardization or rationalization of services and structural linkages to the mainstream health services.

257. The first level of mainstream health services is the rural aidpost, usually serving one to 10 villages. Most are run by the Government. Approximately 50 per cent of aidposts have closed down, or have become largely non-operational over the past 10 years. At the next level are health centres (each centre serving 5,000-20,000 people) and health sub-centres (serving 2,000-10,000 people). There are approximately 550 such centres in the country, providing basic curative services and some inpatient care. Some government health centres in rural areas have closed down in recent years, permanently or for extended periods of time. Church centres are often on the brink of closing due to persistent administrative problems in the release of their operational and personal emolument budgets. Provincial hospitals constitute the next level in the national health-care system.

258. Basic health services remain inaccessible to many children for many social, cultural, geographical and economic reasons. Fees introduced to provincial hospitals under a structural adjustment programme in 1995 have deterred many women from going to a provincial hospital for a supervised delivery, or to a rural health centre for treatment of potentially disabling or fatal diseases among children. Operational funds of the health department decreased dramatically from 1990-1995. After salaries, there was a dire shortage of funds for basic repairs,

maintenance, outreach services and supervision. Often phones are cut off or vehicles are left idle: unserviced, unrepaired or there are no funds for registration or fuel. The survival of key programmes in immunization, family planning and reproductive health is largely donor-dependent.

259. The Division of Health's National Health Plan, 1996-2000, has five national priorities. They are: increasing services to and participation of the rural majority; expanding health promotion and preventive services; reorganizing and restructuring the national health system based on population, geography and health needs; developing staff professional, technical and managerial skills and commitment; and upgrading and maintaining investment in infrastructure. Key strategies are: health promotion and education, preventive health (family health services, disease control and environmental health) and curative health services. Total health expenditure has been approximately K160 million per year between 1990-1996 (breakdown is 62.5 per cent national Government funding, 29.5 per cent provincial expenditure and 8 per cent donor and loan funds) and has decreased in real terms since then. In early 1999 the Division of Health established a new partnership with major mineral and resource companies for the injection of much-needed support of the nation's ailing health system.

260. A mid-term review of the progress made on the National Health Plan (June 1998) documented the following advances. The passing of the National Health Administration Act, rationalizing roles and responsibilities at all levels of Government, the development of a standard health budget structure, the implementation of a National Health Information System, restructuring of the department in line with national reforms in Government and public service and workshops to assist every province to develop operational plans in line with the National Health Plan. However, many administrative structures are still very new and people are not yet ready for full implementation of many aspects of the Plan. Furthermore, during 1997-1999, Papua New Guinea experienced the worst drought, tidal wave and political upheaval in national history and a major devaluation of the national currency, the kina. Reduced numbers of workers at aidpost level, an upsurge in malaria, widespread drug shortages at health facilities, a decline in routine immunization coverage, a rise in tuberculosis and escalation of the HIV/AIDS epidemic have accompanied these problems. More supervisory visits, better monthly reporting rates and more centres operating with fridges and radio communications have been reported, but the levels are all still far below target. The Division of Health is now giving greater attention to: health communication programmes for malaria, tuberculosis, pneumonia and STDs; ensuring more routine maternal and child health takes place and that essential equipment and supplies are in place; expansion of malaria and TB disease control programmes; more water supply and hygiene services; priority funding for medical supplies; establishment of a national Inservice Training Centre, a human resources database and strategies for hospitals to generate more fees.

261. The current situation with child health services in Papua New Guinea raises serious questions about the capacity of the current and past Governments to translate policy into action that gives priority to children and ensures, to the maximum extent possible, "the survival and development of the child". The preamble to the Convention recognizes that the family is the "natural environment for the growth and well-being of all of its members and particularly the children". According to article 18 of the Convention, parents or legal guardians have the primary responsibility for the upbringing and development of the child. The State should ensure appropriate assistance, care and protection for all children.

262. Child health services are inadequately funded, managed and supervised, and the outreach to rural areas has shrunk, if not ceased altogether, in many districts of Papua New Guinea. Many people have lost confidence in the public health services and do not bother to make the arduous and costly trip to facilities that may be closed, or where they are likely to find that key staff are absent, scheduled clinics have been cancelled and there is no proper referral system. In the worst, but not unusual, cases, health workers are flatly refusing to move sick children or women in labour whose lives could be saved at the next level of district or urban hospitals. Between 1990 and 1995 the clinic attendance rate dropped significantly for infants (from 42 to 34 per cent) and under-5s (from 23 to 16 per cent).

263. Reports indicate that the Church-run health services maintain higher staff morale, management and supervision, but that they, too, have suffered very badly in recent years due to denial of their basic operational funds, allocated under the national budget, which are now made through the provincial governments. Some provinces function better than others do. These realities are the subject of daily news, discussions and public seminars in Papua New Guinea. No one denies the sorry state of health services in general and maternal and child health services in particular. Given low morale, serious infrastructure problems, the rising cost of reaching and serving rural areas, the negative impact of the nationwide law and order problems, the National Health Plan (1996) alone is not adequate to counter the problem. The result is a high incidence of preventable diseases. The moderate improvements in basic child health indicators achieved in the first decade, post-independence, have been offset by stagnant or worsening statistics over the past 15 years. In particular, child and maternal mortality rates have risen in the last decade. Two hundred and eighty children under 5 die each week and one in every 22 women will die during pregnancy or childbirth.

264. A network of rural aidposts and programmes of monthly mobile maternal and child health clinics conducted by health centres, health sub-centres and hospitals, were well established in the colonial period. In many rural areas, women knew when and where to expect their local monthly maternal and child health clinics. This service has fallen away steadily since independence, particularly in Government-run health facilities. In the past, maternal and child health clinics provided four services: antenatal care, immunizations, and child-growth monitoring and health education. The latter was hardly ever conducted properly. Thorough and systematic child-growth monitoring often did not happen, and most mothers were not effectively educated to comprehend and monitor the charting of their child's growth on the Road to Health Chart in the children's Baby Health Record Book. These record books are also not always available, and except for subsidies by some non-governmental organizations, they must be bought for K1-K2. Children without an official health record book may be discriminated against when they reach clinics, health facilities or hospitals, and have been known to be turned away without service at the whim of an angry health worker.

265. There is a serious problem with the health statistics available in Papua New Guinea. The main sources of data are the National Health Plan, the National Demographic and Health Survey and the routine reporting by health workers throughout the country. The reporting rate from health centres is uneven and inconsistent. National health statistics are largely based only on the information collected from persons attending clinics at rural and urban health facilities and those admitted as inpatients in health centres and hospitals. Mortality figures, for example, are based on only 10 per cent of deaths. Indicators of health status, service access and coverage are derived from inadequate centre-based reports.

**D. Social security and childcare services and facilities  
(art. 26 and art. 18, para. 3)**

266. The extended family, land and natural subsistence resources together constitute the traditional social security system of Papua New Guinea. Traditionally, children are the care and concern of the whole family, particularly the maternal uncles. They should not go hungry, be neglected or hurt. Relatives, friends and neighbours would readily intervene with practical support or psychological comfort when the family was under stress. Children could be given to young couples who were mourning the death of one of their own children. Protective action was taken on the child's behalf within the context of resources and services available to the community as well as the interplay of traditional beliefs, formal education and understanding. Inter-clan, intra-family or spousal conflict or violence may complicate care of children. There is no absolute principle of the child's best interests, especially where all the above factors combine to make physical, political and psychological survival a struggle for those adults who are charged with the responsibility of parenting or guardianship. The more family lifestyles are removed from the traditional setting, with its protective human network and norms and sustaining natural resources, the more the traditional safety nets break down. Adoption in a non-traditional setting, the struggle to manage the routine family workload and the rising cost of living are among the different factors which put pressure on families, and particularly on children in a contemporary urban environment. Putting children out to beg, steal or prostitute themselves, making troubled children feel that they are failures, burdens, unwanted or rejected outcasts in a hostile urban family or community environment, and beating, abusing and overworking children, especially those who are loosely adopted, are common occurrences in Papua New Guinea today.

**E. Standard of living (art. 27, paras. 1-3)**

267. In most urban centres there are large squatter settlements where up to 50 per cent of the population live. The settlements are home to long-term urban residents, some employed and many unemployed. They also provide the transit accommodation for relatives and friends of the core communities who are visiting town to do family business, seek health care or to generally take a break from village life and routine. There are official and unofficial settlements in every town in Papua New Guinea. In the former, people have some security of tenure, and are usually required to build in an orderly fashion, and according to certain standards and regulations. In unofficial settlements families often live in extremely crowded and squalid conditions, in makeshift and inadequate housing. There is a certain stigma attached to life in the settlements, as it is widely believed that they encourage and harbour juvenile and other offenders, especially those who claim to steal to live. The settlements are often on swampy or poorly drained land. When money is brought home into the settlements it is often associated with drinking binges and domestic violence or inter-family brawls.

268. Too many people in Papua New Guinea are struggling daily to achieve an adequate standard of living. Much insecurity, anxiety and tension in rural and urban households is generated by the ongoing discussion about how to meet basic needs, feed the family and pay school fees. Extreme economic pressures due to the massive devaluation of the kina (60 per cent over the past five years) and family dislocation and breakdown splinter the traditional social support and security systems. Adoption is no longer among friends and family in the same or neighbouring rural communities, where the welfare of the child can be monitored. The transfer

of children between families is now associated with many different motives, meanings and expectations. Children are too readily taken out of their own family to live with relatives in distant communities. They real parents may not hear of them again for many years.

269. Families concerned about the welfare of a child in their family or neighbourhood, may as an act of good faith, but with inadequate consideration to the child's best interests, take them into their care. However, when there are too many problems, or resources are scarce, the natural children will inevitably be the parents' priority. The phenomenon of children moving from house to house, in order to find the basic care, protection and support they need, is not uncommon. Many of these children end up on the streets, hardened and uncaring themselves. There is an increasing phenomenon of babies being sold, openly and publicly, when parents feel that they cannot support them properly. Police do not intervene and senior government officials in rural areas have reportedly bought children under these circumstances. All of this is happening in a social context where there seem to be no rules, no laws, no agency to report to or ask for help, no support services or social security systems to support the child or the parents. The increasing number of young people roaming the streets, angry and frustrated, affects the sense of security and well-being of many other citizens. The extent to which people feel free and safe to move around their own neighbourhood, city or district directly affects their quality of life.

270. Very few agencies are acknowledging the existence and extent of these problems in Papua New Guinea. Many are turning a blind eye. Many are locking the shocking reality out with fences and alarms, security guard and dogs. Many are clinging to a romantic ideal of the Melanesian family, community and lifestyle. Government social welfare services, legislation, staffing and funds are totally inadequate. Many non-governmental organizations and churches provide emergency care services, mostly reactive. There are many individuals, families and communities in need of assistance but there are virtually no resources systematically directed to preventive work, including lobbying the Government and demanding attention to these most critical issues of children's rights and parents' needs.

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. The national education system, including vocational training and guidance (art. 8)**

271. Papua New Guinea is ranked as a middle-income country, but its education status is lower than for most low-income countries. Seventy per cent of children attend primary school, but less than 20 per cent attend secondary school and less than 2 per cent of those who enter grade 1 will reach grade 12. These were concerns highlighted by the Education Sector Study of 1991. In recent years the Government has accorded high priority to major structural reforms to provide a more relevant learning foundation for the majority of students whose future lies in the rural communities. The reforms address initial literacy in the vernacular, the importance of elementary education, access, retention, quality of instruction and performance and equal participation by girls.

272. Education is a fundamental right under the Papua New Guinea Constitution. Unfortunately, the right to education still remains an ideal rather than a reality. Many communities are not well served by schools and thousands of potential students still remain outside formal schooling. Schooling is not free, not compulsory and not universally available.

The Government, donor assistance and fee-paying families finance education in Papua New Guinea. In 1998 the education sector received 17 per cent of the national budget. This was a substantial increase over previous years, including a 10 per cent increase in the development component of the budget. This percentage must be maintained to cater for the major reform process now under way (see table 23, annexes).

273. The National Education System inherited at the time of independence was characterized by poor access, few post-primary opportunities, an irrelevant or urban-biased curriculum and high cost with low returns. The system was three-tiered, and consisted of primary schools (grades 1-6). They were renamed community schools and took on many curricular innovations and initiatives to give meaning to the term "community" by involving agriculture, culture, and lessons applied to local community life.

274. There has been a steady expansion of community schools since independence, when all primary-level teacher positions were first localized. In 1995, 90 per cent of all 7- to 12-year-olds entered school but only 57 per cent completed grade 6. Only 40 per cent made the transition to grade 7 (see tables 24 and 25, annexes). Community and parental participation and support declined dramatically when it became apparent that there was no possibility for most students to continue on to secondary school. Many parents came to regard education as a poor investment. There has been a persistent problem of late age of entry, especially in remote rural and urban areas. Only 40 per cent of all community schools have annual intakes. Others are biennial- or triennial-intake schools. This makes it very hard to establish the school as a significant institution in the eyes of the community and is demoralizing for teachers, students and parents.

275. The Provincial Education Boards set fees. For community school the range is between K1 and K100. At the upper end, school fees may constitute serious financial burdens for many parents and the reason some families make the decision to keep or take children, particularly girls, out before they can complete their primary-level education. In the national grade 6 exams, urban girls perform the best and rural girls the poorest. In remote areas the poor physical condition of many school buildings (classrooms and teachers' houses, many constructed from bush materials), the lack of health and transport services, insufficient food supplies for teachers, weak community support and confidence in the system contribute to frequent closures and distinct disadvantage for rural children. Vocational centres have constituted an option for some grade 6 leavers, but the intakes are limited.

276. Provincial secondary schools provided for grades 7-10. There are a total of 138 schools with 96 run by the State and the rest managed by Church agencies. Most are boarding schools. Secondary school fees are high (K 400-800 per annum) and discriminate greatly against low-income rural and urban families. Teaching positions have been gradually localized. Originally, some students left school after completing eight years of education and others continued to 10 years of education; then it was made possible for all to reach grade 10. There have been numerous attempts to shift the secondary curriculum to agriculture and community-oriented subjects over the past two decades. In general, secondary students get better results in urban areas. There has been a 70 per cent retention rate, but over the last 15 years the retention rate has decreased for girls and increased for males. There was a steady increase in the female retention rate after 1983, from 10.1 per cent (cf. male rate of 17.4 per cent) to 17.4 per cent in 1994. The progress towards gender equity varies across the different regions,

with near parity achieved in the Islands provinces while in the highlands there is still a big gap. Throughout the secondary school system there is a lack of parent/teacher contact. Boys tend to perform better in the national grade 10 mathematics and science exams but girls in same-sex schools often achieve better results. In recent years there have been some management and discipline problems, especially in boys' schools, and more commonly in government rather than Church-run schools. In pre-reform years, only 10 per cent of secondary students made the transition from grade 10 to grade 11 (see table 25, annexes).

277. National high schools cater for grades 11-12. For the first 20 years after independence there were only four national high schools, so numbers remained very low. There have always been a high number of students leaving grade 10 with neither further education nor job prospects. In recent years there have been serious management and discipline problems in a number of national high schools. Interregional fights between students, arson, marijuana dealing and use, production of home brew and sexual violence and intimidation against girls have led to periodic closures and deteriorating standards. Technical colleges have only a limited option for grade 10 leavers and some of the courses offered are quite strictly gender-biased, discouraging girls' entry into trades and other non-traditional vocations.

278. Over the last 20 years there have been numerous reviews of access to and the relevance of education provided in all formal institutions. These reviews culminated in *The Matane Report: A Philosophy for Education in Papua New Guinea*. Furthermore, Papua New Guinea's participation in the UNESCO World Conference on Education for All and its support for the Jomtien Declaration has provided the impetus for access towards relevancy of education. The current National Education Plan, 1995-2004, has two priorities: providing quality education for all and reforming the whole national education system.

279. The Convention calls for compulsory and free primary education but universal primary education has been the elusive policy of successive Governments of Papua New Guinea since 1975. National goals for universal primary education have been continually revised, as the multiple constraints have become obvious. Current targets are universal primary education to grade 8 and an increase in the transition from grade 9 to 10 by 50 per cent by 2010.

280. Meanwhile, access remained a critical factor. A national policy of "free education" was introduced in 1982, but caused much confusion and was eventually dropped and replaced with an "education subsidy" scheme. This has been a controversial scheme, often disrupted by the continuing national economic crisis. The scheme has served to alleviate the burden on parents, but it has also been clouded with uncertainty especially where timely release of funds is often the problem. A total of K38 million was made available by the Government for school fee subsidies in 1998. The scheme has suffered continuous problems, which have often been the consequence of inaccurate enrolment and transfer statistics, delays in receipting and quarterly expenditure reports. These delays have a major disruptive effect on the efficiency of school operations.

281. A significant but inadequately researched factor in the high dropout rate is the forced removal of students for non-payment of fees. The National Education Policy states that children should not be deterred from attending classes because of inability to pay fees. However, all over the country at primary and secondary levels children are being issued "go-home" notices, parents are threatened and pressured and there is the great injustice of children being punished and denied their basic right to education. At the time of writing this report it was reported

that 500 Bougainvillean students had been issued such notices in May 1999. This is a student population just at the end of a decade of civil war and disruption, many of those affected being child soldiers still in the process of rehabilitation. This example illustrates the ill-considered and inappropriate blanket application of this policy. This problem has not been eliminated by government subsidies, because most schools insist on an additional project fee, which is sometimes twice the actual school fee.

282. Major national reform of the education system was initiated in 1993 and is expected to be completed by 2004. Details of the reform are spelled out in the National Education Plan, 1995-2004, approved by the National Executive Council in 1997. The reform addresses the key issues of participation (including access, retention, gender balance, low retention and transition to grade 7 especially for girls) and quality (including relevance, community participation, basic materials and equipment, teacher training, staffing). A massive expansion of teacher training, curriculum development, material production and physical infrastructure is under way, but monitoring and supervision systems must be strengthened to maintain quality and ensure evenness and sustainability.

283. Reform involves the introduction of a three-year elementary programme in the vernacular, which is based in the community and expected to improve retention. The movement of lower grades out to the community frees up classrooms so that primary schools can be topped up to grades 7 and 8. This in turn frees up classrooms for extra grade 9 and 10 classes and allows for a few schools to have grades 11 and 12. The reform has been influenced by the long-standing failure to achieve universal primary education under the old education system. *The Matane Report* emphasized curriculum reforms starting with vernacular education, urgent expansion of secondary access and national budget priority away from higher education to universal primary education. These recommendations were reinforced by the Jomtien Declaration of 1990, the Education Sector study of 1991, and National Executive Council decisions of 1992 and 1994 and the National Education Policy of 1996.

284. The reform is built on national education policy but required all provinces to develop and complete provincial implementation plans for education reforms by September 1998. Provincial implementation plans must be in line with national policy. The national political reform commenced in November 1997, under the Organic Law on Provincial and Local-level Governments. Many education functions were transferred from the national Government to the provinces: management, administration, fees, planning and infrastructure including subsidies, but not curriculum. However, there is a greater flexibility at the elementary level. This link to the reformed and decentralized local-level government planning and budgeting processes was considered essential for the effective bottom-up implementation of infrastructure support for basic education and the resolution of the frequent disruptive land issues and compensation claims being made by many rural communities. The Education Department has plans to provide training to all district education staff, plus skills training in elementary and primary school management to district education staff.

285. The education reform promises increased retention and access, with immediate and larger intake to elementary school for many more children, starting at 6 years. Under the new system there will be no more grade 6 leavers. Approximately half of the intake will have to leave after



grade 8 (see tables 27 and 28, annexes). It allows for the upgrade of teachers and improved standards, as well as increased secondary school participation at lower cost. There will be more grade 12 leavers. Transition is estimated to rise from 9.6 per cent in 1991 to 17 per cent in 1996 (see tables 29 and 30, annexes).

286. Current constraints on the education reform involve a serious resources gap. Key reform processes, including awareness and understanding of education restructure and curriculum reform processes and central, provincial, district and local-level government planning and management of developments, are also proving to be complex and uneven across the country. It requires the adoption of flexible implementation practices and adaptive approaches in the respective evolving social and cultural environments. Current, expanded needs in curriculum and material development and equipment supply require substantial external assistance.

287. Resources are stretched in supporting current developments and there are concerns over the capacity of the reformed system to absorb, institutionalize and sustain the changes that are now under way. Processes for the registration and supervision of elementary teachers are still unclear. Salary costs for all teachers under the reform are not yet fully understood. Cost-effectiveness measures through teacher rationalization are currently being assessed. There are concerns over the present level of change, population growth and the capacity of the education system to cater for the size of the school population. Papua New Guinea's annual population growth is estimated at 2.3 per cent while the education system currently has capacity to increase access by 1.3 per cent annually.

288. There are significant differences in the capacity of provinces to implement and manage the education reform and develop Provincial Education Acts. Concerns are emerging from provinces over the quality and quantity of teacher supply, especially for elementary grades, grades 7 and 8 and grades 11 and 12, as well as the required retraining for lower primary school teachers. Curriculum changes are not keeping pace with structural changes, supplies of learning materials arrive late, and the high cost of freighting new materials and supplies is not always allowed for in provincial budgets.

289. The management of the reform is handicapped by the high turnover of divisional education heads in the provinces, a situation described by senior education planners as "volatile". Given the concern for funding problems, there is a need to mobilize more community, Church non-governmental organizations and private sector contributions. There are provincial and district funding schemes under the current political reforms, which could be used.

290. The availability of resources needed for the reform programme and the sustainability of reforms to the education structure and curriculum remain of great concern to all stakeholders. Papua New Guinea continues to face fiscal constraints, but institutions like the World Bank believe that the resource requirements to achieve a fully reformed education system are achievable provided that suitable cost-effectiveness measures are implemented. There is still concern over the budgetary situation in schools, the potential effect of inflation and exchange rate fluctuations, deficiencies in implementing the school infrastructure programme and lack of uniformity in school fees. Studies suggest that successful implementation will depend on the implementation of cost-saving measures, such as improvement in the student-teacher ratios.

291. Research is being conducted to determine strategies for sustainability through the Reform Implementation Advisers, especially in cost-effectiveness measures, indicators and monitoring, teacher training and upgrading, curriculum reform, efficient salary and personnel systems, and developing district-level management and supervision of the elementary system. Appropriate systems and practice in all of these areas remain central to the sustainability of education reform. A doctoral study is being conducted on the whole issue of sustainability of the reform.

292. At elementary level the fundamental curriculum concept is that children acquire initial literacy, numeracy and early education in a language that they speak and that their education must be based on their own culture and community. Language is the medium of transmission of culture. Community-based and integrated curricula must be developed. There will be more opportunity for parental involvement in early learning. In 1998 there were 50,000 more children in the first two years of schooling than in 1995. To date there has been a very quick development and high demand from communities, which suggests that the people are responding positively to the new levels of access, head start, relevance, and the potential for stronger cultural and language links. It is expected that young children will develop more confidence and self-esteem as they are formally encouraged to take on the traditional values of community and reciprocity.

293. A new concept is three years' elementary education, including pre-grades 1 and 2, where basic literacy and numeracy in the vernacular has been trialled since 1994, with teachers to be paid by Government and all children guaranteed entry to primary school. There are currently 1,400 elementary schools in the country. There is no age-limit on the new cadre of elementary teachers, although young trainees are preferred who have community respect, fluency in the vernacular, in-depth knowledge of local culture, a commitment to and experience in literacy, and a grade 10 education or equivalent. All elementary teacher training is conducted at provincial and district level, producing curriculum materials on site. There are 120 trainers with 5,059 teachers currently in training (2,300 in first year, 1,700 in second year and 1,059 in third year). With this rapid growth of curriculum development and training, there needs to be close supervision. Early reviews suggest that the elementary trainees need to be motivated to be more innovative and more directly active and creative in their communities. Locally developed curricula will be supplemented with nationally developed curriculum materials and kits of materials developed for each level will be made available through AusAID assistance.

294. At the primary schools (lower, 3-5 and upper, 6-8) there will be a flood of grade 3 entries from elementary schools in 1999/2000. Many changes have to be made at this level. There is an urgent need to develop strategies for maintaining vernacular literacy and bilingual education through the promotion of creative writing and the provision of bilingual libraries. There are now 38,000 grade 7 and 8 enrolments in 400 primary schools. Overall access has improved in 1994 to 73.9 per cent of males and 75.1 per cent of females, but there is still much disparity between regions, with some slow in implementing the reforms and the enrolment rates still as low as 51.7 per cent. Policies on student-teacher ratios are set at provincial level and some are considerably higher than the national average of 1 to 31.4.

295. Grades 7 and 8 in primary school are gradually becoming institutionalized, but there are still problems with retention, with some provincial dropout rates as high as 40 per cent. This is partly due to the imposition of high fees at this level (some more than K200), and reports of

some students not being allowed to sit for their exams, or denied their official certificate of completion because they cannot pay school fees. Revised curricula for the reformed primary cycle are being developed to address the broader vocational and life skills now required at grade 8, because in the future, half of all students will exit the formal education system at the grade 8 level. New equipment to provide for science and agricultural education at primary level is being provided in standard kits financed by AusAID and procured through tenders out of Australia. They are in some cases not appropriate although, to a large extent, most teachers felt that they needed training on how to use much of the equipment supplied.

296. The Convention also calls for accessible secondary education and for different forms of secondary education: general and vocational. In addition to the 5 national high schools, 14 secondary schools are now providing for the greater number of grade 12s. In 1997 they accounted for 2,035 of the 3,794 students sitting for grade 12 exams. There is still a shortage of grade 11 and 12 teachers with a subject degree and higher qualification. At present, teachers teaching at this level are either trained high school teachers, Papua New Guinean teachers with no subject degree, teachers with a subject degree with no teaching qualification, or expatriates and mission volunteers.

297. Vocational education has long been the neglected arm of education in Papua New Guinea. Even when the education subsidy scheme was introduced, it was originally much less for vocational centres, but after protest this was later adjusted. Vocational centres were traditionally created for grade 6 leavers but as the education system has produced more grade 8 and 10 leavers, vocational training became more competitive and the entry levels raised. There are currently 115 centres. Most of the centres are operated by Church agencies (a total of 66) and are located in rural areas.

298. Problems associated with the current vocational centres system include lack of standardization of curriculum and certification and technical competencies achieved, low priority given by provincial governments, inadequate teacher training, poor linkage to the labour market and inadequate supervision and inspection by the Department of Education. In some provinces they have received very little financial support from Government. Vocational centres have long been regarded as low-status institutions.

299. In general, the history of vocational centres is one of weak or limited implementation and lapsed initiatives. Numerous innovations and pilot programmes initiated since independence, with enthusiastic government and non-governmental organization support, have proved inappropriate or non-sustainable. Lessons learned are about cooperation and coordination between all of the agencies involved. With the assistance of the German Development Services and the German Agency for Technical Cooperation (GTZ) and numerous technical and management studies, a comprehensive vocational training policy has been developed which upgrades and rationalizes vocational and technical training.

300. The policy proposes a National Training Authority to take over the range of organizations currently involved in training, apprenticeships, and testing and technical education. It will have a budget, which incorporates the funding of the operations and activities of a National Training

Institute. This new approach and policy require commitment to cooperation, coordination and joint planning and genuine partnership among key agencies. Implementation of the policy cuts across the responsibilities of national departments and provincial and local-level governments. Willing and informed cooperation is essential.

301. The German Development Service in Papua New Guinea currently focuses on vocational training and education, committing 50 per cent of its entire budget and placing 16 German volunteers in the sector. The aim is to make vocational centres more relevant and useful, and to upgrade and increase female participation. Training is geared towards improvement of the living conditions, traditional agriculture, the needs of small rural workshops, handicraft production and other forms of self-employment and informal economic activities. Their role includes teaching and management in vocational centres, curriculum development in agriculture, technical training and education for self-employment of the formal market, working with the National Department of Education to design a new national system of technical and vocational training and education, training instructors on the job and small business promotion. The proposed shift in vocational training is from centrally coordinated, supply-driven, fixed-term, centre-based trade, academic and domestic training for school leavers to a demand-driven system. The change is guided by the aspirations of those involved in or planning to enter the urban informal and rural village economies. It is based on an analysis of community needs and delivering competencies, with flexible lengths and venues and accountability to and benefits for the trainee and the whole community.

302. The German Development Service works with GTZ to identify strategies for improving the quality of training and trainers and is reorganizing and retraining all trainers, managers, instructors, extension workers and coordinators, planners, advisers and inspectors associated with the system to improve relevance, quality and cooperation among agencies. Since September 1998, GTZ has extended its programme to vocational centres nationwide. The German Development Service is prepared to commit financial and human resources until 2010.

303. The proposed shift in technical training involves a move from centrally coordinated, supply-driven, school-based, fixed-term, formal programmes to a demand-driven, market-responsive education and training system delivering competencies in accordance with nationally recognized standards and oriented to skilled and semi-skilled occupations in the formal economy.

304. Institutions will become self-managing with partial support from the Government, where the role of Government is shifting from universal provider to facilitator, accreditation and monitoring of training. It will be an integrated system, accountable to employers and sponsors for cost-effective and relevant training.

305. The College of Distance Education (CODE) has offered grades 7-10 education externally for 20 years. Up to 30,000 students who have been pushed out at grades 6 or 8 have enrolled annually. There has been much greater male than female participation. Students at CODE do not need to continue grade 7 and 8 education after successful implementation of education reform. Provincial university centres offer adult matriculation, but this tends to be targeted to people already in the workforce. Only a small percentage of the students would be under 18 years of age.

306. Because of the late age of entry to school, there are also very few students under 19 years of age entering the three universities in Papua New Guinea. Females comprise only 37.7 per cent of the total tertiary enrolment. Their participation at this level of education is invariably affected by the pervasive male-dominated culture, already referred to earlier in this report: it is usually the girl child who is most likely to discontinue when school fees cannot be paid. The university campuses are regarded as extremely hostile environments for female students.

307. There is a great need to provide services to enable children to aspire to further education and know the options available to the mainstream systems. Guidance at home is rare and the services provided by the education department are currently very limited and weak.

308. The Papua New Guinea Government has long since taken steps to ensure that school discipline is administered in a manner consistent with a child's dignity. In the 1970s Papua New Guinea passed legislation to outlaw corporal punishment in schools. In high schools, discipline committees involving the students are well established and together with the outspoken democratic spirit of the student body, punishments meted out in schools are transparent and fair. A greater concern in many schools today is the non-cooperation of some students and their families following decisions to suspend or expel students who clearly infringe the rules, regulations and policies of the school. There have been cases when suspended or expelled students or their families or politically connected friends use threats and intimidation or lobby for some political intervention/interference on their behalf.

309. Papua New Guinea has a very low literacy rate, which varies across provinces and is lower and reflects a bigger gender gap in lesser-developed provinces. The 1990 national census reported that 45.1 per cent of all people over 10 years were illiterate (49.5 per cent of males, 40.3 per cent of females) (see table 32, annexes). Levels of functional literacy are actually considerably lower, estimated at 25 per cent. This compares poorly with the average rate of 85 per cent literacy in neighbouring Pacific Island countries. There has been a twofold increase since 1971 (female - 22.8 per cent, male - 37.5 per cent). Overall rates are lower for women. The female rate is growing faster but there is still a very big gap to bridge. Learning in second or foreign languages, restricted access and low retention rates, and difficulty maintaining reading skills back in the villages have all contributed to these low levels.

310. Papua New Guinea has 854 living languages. In 1990 the Government initiated the National Literacy and Awareness Programme to promote vernacular education as set out in the 1989 language and literacy policy. The policy aimed to increase awareness and understanding of changes and participation through literacy and access to information. There has since been a decade of intensive work to eliminate illiteracy in Papua New Guinea. All literacy efforts are coordinated under the National Literacy and Awareness Programme, which operates out of the Curriculum Division of the Education Department. The Programme has forged partnerships with communities, non-governmental organizations, Churches, the private sector, media, all relevant government divisions and departments and international organizations and donors. Churches and non-governmental organizations have played an invaluable role.

311. The National Literacy and Awareness secretariat promotes partnerships with Church and non-governmental organization literacy programmes and support materials and training. The programme is built on the successful *Tokples* pre-school movement, first initiated and piloted in

Bougainville in 1979, and *The Matane Report*. Community-based literacy programmes are built on oral and cultural traditions and values, building intergeneration communication and cooperation. The relative success of the national literacy effort is related to general dissatisfaction with the education system. The current National Education Plan aims for 80 per cent literacy by 2010.

312. The National Literacy and Awareness secretariat has a staff of six, operates on a small and inadequate budget (K220,000 in 1998, which after salaries, leaves only K76,900 for operations). Both the Japanese Government and the World Bank have previously contributed on a large scale to the national literacy efforts.

313. In 1999 there is no certainty about future budgets but an ever-increasing demand to assist agencies. The secretariat must cope with implementing literacy programmes in all 20 provinces. The major programmes are adult literacy and *Tokples* schools.

314. The turning point for literacy work in Papua New Guinea was the World Conference on Education for All and the formulation of the Jomtien Declaration which recognized the important of basic education, equity and outreach, an expanded vision, and enlarged partnerships to achieve those ends. The vision of the National Literacy and Awareness Programme includes sustainable literacy programmes to eradicate illiteracy, to facilitate the acquisition of functional literacy, and to build capacity, partnerships and resources. Literacy and awareness activities operate at various levels throughout the country, depending on the level of responsibility and decision-making taken by the communities. Communities support schools and teachers and training programmes.

315. The elementary schools of the new, reformed education system have grown out of the *Tokples* school initiative that was adopted and promoted throughout Papua New Guinea for a decade. Elementary schools are now taking over the function of providing basic education and literacy in the vernacular. Many *Tokples* teachers have become elementary teachers. The difference between *Tokples* and elementary school is the imposition of standards, salaries and regulations for teachers and State intervention in the production of curriculum and materials. There is some concern about the loss of a vast human resource for development in the form of a cadre of village-level volunteer pre-school teachers as basic education in the vernacular is transformed. Only a few non-governmental organizations are maintaining *Tokples* schools, and the number who intend to focus, or already do, on adult literacy is very small.

316. Current programmes of international cooperation in the education sector include extensive Japanese aid to literacy, including the provision of Literacy and Material Production (LAMP) Centres in all provinces. The World Bank, the Japanese Government, the European Union and AusAID are contributing to assist the education reforms processes. Establishment grants are paid by the national Government through provincial governments. AusAID has been involved in grades 11 and 12 top-up in secondary schools. The Japanese and Chinese Governments are building new upper secondary/national high schools. AusAID has financed the training of elementary, primary and secondary teachers, secondary school expansion, elementary teacher education support, basic education materials and infrastructure. The German Development Service and GTZ have supported vocational centres, technical education testing, instructor training and national in-service training, plus curriculum materials.

317. There are problems in the facilitation of access to science and technology and modern teaching methods in the Papua New Guinea education system. The reform cannot provide for all the science education requirements of primary schools. Most primary-level schools have very basic facilities and use conservative teaching methods. Many experience year-round basic problems with water supply. While most do not have power supplies, there are attempts to pilot solar-power systems in some rural schools. This situation gives rise to the reality that the majority of children of Papua New Guinea are being left behind in the development of new information technology and the benefits of global electronic communications. There is a constant and unresolved debate on what is appropriate and politically correct for inclusion in the Papua New Guinea curriculum and concern for the impact of the growing rich-poor urban-rural disparities and the impact on the equality of access and evenness of quality in the national educational system.

318. Parents and teachers often do not perceive children with disabilities as having the same rights. The silent, but real, rejection of many children with disabilities is based on that non-recognition of rights. The main service providers in the area of disabilities now emphasize basic awareness of the rights of the child in their entire teacher training. Mainstreaming education for the disabled is well under way in Papua New Guinea. Both teachers and children are being encouraged to use sign language in the classroom.

319. The Constitution, the national goals and a number of major sectoral and development policies in Papua New Guinea uphold the rights of all citizens to equal access to health, education, development and the right to fulfil their potential. Much has to be done to make this rhetoric a reality. The State does not provide any support for the parents or families of children with disabilities. Papua New Guinea has endorsed the Standard Rules on the Equalization of Opportunities for Persons with Disabilities adopted by the General Assembly in the annex to its resolution 48/96 of 20 December 1993 and the recommendations of the World Conference on Special Needs Education: Access and Quality of 1994, convened by UNESCO and the Government of Spain.

320. The 1990 national census suggested that the total disabled population of Papua New Guinea was 11,838, with 30 per cent being under 20 years of age and the majority (10,764) living in rural areas. This figure would appear to be a serious underestimate. The Callan Services, one of the largest organizations providing provincial and district-based services, estimates that there are 29,000 persons with disabilities in East Sepik Province alone. This estimate is based on the World Health Organization rule of thumb and Papua New Guinea's estimated population growth since the 1990 census.

321. Local spot-testing of eye and ear conditions and hearing ability in East Sepik Province indicate that in some places up to 90 per cent of children have hearing problems. Forty-four per cent of school beginners suffered some sort of hearing loss. Physiotherapy services in hospitals are weak, and in many centres have been augmented by NGO-initiated services. Spinal cord injuries from falls (falling while climbing trees, trees falling on people) are typical, as are cerebral palsy resulting from meningitis or cerebral malaria. Conditions like clubfoot are left unattended in the thousands, causing gross disability and disadvantage in rural areas. Problems of mental illness, both congenital and trauma induced (especially malaria and cannabis induced) are not being addressed.

322. Non-governmental organizations working with people with disabilities are gradually developing greater capacity for testing and referral for all disabilities. Wherever this service is provided, the result has been an emergence from the community of people with disabilities in numbers exceeding the expectations of experienced workers. Agencies providing services recognize the need for a plan that has large coverage, good quality services, and can be sustained by the best use of available resources.

323. To date, Papua New Guinea has no national policy or legislation, although the National Board sees the preparation of an Act for People with Disabilities as urgent. Several existing laws address the needs of people with disabilities. These include the Social Development Policy (1994), the Building Act (1994), the National Health Policy and the National Special Education Plan and Policy Guidelines (1993). The National Special Education Plan aims to integrate the majority of disabled, sensory impaired and intellectually handicapped children into mainstream community schools. Implementation of this programme commenced in 1994, and since then many primary school teachers have completed pre-service and in-service training to equip them to provide for the acceptance, involvement and full participation of children with disabilities in their classrooms. An officer responsible for special education has been recruited from one of the NGOs and placed within the teacher education section of the Department of Education. Over the last decade a concerted move has been made from institution to community. Special education is specifically included in the Elementary Teachers Education Support Project and the Primary and Secondary Teachers Education Project, which are both AusAID projects.

324. The National Board for Disabled Persons coordinates 14 registered institutions providing services for disabled children. All are founded and operated by non-governmental organizations with minimal or no government grants and substantial dependence on their own fund-raising efforts and the contribution of overseas Church and NGO donors. All operate on the principle that they should work towards the development of awareness, training and community-based services that maximize the involvement of local caregivers and facilitators.

325. They are also promoting a system that builds on the inclusion of children with disabilities in regular schools, training and development programmes and self-employment schemes. Eight of these agencies operate Education Resource Centres, which have staff members employed under the National Special Education Plan. These centres train teachers in the identification of disabilities and children with learning difficulties, and develop skills for integration and special education. Only one agency still offers institutional care and it is being phased out in line with the policy of mainstreaming all services and making them cost effective and sustainable. All other agencies and programmes are building community-based programmes and services operating out of mainstream institutions.

326. Data from the eight special education centres indicate that there is gradual progress in the integration programmes. A total of 1,251 clients were served. In 1997, early intervention programmes reached 158 children, 72 children were integrated into elementary schools, 414 integrated into primary schools, 18 integrated into secondary schools, 11 integrated into vocational centres, 2 into tertiary schools, 22 were placed in jobs, and 101 participate in centre-based pre-schools, 31 in clubs and associations and 422 in community-based rehabilitation programmes. These figures represent only the start-up period of a major national programme of mainstreaming children in education.



327. In line with the World Conference on Special Education Needs, the Department of Education has created senior lectureships in special education in all teachers' colleges and the In-Service College. All special schools are affiliated with the national education system and are being transformed into Special Education Resource Centres to support pre-service and in-service training.

328. The larger and most established Church and NGO programmes deliberately target children (under 18 years of age) and actively promote training and implementation of early intervention in the community and in schools, clinics and hospitals.

329. Childcare and early-childhood education is very limited in Papua New Guinea. There is little or no emphasis on early childhood development or education in the education system. There is a low level of provision for childcare outside the home. Most people have live-in baby-sitters who are not encouraged or equipped to interact in a way that stimulates the child's growth and development. All childcare centres are privately run. Most are prohibitively expensive. There are a total of 35 in eight urban areas; 19 are in the capital. They are all licensed business operations, under law, and should be regularly inspected by the Office of Child Welfare. This does not happen, and there are allegations of many overcrowded centres that are not adequately monitored. In rural areas there are strong fears of sorcery and a lack of trust prevents the formation of socialized childcare in villages. There has only been one initiative in early childhood education, called the Kindergarten *Long Ples* (village kindergartens). It operates largely in Madang, but has a strong community and volunteer base and encourages school leavers and communities to make the best use of available local resources to educate small children. The programme has been sustained now for almost 20 years on a very minimal budget.

#### **B. The aims of education (art. 29)**

330. The development of a child's personality, talents, and mental and physical abilities to their fullest potential is directly in line with the principle of integral human development as set out in the Constitution of Papua New Guinea. It is the guiding principle for the philosophy of education that has shaped the current education reforms, the policies on mainstreaming education for people with disabilities and the upgrading of vocational and technical education. However, Papua New Guinea is limited by the extent of resources being made available to the education sector, and the very serious administrative, logistical and social problems that hinder normal operations in most districts of the country. This is further complicated by the fact that an extremely ambitious reform in education is now being implemented in the context of a larger reform in the structure of government in Papua New Guinea, which commenced two years after the education reform began. Throughout the education system there is a concern for standards. Many parents do not have the experience or education required to motivate and support the students. The link between teacher and parent, classroom and home is weak and likely to hinder rather than help children achieve their full potential.

331. The development of the child to appreciate and respect human rights, fundamental freedoms and the principles enshrined in the Charter of the United Nations is still weak in the education system. The Constitution of Papua New Guinea enshrines most of the core principles of the Charter; however, the latter has not been translated into popular civic education and is rarely invoked in the daily operations and administration of schools. Throughout Papua New Guinea, there is only limited awareness and understanding of the fundamental principles of

the Charter or the whole notion of human rights, including women's rights and children's rights. Too often the notion of human rights and freedoms are spouted as political rhetoric only, narrowly and inappropriately interpreted and pronounced as the political rights of one individual or group over another, based on race, geographical origin, education or ethnicity. There is a widespread tendency to resort quickly to violence or threats of violence in situations of conflict. Fighting between student groups or between students and teachers is not uncommon. Throughout the school system, girls are very likely to endure discrimination, harassment, bullying and violence. There have been increasing reports of sexual violence in schools, and some recent cases have involved teachers offending alongside students.

332. Regarding the development of respect for the child's parents, cultural identity, language and values, and for the values of other countries and civilizations, the gap between the home and the school, the teacher and the parents has been regarded as one of the factors contributing to the dislocation and disrespect demonstrated by so many students, particularly male, after leaving school. The language, cultural and social barriers constructed by the structure and style of education inherited at the time of independence are now being addressed and dismantled as part of the process of educational reform. The advent of *Tokples* schools and now the elementary system with an emphasis on local languages, participation and location are intended to address, close and prevent the intergenerational gap that education has created in the past. The elementary curriculum stresses integration with the community and the development of cultural activities and programmes. The education reform emphasizes policies and activities to encourage children to rejoice in the differences in Papua New Guinea's rich cultural heritage and build respect for our contemporary differences and diversity and to progress towards gender and ethnic equality. Reform emphasizes commitment on the part of the teacher.

333. The right to establish private education institutions, which must conform to minimum standards set down by the State, exists in Papua New Guinea. However, the dream of establishing a private school is not feasible for most communities. The cost is prohibitive and the political and bureaucratic processes are unwieldy. Various political leaders and prominent citizens have established private schools that eventually become registered and incorporated into the mainstream education system. Many rural communities would like to do the same but the processes are mystifying and prohibitively complex and protracted for them. A few Churches have managed to set up their own primary, secondary and tertiary institutions outside of the mainstream system. Both the Catholic and Adventist Church agencies provide education up to and including university level. However, the two main streams of private education are the International Education Agency, which caters for the expatriate community, and the children of the local elite and the Seventh Day Adventist schools, which caters for the children of its members.

### **C. Leisure, recreation and cultural activities (art. 31)**

334. The right of the child to rest and leisure, to engage in play and age-appropriate recreational activities and to participate freely in cultural life and the arts is determined by the physical conditions in their homes, their gender and the attitude of their parents. Children in situations of poverty and girl children are likely to be burdened with heavy responsibilities and workloads. Also, children who are out of school, and particularly those who have been adopted into a family where they assist overworked mothers to look after and educate their biological children, are very likely to fall into a situation where their right to rest and leisure is denied.

There is also a common phenomenon of excessively strict and prohibitive parenting, whereby children are scolded and beaten for normal interaction with their peers outside the home. This is common in urban areas where some parents experience great anxiety about their boys' contact with drugs and criminal elements on the street, and their girls' vulnerability to sexual assault. This situation is made worse by the lack of development of a child psychology appropriate in the Papua New Guinean context and the absence of a tradition of counselling rather than nagging, threatening and beating children as a form of guidance and discipline.

335. There is a serious lack of social outlets and activities for children growing up in the rural areas and the towns. In the villages there is no electricity and few resources for night-time social activities. Children who participate in the common "6 to 6" outdoor dances are increasingly likely to get caught up in the home-brew-drinking binges. These village dances are also considered a high risk for girls, in terms of the danger of violent sexual assault. In most large and small towns it is impossible to run dances and other social nights without the risk of fights, drug and alcohol abuse and sexual intimidation or assault. There are few other regular social activities available to young people outside Church and Church-based programmes. Most local theatre groups would not choose to perform in the evening, for fear of unruly behaviour and possible fatal consequences. For many young people in Papua New Guinea there is simply no place to go outside their village or urban homes at night which is considered safe.

336. Organized sports are a blessing for many young people, as they bring them together in a safe environment, with friendly competition and most often good management and care from adults. The Government and many individuals invest a great deal in the development and maintenance of sporting associations and training. In rural areas, teachers and community leaders can do a lot with very minimal resources to organize impressive sporting programmes and championship bouts on public holidays. In large urban centres sports have been attributed the role of strengthening ethnic identity and networks in an otherwise alienating environment. Unfortunately many children still miss out because the cost of the basic equipment and the uniforms required for entry into organized competitions is still prohibitive.

337. Papua New Guinean society is unique in its rich cultural diversity. Children are encouraged to preserve their heritage. The exception is in small communities adopting Christian fundamentalism, where restrictive taboos and prohibitions on traditional beliefs and practices are imposed. Throughout the country there are many and regular spectacular and dynamic displays of bodily decoration, song, dance, art and craft. Children are participating in these activities as part of their daily lives and community interaction and in association with special events organized by schools and social and cultural groups, in a conscious effort to maintain cultural identity. The Government, through the National Cultural Council, could do more to encourage and sustain these activities.

338. In principle, children in Papua New Guinea have the right to participate fully in cultural and artistic life. However, there is not yet a strong tradition of the arts in Papua New Guinea. The dynamic popular theatre movement is one of the best examples of participation of children in artistic expression.

339. Many groups are formed for the purposes of preserving traditional practices, but an equal or greater number are established for the purposes of using this traditional form to educate and entertain communities in the contemporary context. The vibrant local music industry is another

avenue for popular cultural and artistic work and many young people want to get involved. Unfortunately, the music industry is still very difficult and costly for young people to get involved in. There is also enormous potential for children to develop traditional art and craft skills and to innovate with modern media and subjects. All over Papua New Guinea, young people are informally training in craft production, learning from their parents' generation, and some are able to make a good small income from this work. Sadly, the Faculty of Creative Arts at the University, which took so long to establish and be accredited as a legitimate tertiary programme, has recently been shut down due to budget cuts. Unfortunately, the majority of schools do not have the facilities to encourage and support the development of artistic talent. Indigenous creative writing was very dynamic and well supported at the time of independence. There were many low-cost local publications of poetry and short stories. Young artists were also being encouraged to work with new media and forms. These days, creative writing and drawing, painting and screen-printing are hardly supported, even though it has been demonstrated in the past that local art can be in demand internationally. Most rural schools usually lack the basic items such as paper and pens and colours necessary to stimulate young artists.

## **VIII. SPECIAL PROTECTION MEASURES**

### **A. Children in situations of emergency**

#### **1. Child protection services**

340. Papua New Guinea does not provide child protection services. There is a serious lack of support for the children in need of welfare and social services and guidance, especially juvenile victims of abuse and neglect, juvenile offenders or their respective families. The Child Welfare Act (1951) is outdated and is being inadequately enforced with its administration reduced to being ineffective. Under the Act, the Director of Child Welfare has wide-ranging powers and currently directs 250 appointed welfare officers based in the 20 provinces. Most of these welfare officers were appointed after completing a training course preparing them to enforce the provisions of the Act. There is a need to have them well trained or resourced in accordance with the Convention on the Rights of the Child. The Government's sponsorship system previously provided for the training of welfare officers, referred to above, has collapsed and this has contributed to low staff morale. In spite of the existing provisions in the Child Welfare Act, in reality there are no reliable formal social security services available for families in crisis, especially for victims of child abuse, destitute children, fostering arrangements or the repatriation of abandoned families. Over the past 20 years there have been numerous changes in the structure, location and budget for Child Welfare services. Under the 1999 budget there is a plan to retrench officers.

341. An important part of the Child Welfare Act is related to the provision of welfare support and family involvement and responsibility for juvenile offenders. The two most recent Directors of Child Welfare have allowed unresolved bureaucratic problems over interpretations of the Juvenile Justice Act to stand in the way of vital welfare, rehabilitation and reintegration services being provided for juveniles and for the police who deal with juveniles. It is very likely that the lack of attention and responsibility on the part of welfare officers throughout Papua New Guinea with regard to the processing of juveniles, informing juveniles of their rights and generally protecting juvenile offenders is related to the increasingly high levels of violence and brutality meted out to juveniles caught on the wrong side of the law. This violence inevitably begets further violence and criminality.

342. The National Council of Child Welfare, set down in section 8 of the Child Welfare Act, is the focal body for child protection policies and services, but it has hardly functioned for two decades. The Council was established in colonial times (1971/72) at a time when the national budget provided more generously for welfare services, but quickly fell into abeyance around the time Papua New Guinea became independent (1975-1980). The Council was re-established in 1986/87, through the efforts of a few dedicated welfare staff. The National Council of Child Welfare has important core functions, and in 1987 accepted the responsibility of providing fair and just advice to the Government on all matters affecting the social well-being of all children in Papua New Guinea, regardless of their social, economic, and racial backgrounds. The Child Welfare Council is also tasked with acting as a social and welfare advocate for children, protecting the rights of children, researching exploitation and abuse of children, recommending programmes to end abuse and carrying out community awareness and education in relation to the Act. The 12 members of the Council are nominated and approved by the Director of Child Welfare and appointed by the Minister for a two-year term, subject to regular attendance and the maintenance of high moral standing and public behaviour. The National Council of Child Welfare is currently in abeyance, with the term of the most recent past members having expired more than two years ago. The National Office of Child Welfare has been subjected to severe budget cuts in recent years. It is reported that the current Office of Family and Church Affairs does not have sufficient funds to support the functions of the Child Welfare Council. There is a serious lack of training, confidence and capacity, especially with regard to grasping and confronting the increasing problems of child exploitation and abuse in contemporary Papua New Guinean society. Most welfare officers throughout the country are responsive to serious cases, but few are assertive and pro-active in fulfilling their role of intervention on behalf of children in need of protection. This is especially so in cases of violence, incest, exploitation and the many informal/illegal adoptions which are clearly not in the best interests of children.

343. In addition to serious budget and resource shortages, low capacity, morale and motivation among welfare officers are also critical factors in the crisis of child welfare and protection services in Papua New Guinea.

## **2. Refugee children (art. 22)**

344. There is currently no specific legislation covering the administration of refugees in Papua New Guinea, except the protections of the Constitution. The need for a specific Refugee Act has only recently been recognized. The most substantial group of refugees in Papua New Guinea is Melanesians who have fled neighbouring Irian Jaya, the twenty-sixth province of Indonesia. These refugees have direct ancestral, cultural and language links with the people of Papua New Guinea. Between 1962 and 1983, an estimated 5,000 Irian Jayans were granted permissive residency by the colonial administration of the Territory of Papua and New Guinea and then by the independent State of Papua New Guinea Government. During that period 700 became citizens by naturalization. The largest influx of refugees occurred in 1984, when some 12,000 crossed the border into Papua New Guinea. Initially they were held in 17 temporary border camps. The Office of the United Nations High Commissioner for Refugees (UNHCR) and the Red Cross intervened. In 1986 the Government acceded to the Convention relating to the status of Refugees, with reservations on articles 17, 21, 22, 24, 26, 31, 32 and 34, relating to wage employment, housing, public education, labour and social security, freedom of movement, expulsion and naturalization. Refugees were presented with the option of resettlement into an official and very remote refugee holding camp or deportation back to

Indonesia: 3,789 refugees currently reside in the official camp. In total, 2,098 (55.37 per cent) are children under 18 years (31 per cent male children, 25 per cent female children), while 24 per cent are male adults and 20 per cent female adults. UNHCR supported a K16 resettlement process for these refugees over 12 years. A further 6,000 reside in unofficial camps on the border. In the Government's camp, the Catholic Church has provided the majority of services: health, education and limited social welfare services.

345. The movement of refugees has been officially restricted, although there has been a steady stream out to urban centres over the past 10 years by families anxious to access education for their children and obtain some financial security for the family. Many refugees have taken advantage of the Government's lack of capacity to strictly enforce its own restrictive policies. Within the official refugee community teachers were identified and retrained at Church teachers colleges through the sponsorship of a Catholic social welfare agency. Primary schools for refugees were established by the mid-1980s. For the first eight years the primary-level certificate attained by refugee children could not be used to access secondary education outside the camps. Many parents got around this problem by allowing their children to be informally adopted by willing Papua New Guinean families outside the camps, in many other provinces of the country. In some cases refugee families have lost all contact with their children. In recent years an accredited secondary school system has been established in the camps, so that in principle, official refugee children have the same, even better, access to education as the Papua New Guinean child citizens in that part of the country.

346. The standard of health services provided to official refugees is as good as the services available in many other rural areas of Papua New Guinea. The same services are not available to the unofficial refugees, who are living in their own communities on the border with Indonesia; their presence is acknowledged but they remain totally unserved by the Papua New Guinean Government. The Catholic Church provides basic relief and supplies for the education and health activities that the unofficial refugee communities run for themselves. Within the official holding camp, official refugees are accorded rights to the courts and to emergency medical treatment. Sporting and cultural groups are encouraged. In recent years the Government of Papua New Guinea has adopted a policy of limited integration that will consider granting permission to selected and official refugees to leave the camps and integrate into the wider Papua New Guinean community, subject to certain conditions. In October 1998 the Government granted permissive residency to 208 families, comprising more than 1,000 men, women and children. This offers some freedom and future to their children, however, they have not yet been granted the full rights that come with Papua New Guinean citizenship.

### **3. Children in armed conflicts, psychological recovery and social reintegration (arts. 38 and 39)**

347. Papua New Guinea has experienced 10 years of civil war, contained in the outlying island province of North Solomons (Bougainville). The conflict grew out of a long history of secessionist aspirations, combined with discontent of the younger generation regarding the depletion of natural resources, the severe environmental impact, the minimal economic returns and limited gains in education and employment derived from 23 years of exploitation of the massive open pit Bougainville Copper Mine. A large armed and organized guerrilla force, mobilizing and sometimes forcibly inducting many thousands of young men and male children as young as 14 years of age, was able to hold off the combined and special security forces of the

Papua New Guinean Government for the first five years. Virtually all government services were shut down. Frustrated by the intransigence of the guerrillas and the lasting closure of the economically important mine, the Papua New Guinean Government enforced a prolonged and total blockade of the island. This included a medical and communications blockade, which has been blamed for the unnecessary and preventable deaths of many thousands of innocent children, youths and mothers. Thousands of young Bougainvillian men have been caught up in the conflict and crossfire. Amnesty International has documented the summary executions and torture of many hundreds of young men, perpetrated by both parties to the conflict.

348. Throughout the crisis, and particularly from 1990 to 1994, during the height of the fighting, many Bougainvillian children were beaten and intimidated, detained and mistreated in efforts to extract information that they did not necessarily have and confessions to crimes of which they were often innocent.

349. Many were held and tortured together with their parents. Many witnessed the violent killing of their family and community members. The situation was exacerbated by the Papua New Guinean army's establishment in the early 1990s of a resistance force involving the recruitment and arming of thousands of young men who had voluntarily surrendered from rebel forces or who had struggled to remain impartial. They were then required to fight with the government forces. Many were under the age of 16 and were often used as front-line scouts, or to man roadblocks and bunkers day and night.

350. For the past five years there have been sustained and complex efforts to bring about peace, with the aid of neighbouring Pacific Governments and the heroic leadership and peacemaking role played by Church leaders. There is currently an uneasy truce, but young men all over the island have kept their arms, both home-made guns and high-powered automatic weapons: some supplied by government forces and others smuggled to rebels from unknown outside sources. Thousands of young people have become proficient in the improvised manufacture of lethal firearms. Schools, health facilities and government administration services have been closed for a good part of 10 years. Many young people have missed schooling for 5 to 10 years, and the young men who fought, or the girls who became their teenage brides, often at gunpoint, have great difficulty in reclaiming their right to education. Schools have reopened and classes are comprised of mixed groups of 9- to 22-year-olds. Teachers are challenged to motivate and discipline young men who have lived a Rambo lifestyle for much of the past 10 years, including many who have murdered, tortured and raped in the course of the conflict. The teachers have no special training, except limited in-service training in trauma counselling provided by their own Church.

351. Many girls in Bougainville have been subjected to rape, gang rape and other forms of sexual assault and terror by all sides during the height of the fighting on Bougainville. Many of these victims have given birth to children and some have been forced to marry the perpetrators. In the crowded care centres where up to 90,000 people were accommodated at the height of the crisis, there have been many allegations of incest, some of rape by neighbours or the Papua New Guinean Defence Force or resistance soldiers. These allegations have yet to be addressed officially. Many children have grown up knowing little other than fear, war and gunfire and the Papua New Guinean Government as the enemy. Many children have seen their families terrorized, tortured, threatened, intimidated and killed.

352. Many children aged 5-16 have been informally and illegally adopted by well-meaning soldiers and police, with no records kept and no recovery programmes in sight. Many parents were promised that their children would be educated and returned, but have since lost all contact. Others have registered complaints with local women's crisis services in Bougainville that their daughters have become domestic servants to their adoptive families. Many children have not been immunized, despite the post-ceasefire ameliorative efforts. Many young girls of 14-18 were taken away and married by soldiers. Many then found themselves in polygamous situations and are desperate to be repatriated.

353. The normalization of Bougainville's administration, economy and justice system has been delayed and subject to many different political interests and pressures. It is a costly exercise and one that benefits from substantial aid from Papua New Guinea's traditional donors and non-governmental organization development agencies. Efforts to channel aid money to restoration and the slow pace of work to restore normality, law and order have stalled development services on Bougainville. Children have been denied many of their basic rights for a very long period of time: education, health care, justice, freedom from discrimination and cruel and inhuman treatment, the right to play, freedom of association, conscience and expression, the right to information, participation.

354. Young men who were caught up in the fighting for up to 10 years have laid down arms and requested entry to schools, but the current system is turning many away and no emergency alternative institutional education system is available. External studies are not a realistic option. The schools in Bougainville are challenged to redress the decade of crisis in education, integrate national reforms in the education system and provide a service that is affordable to a population which lost its economic base during a decade of war. The authorities look to international donors and expertise to assist at this crucial period.

355. The Papua New Guinean Government alone does not have the capacity to attend to the rehabilitation and reintegration of the people, let alone the children. The Catholic and some other Churches, Church schools and Peace Melanesia, (a local NGO) have worked tirelessly for the past five years to provide trauma counselling and to develop life and conflict-resolution skills in the communities of Bougainville and particularly among young people. Many more special and expert services are required if the children are to recover from this crisis, in particular rehabilitation and reintegration programmes for child soldiers. Bougainvillean leaders concerned with the restoration of peace and rehabilitation have expressed fears that without special healing and rehabilitation programmes, including special schools, and with many child soldiers officially disarmed and stripped of their gun-toting identity and power, many youth may simply move into violence.

#### **4. Children in natural disasters**

356. Until recently the Papua New Guinean Government had not put in place legislative, judicial and administrative measures for dealing with the vulnerability of and dangers to children during times of natural disaster. Papua New Guinea has experienced a succession of natural disasters over the past five years: volcanic eruptions, landslides, floods, droughts and a devastating tidal wave. It does not have great capacity for dealing with natural disasters. There



are few formal policies and procedures in place that give special attention to the welfare and protection of the lives of children during and after emergencies. The National Disaster and Emergency Services are largely involved with the distribution of disaster relief provisions and supplies, which flow freely from donor countries, as well as from the individuals, communities, institutions and organizations within Papua New Guinea.

357. There is a lack of capacity in post-disaster trauma counselling and in the management of a transition from disaster relief to development support. There is a danger that overseas and local generosity will undermine people's dignity or capacity for self-reliance through the ready and steady flow of food aid and second-hand clothing. Given the weakness of Government in this area, the Red Cross, and to a lesser extent NGOs, play a very vital role in supplementing the services of Government and are able to assist in identifying expert assistance, extra funds and management of disaster relief operations. The Red Cross recognizes the need to strengthen the capacity of communities to cope and the need to develop capacity in the area of community-based disaster programmes in the future so that the impact and needs experienced by different age groups and genders can be addressed effectively. Meanwhile, post-disaster trauma in children is currently being addressed in a very superficial and basic manner.

358. The Aitape tsunami disaster of July 1998 has been the most devastating natural disaster in Papua New Guinea's history in terms of the toll of dead, disabled and injured, and the destruction of property: 9,000 people were directly affected, including 2,000 dead and 600 seriously injured, with many children permanently disabled. A lack of village census records affects accuracy of statistics. An estimated 2,000 surviving children have had their lives and families dramatically disrupted, and up to 200 have been orphaned and disabled. Government child welfare officers have intervened to make the children wards of the State. They intend to conduct special court sittings to decide the children's future and to guide and formalize adoption.

359. Immediately following the tsunami, there have been very serious allegations of rape, gang rape and other forms of sexual assault of women and girl victims on a significant scale by police, soldiers and local male youth who were involved in the immediate search-and-rescue and clean-up operations. This has gone largely unreported and has been excused by some relief workers on the basis that the search-and-rescue teams were traumatized. Many of the different trauma counsellors sent in by various agencies, some of whom could not speak the lingua franca, did not pick up on this serious violation of helpless women and girls. None of the agencies of the Church, Government or NGOs has taken the lead to deal with this very serious, sensitive and criminal matter.

360. The prolonged drought and cyclical flood and other disasters experienced in many parts of Papua New Guinea have been less dramatic in terms of the direct impact on children. Nevertheless, clearly children are seriously and negatively impacted by the disruption of their daily lives, the closure of schools and hospitals and the food shortages experienced during these disasters. There is no substantial documentation of the impact of post-natural-disaster situations on children. In most cases Government, non-governmental organizations and Church agencies are preoccupied with the immediate physical relief services. Children are recognized as the most vulnerable group, and the provision of their basic health and nutrition needs is given a high priority. Particular attention is given to the 0-5 age group. There are many lessons from the

Aitape tsunami disaster on which Papua New Guinea could build training and strengthening of the appropriate government, Church and NGO services; in particular the increased vulnerability of girl children and women to sexual violence and assault within the first 24 hours and thereafter in the crowded care centres/relief camps.

## **B. Children in conflict with the law**

### **1. Administration of juvenile justice (art. 40)**

361. Forty to 50 cases involving juveniles aged 10-16 appear in the Children's Court in the capital each month. Throughout Papua New Guinea, court clerks are not maintaining proper records of juvenile cases. Records are ad hoc and no reliable national statistics are available. The most common offences, ranked according to frequency of incidence, are stealing, breaking and entering, unlawful loitering, unlawful damage to property and possession of drugs. The nature of juvenile offences has changed over the past 10 years from mainly petty theft and other economic crimes to include armed robbery, bank robberies and rape. Many children are motivated to commit crime because of poverty and destitution, abuse, violence and neglect at home. Others have been used by adults to steal for their survival.

362. There are no statistics which indicate whether these children had been living with their own parents or with relatives or "others". Studies indicate that 95 per cent of the offenders originate from families living in squatter settlements or facing financial difficulties. Many had been forced to drop out of school due to the inability of parents or guardians to pay fees or clothe them adequately.

363. Most children admit their crimes, and fines are commonly ordered. On default of payment the children are removed to juvenile institutions and the father expected to pay an institutional fee (sect. 40 (7)). Offenders 15 years or over may be sentenced to the juvenile section of the prison in the capital or to the Church institutions.

364. Juvenile courts were first established under the Juvenile Courts Act (1991), following an amendment to the previous system of children's courts under the Child Welfare Act. These are courts of summary jurisdiction, with power to hear all offences committed by children under the age of 18 and otherwise triable before a district or local court. In addition, the juvenile court can hear, and determine summarily, all indictable offences committed by juveniles other than homicide, rape, or any other offences punishable by death or imprisonment for life.

365. The Juvenile Courts Act was passed in 1991, based on the inputs of relevant government institutions and non-governmental organizations involved in juvenile justice and welfare matters, and also the recommendations of the Law Reform Commission. The Act replaced some outdated sections of the Child Welfare Act, which dealt with juveniles in conflict with the law, but not with the welfare aspects of juvenile offenders. Parts of the Act dealing with juvenile institutions, remand centres and juvenile sections of corrective institutions were gazetted, and thereby came into force in 1992. Other sections are not yet gazetted or enforceable. The main features of the Act are: definitions of an infant (under 7 years) and a juvenile (7-17 years), the substitution of children's courts (previously administered under the Director of Child Welfare

and the Child Welfare Act) with juvenile courts (administered by the Director of Juvenile Court Services), the establishment of juvenile court services to assist the court, an increased range of sentencing options, including probation, and new rules and procedures to protect infants and juveniles who come into contact with the law and to assist police in carrying out their duties.

366. Juvenile courts are presided over by magistrates specially appointed to these courts. Publication of the proceedings is prohibited unless the court expressly orders it, and proceedings are normally conducted in camera. Juvenile courts are not bound by strict rules of evidence (sect. 25) and throughout such proceedings the interest of the juvenile shall be the paramount consideration (sect. 4). The court can order, discharge without conviction, convict with no further order, fine up to K200, award damages up to K200, put on probation, recommend that the juvenile be made a ward of the Director of Juvenile Court Services and committed to a juvenile institution, or sentence to imprisonment in the juvenile section of a corrective institution (sect. 30).

367. The Probation Act (1979) allows for probation as a sentence to be given by all courts except the village courts when a mandatory minimum sentence is provided for by any law. The court may order special conditions that would ensure “good conduct”. This is an attempt to join aspects of the traditional system of social control with the introduced court system. Members of the community participate as voluntary probation officers. The system currently allows for up to 5,000 juvenile offenders to remain in the community rather than be imprisoned. However, the operational budget allocated by Government has seriously and progressively declined since 1993, creating a work overload and burden on staff and weakening the effectiveness of the system.

368. The enactment of the Juvenile Courts Act (1991) transferred some functions dealing with the administration of juvenile institutions, including inspection and payment of contracted Church agencies providing juvenile detention centres, from the Director of Child Welfare to the Director of Juvenile Court Services in the Department of the Attorney-General. However, there developed a misunderstanding and argument between the two different government agencies over the finer details of the transfer of responsibility for juvenile offenders in police custody or institutions. The Director of Child Welfare is still, by law, responsible for juveniles who come into contact with the law by arrest and detention in police custody, and should assign government welfare officers to assist juveniles brought to the children’s court, organize bail and the release of juveniles taken into custody for their own welfare, attend court sittings, execute warrants for detention and oversee the general welfare of juvenile defenders.

369. The argument between two sections of the Government (Department of Attorney-General and the Office of Child Welfare) has not been resolved, resulting in the failure, for more than eight years, of any department to provide the necessary court services for juvenile offenders. Welfare officers are no longer responding to calls from police when juveniles are arrested, or assuming their responsibilities for quick removal to appropriate juvenile custody and monitoring of and reporting on each case. They are no longer attending children’s courts and at present, only welfare officers from NGOs provide these services. Parents are often not informed or involved in the whole process.

370. Under the Juvenile Courts Act, the Chief Magistrate appoints a qualified and experienced juvenile court magistrate to preside over the juvenile court, or, alternatively, establishes a court of summary jurisdiction to deal with the juvenile. For charges of homicide, rape, or an offence

punishable by death or life imprisonment, the juvenile court will hear the committal proceedings and the national court will conduct the trial. Infants brought before the court are discharged. Proceedings are conducted in camera, and the court is not bound by strict rules of evidence. No adjournment may exceed 14 days and no proceedings may be published. Special and detailed procedures in taking the plea are intended to provide maximum protection for juvenile offenders. The Juvenile Courts Service was established in 1991 under section 8 of the Juvenile Courts Act which provides for trained juvenile court officers (probation and parole officers) to assist the courts in decisions concerning juvenile offenders. The Act gives juvenile court officers special powers including entry into a police station or other detention centre to interview a juvenile or ward; attending the police interrogation of a juvenile or ward, questioning police officers who arrest a child, attending court with juveniles or wards, making submissions to the court in respect of sentencing, and advising juveniles of their legal right to refuse to answer questions.

371. The successful implementation of the Act requires the cooperation of all relevant agencies, particularly the Juvenile Court Service, the police, juvenile institutions, the CIS and the community. The Juvenile Courts Act is administered by the Director of Juvenile Court Services under the Department of the Attorney-General. The Department of Child Welfare is still responsible for providing welfare services to juveniles in police custody, organizing bail and the release of juveniles taken into custody for their own welfare, attending juvenile court sittings, executing warrants for detention in juvenile institutions and overseeing the general welfare of juvenile offenders.

372. The transfer of some functions of responsibility for juvenile offenders from the Office of Child Welfare to the Department of the Attorney-General has been erroneously misinterpreted as a transfer of the entire function of dealing with juvenile offenders. For the past eight years the respective Directors of Child Welfare have complained of consequent budget cuts and the stripping of functions from their staff and have instructed child welfare officers throughout the country to refrain from providing support and services to juveniles in conflict with the law. The result is that there is no guarantee that juvenile offenders will be provided with the necessary court services. The Department of the Attorney-General has developed a training and operations manual to ensure that its officers fulfil their functions, but the Juvenile Courts Act is not being implemented in its entirety. In general, child welfare officers no longer respond to telephone calls from the police when juveniles are arrested and no longer attend sittings of the juvenile court. Police are uncomfortable about the situation, and do not know what to do now that welfare officers no longer take custody and place children on remand in juvenile remand centres, or ensure that the juvenile attends court and understands what is happening.

373. In the capital, the juvenile court hears 40-50 cases a month. Accurate figures are not available for all other parts of the country. No court records provide an accurate age and gender breakdown of offenders and sentencing. Most offenders are 10-16 years old. Research suggests that 95 per cent of juvenile cases heard are economic crimes, stealing on the streets or theft from houses, shoplifting and pick-pocketing. As well, 95 per cent of juvenile offenders come from families that are in extremely difficult economic circumstances or are otherwise unable to care properly for the child. In recent years there have been increasing numbers of juveniles charged with the more serious offences of rape and homicide.

## **2. Sentencing of juveniles (art. 37 (a))**

374. The Juvenile Justice Act has extensive sentencing powers, which require first a pre-sentencing report/advice from the juvenile court officer with the intention of avoiding, where possible, custodial sentences. Orders are reviewed every six months, based on a report prepared by the juvenile court officer. Children commonly admit the offences they are charged with and sanctions such as court fines, good-behaviour bonds, and caution and discharge are more frequently given to juvenile offenders than imprisonment. Magistrates may also impose fines, which the parents are expected to meet. In default of payment children are sent to Church-run juvenile institutions, and under section 40 (7) of the Child Welfare Act, the fathers may be ordered to pay an institutional fee, thereby obliging parental responsibility and participation. Under the 1979 Probation Act, probation as a sentence can be given by all courts except the village court for all offences except when a mandatory minimum sentence is provided for by law. Courts may suspend or defer sentences and impose a probation order for a maximum of up to five years. In addition to mandatory reporting and prohibitions against further offending the courts may impose special conditions to ensure good conduct in an effort to integrate the community and the probationer.

375. The Probation Services are intended to link the western court system with traditional systems of social control. Probation officers prepare pre-sentencing reports and take account of the offenders' efforts to make amends through customary payments and ceremonies. Volunteer supervisory probation officers represent community involvement in rehabilitation and reintegration. There are 22 probation officers spread across 17 provinces, but work and progress are hindered by the fact that staffing levels are too low and the caseloads of individual officers are too heavy. Meanwhile, the annual Probation Services budget continues to decline.

## **3. Children in custody or detention, deprived of their liberty (art. 37 (b), (c), (d))**

376. The Director of the Juvenile Courts Service controls juvenile institutions and the juvenile section of prisons. Institutions arrange for the maintenance, care, medical treatment, rehabilitation and education, training and religious instruction of juvenile detainees and report to the Director on each case every six months. Under the act police must notify parents or guardians of any juvenile taken into custody and permit the juvenile court officer access to the juvenile detainee. Police lock-ups are to be avoided. Not all prisons have separate facilities for juveniles, and there are serious problems in determining the age of young people brought directly to the prisons. The Church agencies are reluctant to take on offenders over 15 years old because they do not have the training and resources to manage difficult cases. Some juveniles over 15 are sentenced to the juvenile section of the main prison, where they are supposed to be held in special juvenile facilities. In some cases where there are special provisions for holding juveniles, the corrective institution staff have been known to place there mature male police, security and other government officers who are on remand or otherwise detained, as they are deemed to be at risk of harassment and assault from mainstream prisoners. The Act attempts to meet international standards for the treatment of juveniles and children, in particular the standards set down in the Beijing Rules, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

377. Many juveniles appear before the courts and many are held in remand or, after sentencing, for longer terms of detention. Juvenile institutions for remandees and sentenced detainees are all administered by Church agencies, the Salvation Army, the Sacred Heart Brothers of the Catholic Church, the Seventh Day Adventists and the Uniting Church providing the services under contract to Government. These institutions are not adequately supported by the State. Police lock-ups, which are usually foul, unclean and unhealthy, are supposed to be avoided, but in fact, juveniles often spend some time there. Some juveniles over 15 years of age are sentenced to the juvenile section of the main prison, where they are supposed to be held in special juvenile facilities. Most prisons have separate compounds for juveniles. However, they are managed by correctional officers who have no special training in working with juveniles and they are much more vulnerable to rough and inhuman treatment, especially at the time of admission. Most prisons are essentially fenced compounds and escapes are common. In the prisons there is a high probability that offenders will be subjected to cruel and inhuman treatment and some form of violence upon admission, especially when there are repeated escapes or other in-house problems. Young offenders also risk being sodomized and experience criminal acculturation, especially when they are mixed with adults. Judges are required to pay periodic visits to prisons to inspect general conditions and determine, among other things, if conditions are adequate and if juveniles are being illegally detained or mistreated. In recent years several prisons were closed due to serious overcrowding and the deterioration of conditions, to the extent that they were deemed a health hazard.

378. Many juvenile offenders are sentenced and sent to the Salvation Army farm or to the Catholic-run "Boys' Towns" where the conditions and care are tailored to juveniles and intended to rehabilitate and support reintegration of offenders. The State provides an inadequate per diem to support juvenile detainees. All juvenile institutions complain of maintenance problems and insufficient subsidies for the management of educational, skills training, farming and other rehabilitation programmes that they should be providing. In spite of the problems and poor conditions, the Church agencies have ensured that their staff are caring and properly trained. Since 1990 government support has been unreliable and inconsistent. They are therefore unable to maintain the trade and small business vocational training services they used to provide for their charges, due to lack of funds. They provide a caring environment and claim that inadequate parental care and guidance is the main cause of juvenile crime. Juveniles are able to roam around within the institution and accompany the staff on market and shopping expeditions. They attempt to reintegrate juveniles with parents and families and offer counselling to parents and preparation for home stays and eventual release. However, they report many cases where parents are uninterested and unwilling to cooperate, some appearing to have abandoned all responsibility for the child. Many are children of broken homes.

#### **4. Physical and psychological recovery and social reintegration (art. 39)**

379. When a court declares a prisoner insane, he/she may be sent to the capital's psychiatric hospital without a proper assessment or follow-up, due to a chronic shortage of trained psychiatrists (there are only four in Papua New Guinea).

380. Church-run juvenile institutions struggle to provide to the "therapeutic community" the loving homes and basic needs, encouragement for education and useful work, leisure and play that many of these young people do not find in their own homes. They visit parents and offer counselling and support, but find that many parents remain uninterested, neglectful and

unwilling to work with the staff to help their children. The staff of institutions find that remandees often return voluntarily to the institutions seeking the love, care, personal interest and support that they so desperately need. Awareness and support programmes to help parents of child offenders to cope and take responsibility are urgently needed.

381. However, it is also important to register the extent to which juvenile offenders are or are not living with adults who are their real parents or relatives, or are willing to act as responsible guardians. Families may readily relinquish their responsibilities if children who have loose affiliations with them fall foul of the law. The State does not have any control over the recruitment of personnel to work in the institution, which means that anybody can be recruited, even with no proper training in the area of rehabilitation.

### **C. Children in situations of exploitation**

#### **1. Economic exploitation, including child labour (art. 32)**

382. Due to the high rate of students leaving school after grades 6, 8 and 10, there is a vast urban unemployment problem and an associated vast pool of cheap, young child labour. The deregulation of minimum wages under the 1992 Minimum Wages Board determination replaced the youth minimum wage that was established under the Board's 1989 determination with a lower national youth wage of K17.22 (75 per cent of the national minimum wage). This is intended to alleviate the acute youth unemployment problem, as well as to address the problems of law and order and rural-urban migration, but it appears to trade off and compromise the welfare of young workers. The determination appears not to have been guided by consumer expenditure surveys and a minimum-need concept, for it allows employers to pay wages that are totally inadequate for today's living costs.

383. There is no effective State regulation of the employment of children, especially the labour of children who are informally adopted into the home they call family and made to feel indebted, but are actually trapped into long hours of work, lack of rest and leisure, lack of freedom of mobility and association, deprived of the right to education, and sometimes even of the right to medical treatment.

384. Young girls are particularly vulnerable. When brought into a household as juvenile babysitters, their role is very often transformed into overworked, unpaid or underpaid multipurpose domestic servants. This situation exists in many urban homes where the adults are well educated and well employed. Senior politicians, lawyers, teachers, police, Church leaders and social welfare and development workers are among the people who are often blind to or silent about the exploitation of child labour occurring in their own home by their own family, or among their relatives, colleagues, friends and neighbours. Most often these working children are referred to as "adopted". Their labour is taken for granted and gradually their rights are eroded and their life taken over, limiting their access to education, social contact and their right to find a partner and marry. Relegating the bulk of arduous and menial domestic tasks to these children becomes part of the status and quality of life of the people who have education, work and businesses and who are supposed to be acting as their guardians and the protectors of their rights.

385. Boys are less vulnerable to exploitation at an early age, but as they grow in physical strength they may be moulded into the role of general family labourer and/or security for the family house and property, both day and night. In some cases these children are subjected to verbal and sexual abuse, beatings and punishment through deprivation of food or property and restriction of movement. Very often neither the host family nor the children in servitude recognize that the child has rights and that they are being severely deprived. Much of this domestic child labour remains invisible and the children have little recourse or redress. Often the biological parents may feel embarrassed and powerless to rescue their child from the exploitative situation because of familial or customary protocol or the anticipation of pressures to repay the “adoptive” family their expenses for the child’s basic subsistence. There are no institutions raising public awareness or monitoring this situation. There is rarely intervention by family, Church authorities, police or welfare officers.

386. Children who sell food and handicrafts, lawn-mowing services, etc., can set their prices and are in much better control of their lives, their income and their rights than those working in unregulated domestic arrangements. However, the State does not support this youth enterprise. On the contrary, it suppresses it through the application of outdated and inappropriate colonial legislation on trading and home industry, and through periodic and violent crackdowns on informal market-sellers.

## **2. Drug abuse (art. 33)**

387. The existing legislation covering drug abuse was written in colonial times and is no longer relevant. New legislation has been prepared but not yet passed. Alcohol, marijuana and home-brewed drinks are the major drug problems in Papua New Guinea. Diazepam-dependence and petrol- and solvent-sniffing exist, but on a much smaller scale; they are often taken together in binges. Drug use is heavily associated with violent crime, particularly juvenile offences. Store-bought alcohol is prohibitively expensive and its sale is subject to regulations and licensing. Licensed outlets are prohibited from selling to people under 18 years. However, there is alleged corruption in the liquor licensing system and many illegal outlets operate. Many adult drinkers encourage youth to drink and make alcohol available to them. Until 1981, the phenomenon of clinical alcoholism was not recognized in the nation’s major hospital.

388. Marijuana cultivation and use are illegal in Papua New Guinea but cannabis is still grown on a small and large scale, in rural and in urban areas, and is widely used. Its place in the rural economy and in the daily social lives of rural youth and communities is associated with social alienation, the disenfranchisement of large numbers of the urban and rural young population and the failure of many rural cash-cropping initiatives to yield economic returns. Marijuana is already a commercial crop for many people, illegally traded in networks allegedly facilitated by highly placed people in political, business and law-enforcement positions. The marijuana trade is estimated by the National Research Institute to be worth K56 million annually. There are many grades and outlets, with the famous “New Guinea Gold” being smuggled out of the country through various centres and exchanged for weapons and other favours.

389. Marijuana grown in Papua New Guinea has a tetrahydro-cannabinol (THC) content allegedly 10 times the strength of other varieties traded globally. Locally it is smoked pure, often in huge cigars and for prolonged periods. The smell of marijuana and the appearance of



“stoned” youths are common throughout Papua New Guinea’s urban and rural areas. Of the 70,000 unemployed youth on the streets of the capital, an estimated 90 per cent regularly use marijuana. Other studies suggest that in some parts of the country, up to 75 per cent of high school boys are smoking marijuana. Girls are more likely to be introduced to marijuana in schools, rather than on the streets, and the biggest school problems are in the private high schools for the children of the wealthy elite. Parents appear to be at a loss as to how to deal with this problem and who to turn to, short of informing the police. Many choose to turn a blind eye. Marijuana-induced psychoses are now well documented in Papua New Guinea. Clinical studies in the capital’s hospital since 1994 indicates that cannabis use in Papua New Guinea may lead to acute but short-lived schizophrenia-like psychotic illness, lasting 24-72 hours, and sometimes linked to violent crime, including homicide, rape and suicide. Research confirms that abuse-related health problems now commonly occur and are likely to increase in frequency. Among the substance abusers found with clear clinical signs of psychosis, 90 per cent were male, 30 per cent were under 18 years, 18 per cent were single and 43.3 per cent unemployed. Almost 70 per cent were cannabis users. Due to the lack of psychiatric services in Papua New Guinea, it is very likely that many cases are not detected and not treated. The health department has not employed psychologists for more than 15 years, and there are about four practising psychiatrists in the country.

390. Home-brew is being prepared by very young to middle-aged people looking for cheap excitement and escape in villages, schools and urban backyards. Yeast and other brewing ingredients and materials are sold openly in supermarkets. Young and ignorant children will mix almost anything to get a kick, often making themselves extremely ill. Often pure industrial alcohol is added, resulting in suffering, death, blindness or other permanent disability. Home-brew is considered a major contributing factor to lawlessness and crime in the rural areas and is especially associated with violent crimes against women. The rural health services are ill-equipped to deal with these problems, and often blame and then neglect the victim. The attitude is demonstrated by one case in which rural Church health workers put a comatose dying youth on public display as a lesson to the local children and parents and made no effort to move him to get emergency care.

391. The National Narcotics Bureau was established to address substance abuse problems. It has facilitated the formulation of new laws, as yet to be passed. The Bureau has also held numerous public meetings, conferences and seminars; toured schools and Church and community organizations throughout the country; trained welfare workers, police, correctional services personnel, community development officers and NGO social development trainers and staff; produced some public-awareness materials and networked with international life education and drug eradication and rehabilitation programmes. The Bureau staff express frustration at the failure of the Government to pass much needed updated legislation or adopt more education and social welfare programmes across the country which might tackle these problems head on.

### **3. Sale, trafficking and abduction (art. 35)**

392. Child prostitution has also become an important means of economic survival in Papua New Guinea’s urban centres and in rural areas where large resource exploitation projects are in operation (mining, logging, fishing, etc.). Child prostitution was common in colonial times, when many girls were trafficked among the colonial administrators and business

personnel, even in the remote rural areas. Child prostitution has always been visible but tolerated and there has been little systematic State intervention or sanctions. Prostitution by young women is now very obvious in the large urban centres and in the centres and camps associated with mining and logging enclaves. In the capital there are many allegations of abduction, rape and other abuses of young prostitutes by police. Child prostitution attracted attention in the 1990s because of the awareness of AIDS and concerns about its transmission. The Papua New Guinea Institute of Medical Research began an intervention research in 1996. Substantial research has been conducted on sexual and reproductive behaviour across cultures and classes and reveals that police, security agents, sailors, truckers and dockside workers regularly engage in commercial sex.

393. The Institute of Medical Research studies have identified many very young commercial sex workers. Thirty per cent of the 350 involved were between 13 and 19 years of age. These young girls are considered to have a relatively high value, but little experience, in the sex trade. They are very difficult for researchers to work with and there is grave concern that no one is educating them about safe sex. They allege that they risk a beating from clients if they demand safe sex. Most do not originally intend to become prostitutes, but are encouraged by peer pressure after running away from home, sometimes because they have been raped at home and have been associating with older friends. Many are young school-leavers seeking a vocation who follow their friends and accidentally get drawn into prostitution. Others are rejected from the homes where they are staying with relatives rather than their real parents and some claim abuse at the hands of their stepfathers. They get into a lifestyle of enjoying drinking, dancing and gambling, which quickly depletes their income and leaves them constantly broke. Researchers provide occasional emergency accommodation and try to contact the young girls' families.

394. The Institute of Medical Research also provides education, sexually transmitted disease testing, free condoms, training in basic health, hygiene and grooming and basic skills classes to attract them to a drop-in centre where there is more information and supplies for safe sex. When 200 prostitutes in the two largest cities were tested for HIV, 12.56 per cent were found to be HIV-positive; 33 per cent were 20. All had contracted the disease from male clients, who come from every social class and walk of life. Younger sex workers were deemed to be at higher risk. There is no clear strategy for monitoring this group to minimize the spread of AIDS without violating their rights.

395. Child prostitutes are at high risk of rape and sexual assault. The police know them and they claim that police do not take their complaints of rape seriously. This discourages them from reporting. Ambulance drivers are among alleged offenders in Port Moresby. The young prostitutes move together to protect each other. They are at high risk after dances and in some settlements where men wait in cars ready to abduct them. They are abused by young men who may trick the girls into consensual sex, and then manipulate their gang rape. Some have been murdered and others died after jumping from moving cars. They are harassed and frequently picked up by police for loitering. They operate out of private houses and pay part of their earnings to the owners. These houses have been raided and the girls and the owners have been paraded publicly, but prosecutions are rare. Except for some vocational training from YWCA, other agencies do not want to work with the child prostitutes.

#### 4. Sexual exploitation and sexual abuse (art. 34)

396. There is anecdotal evidence that child sexual abuse is not a new phenomenon, but that in contemporary society, with different influences and pressures, it is taking many new, insidious and severe forms. Rape existed in traditional societies in war, initiations, political attacks on women and where desired women were recalcitrant. As social norms and standards change, families and communities are reconstructed, traditional gender power relations, roles and responsibilities are challenged and changed, and men and boys have tended to participate in more forced sex with under-age children. Rape, sexual assault and harassment, indecent assault, rape, carnal knowledge, incest and sodomy where children are the victims are common occurrences in contemporary Papua New Guinean society. Police statistics for 1992-1995 indicate that rape is the most common by far of all offences against the person and that many victims are gang or pack raped, with an average of 2.5 offenders recorded per victim.

397. Levels of reporting to police and of hospitals reporting cases presented for treatment remain low, even though many hospital admissions are for sexual violence. Police records for 1991-1996 indicate that 50 per cent of victims filing cases of sexual assault were under 15 years of age. Hospital records confirm this figure. Hospital records between 1994 and 1996 reveal that 58 per cent of all patients requiring treatment because of violent sexual assault were under 20 years (17 per cent, 2-10 years; 20 per cent, 11-15 years; 21 per cent, 16-20 years). The major age group for all rape victims is 11-15 years at the time of the offence. Drug and alcohol abuse are commonly linked to violent sexual crimes and up to 90 per cent of cases are associated with the consumption of alcohol, marijuana or home-brew. Evidence also suggests that most forced sex is gang rape, that 46 per cent of offenders are family members, the victim does not know 11 per cent, and 50 per cent are accompanied by high levels of violence. Preliminary research material indicates that 30 per cent of girls and women in one urban settlement have been victims of sexual violence. Child sexual abuse is a serious problem, now widely acknowledged as commonplace.

398. There is only minimal research or documentation, no clear policies, and all crisis intervention and prevention initiatives are new and NGO-led. In the early 1990s a small private organization, Concern Over Child Abuse (COCA), was established and efforts were made to begin to work through volunteers to create awareness and document the problem.

399. They had discussed the need for legislation regarding the age of marriage to be amended. CIS officers raised the matter of sodomy of male juvenile offenders detained with adults. There was a general concern over the lack of training in child welfare issues over the past 20 years, and particularly the lack of training on the particular problem of child sexual abuse. A National Child Protection Service was established several years ago but never really got off the ground. However, the founding group did help to organize meetings that brought police, Church and NGO workers together. In July 1998, the City Mission, which shelters and rehabilitates street youth in the capital, hosted a large national convention on child sexual abuse, paedophilia and child sex tourism. Three hundred people from all sectors - government and Church, national and provincial - attended and a groundswell of awareness, concern and action began. Resolutions referred to the need to review, update and amend Papua New Guinea's child-protection laws to ensure that children are protected from offenders and the trauma of courts, and to resolutions of a Pacific regional meeting to end child prostitution and trafficking through links with the global ECPAT network.

400. PACE (People Against Child Exploitation) Papua New Guinea was formed to develop awareness programmes, support existing initiatives for prevention, develop and maintain records of child exploitation, urgently amend legislation, provide emergency, crisis and rehabilitation services for victims and families and establish a centre against sexual assault and a child abuse counselling clinic to service victims of sexual assault in Port Moresby.

401. PACE volunteers have drafted amendments to sections of the Criminal Code and the Evidence Act covering the conduct of offenders, the penalties applied and the need to support child victims in the courtroom. Many sections of the existing Criminal Code (sects. 213 (4), 216 (6), 218 (2), 219 (2)) require corroboration of a child's evidence. The proposed changes affect the existing laws and the evidentiary requirements, calling for the abolition of outmoded, badly defined gender and age discrepancies and the requirements of corroboration. These are to be replaced with a more informed definition of rape and the replacement of the wording for offences and penalties. The amendments suggest more logical and flexible legislation in tune with global advances in understanding, penalizing and preventing child abuse and including new offences targeting offenders who get children involved in prostitution or in the production and processing of child pornography.

402. Amendments to the Evidence Act are intended to make the child more comfortable and less intimidated in a court situation by either the offender or the court officials. Clearer wording is recommended for sections of the Criminal Code dealing with rape, including aggravated rape, assault with attempt to rape, definitions of rape, penetration, indecent assault and bestiality, and consent. The amendments mean that marriage to a minor would no longer be a defence. The use of drugs to prevent resistance by a victim and offences against people with impaired mental functioning are also to be included. The package of amendments, now known as the Child Sexual Assault Bill (the Criminal Code/Crimes Against Children Amendment Act; the Criminal Code: Assaults on Persons/Abduction Amended Act and the Amendments to the Evidence Act) are ready to go before Parliament. Unfortunately, PACE's intention to pursue the matter vigorously and press for the speedy and urgent passing of amendments is currently thwarted by an unprecedented long-term adjournment of Parliament.

403. Child pornography is available in Papua New Guinea, both imported and home-made. Customs and the national censor attempt to control imported books, magazines and videos, however, much material slips through the net and, with the aid of adults, gets into the hands of children. Pornography in the form of photos and home videos is also in circulation, and the law-enforcement bodies are not very successful in prosecuting. Prominent male public figures have allegedly been involved, yet remain in office.

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