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paragraph 15 (b) of the annex to Human Rights Council  
resolution 5/1**

**Papua New Guinea**

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

## I. Background and framework

### A. Scope of international obligations<sup>1</sup>

<i>Universal human rights treaties<sup>2</sup></i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	27 Jan. 1982	Yes (Art. 4)	Individual complaints (art. 14): No
ICESCR	21 July 2008	None	–
ICCPR	21 July 2008	None	Inter-State complaints (art. 41): No
CEDAW	12 Jan. 1995	None	–
CRC	2 Mar. 1993	None	–

*Treaties to which Papua New Guinea is not a party: OP-ICESCR<sup>3</sup>, ICCPR-OP 1, ICCPR-OP 2, OP-CEDAW, CAT, OP-CAT, OP-CRC-AC, OP-CRC-SC, ICRMW, CRPD, CRPD-OP, and CED.*

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	No
Palermo Protocol <sup>4</sup>	No
Refugees and stateless persons <sup>5</sup>	Yes, except Stateless Conventions
Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>6</sup>	Yes, except API, II, III
ILO fundamental conventions <sup>7</sup>	Yes
UNESCO Convention against Discrimination in Education	No

1. In 2010, the Committee on the Elimination of Discrimination against Women (CEDAW) encouraged Papua New Guinea to consider ratifying CAT, ICRMW, and CRPD<sup>8</sup>, to accede to the OP-CEDAW, and to accept the amendment to article 20, paragraph 1, of the Convention.<sup>9</sup>

2. In 2010, the Special Rapporteur on Torture recommended the ratification, inter alia, of OP-CAT and ICCPR-OP.<sup>10</sup>

3. In 2004, the Committee on the Rights of the Child (CRC) recommended that Papua New Guinea ratify OP-CRC-AC and OP-CRC-SC.<sup>11</sup>
4. In 2003, the Committee on the Elimination of Racial Discrimination (CERD) recommended that Papua New Guinea consider withdrawing its reservation to article 4 of the Convention.<sup>12</sup>
5. The United Nations High Commissioner for Refugees (UNHCR) indicated that Papua New Guinea had issued reservations to seven of the articles of the 1951 Convention, and recommended the withdrawal of all reservations.<sup>13</sup>

## **B. Constitutional and legislative framework**

6. CEDAW expressed concern that although the Convention had been ratified in 1995, it had not yet been accorded the status of domestic law<sup>14</sup>; it urged Papua New Guinea to proceed without delay with its full incorporation into the domestic legal system.<sup>15</sup>
7. CEDAW also noted with concern that the Constitution does not include gender as a prohibited ground for discrimination, thereby allowing for lawful discrimination on the grounds of sex or gender. It was also concerned that neither the Constitution nor other appropriate legislation embodies the principle of equality between women and men, or contains a definition of discrimination against women in accordance with the Convention.<sup>16</sup> CEDAW recommended that Papua New Guinea fully and without delay incorporate into the Constitution, or other appropriate legislation, the principle of equality between women and men, and a prohibition of discrimination against women, in line with the definition provided in the Convention.<sup>17</sup>
8. The Special Rapporteur on Torture, in his preliminary recommendations following his 2010 visit, urged the Government to amend domestic legislation to include torture as a serious crime with adequate penalties. He added that the definition of the crime of torture should be in full accordance with article 1 of the Convention against Torture (CAT).<sup>18</sup>
9. The United Nations joint report (UNJR) took note of the adoption of the HIV/AIDS Management and Prevention Act (HAMP Act) 2003 which allows for the prosecution of individuals and service providers who discriminate or deny services on the grounds of one's HIV status.<sup>19</sup>
10. UNHCR noted that, currently, national legislation does not provide an adequate framework to deal with asylum-seekers and refugees. UNHCR indicated that the 1978 Migration Act (Migration Act) and its 1989 amendments do not provide details as to how refugee determination is to be made, nor do they outline the rights and obligations of asylum-seekers or refugees, once they are recognized as such. Currently, national legislation does not provide an adequate framework to deal with asylum-seekers and refugees.<sup>20</sup> UNJR made similar observations.<sup>21</sup>

## **C. Institutional and human rights infrastructure**

11. As of November 2010, Papua New Guinea does not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).<sup>22</sup> In 2009, OHCHR noted work in Papua New Guinea to draft legislation in this regard.<sup>23</sup>
12. UNJR indicated that in 1995, the National Executive Committee (NEC) had approved, in principle, the establishment of an independent Human Rights Commission. A submission containing drafting instructions for legislation to establish a NHRC was

presented to the NEC in 2010. It is hoped that relevant pending bills will be approved by parliament in 2011, and that the NHRC will be operational in 2012, although concern was expressed about possible further delays.<sup>24</sup>

13. CEDAW encouraged Papua New Guinea to accelerate the process of establishing a national human rights institution in accordance with the Paris Principles.<sup>25</sup>

14. UNJR also took note of the Ombudsman Commission, an independent institution established by the Constitution to, inter alia, guard against the abuse of power by those in the public sector, and impose accountability on those who are exercising public power. It was also noted that in 2010, a private members' bill was introduced in parliament to take away powers of the Ombudsman. The bill was passed at its first reading, but due to public protests, it has not been presented to parliament for another reading.<sup>26</sup>

## D. Policy measures

15. UNJR noted that Papua New Guinea does not have a national human rights plan of action.<sup>27</sup> It was indicated however that a number of sectoral plans containing measures to implement human rights in different fields, such as law and justice and child protection, exist.<sup>28</sup> Additionally, UNJR noted that the Papua New Guinea National Policy on Disability 2009 provides a framework to address the rights of people with disabilities.<sup>29</sup>

16. CEDAW noted with appreciation the adoption of a number of policies, plans and programmes on women and gender development, such as the National Strategic Plan 2010-2050 (Papua New Guinea Vision 2050).<sup>30</sup>

## II. Promotion and protection of human rights on the ground

### A. Cooperation with human rights mechanisms

#### 1. Cooperation with treaty bodies

<i>Treaty body<sup>31</sup></i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	1983	1984		Second to fourteenth reports overdue from 1986 to 2009 respectively.
CESCR			–	Initial report due in 2010.
HR Committee				Initial report overdue since 2009.
CEDAW	2009	July 2010	Due in July 2012	Fourth report due in 2014.
CRC	2003	Jan. 2004	–	Second and third report overdue since 2008.

17. In 2003, CERD reiterated its decisions of 1995, 1997, 1998 and 2002, requesting Papua New Guinea to comply with its reporting obligations.<sup>32</sup>

18. UNJR indicated that the country has not entered into a regular dialogue with the treaty bodies, and frequently fails to submit reports to the committees.<sup>33</sup>

## 2. Cooperation with special procedures

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	Special Rapporteur on extrajudicial, summary or arbitrary executions (23–28 October 1995). <sup>34</sup>  Special Rapporteur on torture (14–25 May 2010). <sup>35</sup>
<i>Visits agreed upon in principle</i>	
<i>Visits requested and not yet agreed upon</i>	Working Group on arbitrary detention (2002, renewed 2006)  Special Rapporteur on education (2005)  Working Group on mercenaries (2006)  Independent Expert on foreign debt (2010)
<i>Facilitation/cooperation during missions</i>	The Special Rapporteur on torture thanked the Government for the full cooperation of senior officials during the visit. He noted some difficulty with some elements of the visit, although there was general cooperation. <sup>36</sup>
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 10 communications were sent. The Government did not reply to any communications.
<i>Responses to questionnaires on thematic issues</i>	Papua New Guinea responded to one of the 26 questionnaires sent by special procedures mandate holders. <sup>37</sup>

## 3. Cooperation with the Office of the High Commissioner for Human Rights

19. OHCHR has maintained a human rights adviser on the United Nations Country Team in Papua New Guinea since January 2008 to strengthen the capacity of the Resident Coordinator and the Country Team in developing strategies to support the national human rights protection systems. The adviser's priorities include strengthening engagement of the Government, the Country Team, and civil society with international human rights mechanisms, and providing technical support to the establishment of a national human rights institution.<sup>38</sup>

20. In 2009, the Government launched the National Disability Policy based on the Convention on the Rights of Persons with Disabilities (CRPD), with support from OHCHR.<sup>39</sup> Additionally, work on torture, carried out jointly by the OHCHR Regional

Office for the Pacific and the human rights adviser, led to an official invitation to the Special Rapporteur on torture to visit the country.<sup>40</sup>

## **B. Implementation of international human rights obligations**

### **1. Equality and non-discrimination**

21. CEDAW expressed serious concern about the persistence of harmful norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes, regarding the roles, responsibilities and identities of women and men in all spheres of life. These include polygamy, bride price (*dava*), "good" woman stereotypes, the traditional view of "big man" leadership, and the custom of including women as part of compensation payment.<sup>41</sup>

22. UNJR indicated that gender discrimination exists at all levels, and is evident in such indicators as literacy and the absence of women in decision-making positions in government and all sectors of society, at all levels. Persons with disabilities are also in need of greater equality.<sup>42</sup>

23. CRC was concerned that societal discrimination persists against girls and women and vulnerable groups of children, such as children with disabilities, living in poverty, born out of wedlock, adopted, and of mixed parentage, and that the Constitution does not prohibit discrimination on the grounds of disability.<sup>43</sup>

24. UNJR also noted there are growing indications of racial tension within the society, particularly concerning Asian communities. It referred to the riots which took place in May 2009, noting that the committee which had been set up to investigate the riots has not yet delivered its findings.<sup>44</sup>

25. UNHCR indicated that non-Melanesian refugees are perceived to be foreigners and are unlikely to integrate into local society or overcome the obstacles they face preventing their legal integration.<sup>45</sup> UNHCR noted that non-Melanesian asylum-seekers and refugees are particularly vulnerable to xenophobia and racism among the local population.<sup>46</sup>

### **2. Right to life, liberty and security of the person**

26. UNJR stated Papua New Guinea has not carried out an execution since 1954, despite parliament's reintroduction of the death penalty for wilful murder in 1991. It recommended that the country abolish the death penalty and ratify ICCPR-OP 2.<sup>47</sup> The Special Rapporteur on torture made similar recommendations.<sup>48</sup>

27. UNJR noted that inter-tribal violence, particularly in the Highlands, often concerning conflicts over land and property rights, remains a very serious issue, and appears to be becoming more serious with the increased prevalence of high-powered rifles throughout the country. It added that there is some concern that a warlord culture is developing in some areas of the country. UNJR also noted that internal displacement is a serious, but unacknowledged consequence of conflict in the Highlands.<sup>49</sup>

28. CEDAW expressed serious concern about reports of brutal torture, and killing of girls and women, especially old women, accused of witchcraft, and was particularly concerned that the number of female victims was increasing.<sup>50</sup> CEDAW urged Papua New Guinea to take immediate measures to investigate such incidences and to prosecute and punish the perpetrators. CEDAW also called on Papua New Guinea to accelerate its review of the law on sorcery and sorcery-related killings, and to strengthen enforcement of relevant legislation.<sup>51</sup> UNJR indicated that persons accused of sorcery continue to be the target of vigilante killings and violence, and that the practice is particularly significant in the Highlands and Bougainville regions.<sup>52</sup>

29. In 2009, the Special Rapporteurs on extrajudicial, summary or arbitrary executions, torture, and violence against women sent a joint communication to the Government concerning allegations of sorcery-related killings of women in the Highland provinces in 2008 and 2009.<sup>53</sup>

30. The Special Rapporteur on torture indicated that police beatings in the country often reached the level of torture, as defined in CAT.<sup>54</sup> UNJR made similar observations.<sup>55</sup>

31. The Special Rapporteur on torture also indicated that he had found systematic beatings of detainees upon arrest or within the first hours of detention. In correctional institutions, those who attempt to escape or succeed in escaping are often tortured and disabled upon recapture.<sup>56</sup> UNJR also noted the abuses by the Royal Papua New Guinea Constabulary (police), and the use of excessive force, often leading to death, against persons who attempt to escape by Correctional Service personnel. The Government rarely investigates, prosecutes and punishes the perpetrators of these killings and the norm is one of total impunity.<sup>57</sup>

32. In the preliminary recommendations, following his visit, the Special Rapporteur on torture recommended that the Government ensure that persons deprived of their liberty are confined in facilities where the conditions comply with minimum international sanitary and hygienic standards, and that all children are removed from adult detention facilities.<sup>58</sup>

33. UNJR stated that police mobile squads are the frequent targets of complaints regarding raids on villages and urban settlements, burning houses, killing livestock, destroying gardens, beating and sexually assaulting residents. In urban areas, police task forces and traffic police are often accused of extorting money, and setting up false road blocks to extort money to buy alcohol.<sup>59</sup>

34. The Special Rapporteur on torture noted that women are at high risk of abuse, both in the domestic and public spheres, and that domestic violence is widespread.<sup>60</sup> He also indicated that he had received many reports of allegations of sexual abuse by arresting officers in exchange for release from custody, and noted that some officers appear to arrest women for minor offences with the intention of sexually abusing them.<sup>61</sup>

35. UNJR indicated that there are extremely high levels of domestic violence in the country, and that impunity for rape, domestic violence and sorcery-related attacks fuels the violence.<sup>62</sup>

36. CEDAW expressed similar concerns<sup>63</sup>, and urged Papua New Guinea to give priority to the enactment and implementation of a comprehensive legal framework addressing all forms of violence against women. CEDAW further called upon the country to ensure that women and girls who are victims of violence have access to immediate and effective means of redress and protection, and urged the government to take necessary measures to ensure that custodial violence by officials, including acts of sexual abuse of women and girls, are prosecuted and punished as grave crimes.<sup>64</sup>

37. CEDAW also called on Papua New Guinea to prepare and adopt a legislative framework on trafficking in human beings, including the prevention of trafficking, timely prosecution and punishment of traffickers, provision of protection from traffickers/agents, and quality support and programmes for victims.<sup>65</sup> In 2010, the International Labour Office Committee of Experts on the Application of Conventions and Recommendations, (ILO Committee of Experts) stated that the Criminal Code only protected girls from trafficking for the purpose of sexual exploitation, and that there did not appear to be similar provisions protecting boys. Nor were there legislative provisions prohibiting the sale and trafficking of children for the purpose of labour exploitation. Noting the government's comments that it was embarking on a major legislative review, the ILO Committee of Experts expressed

hope that the new provisions would prohibit and penalize the sale and trafficking of girls and boys under the age of 18 for sexual and labour exploitation.<sup>66</sup>

38. CRC was deeply concerned that corporal punishment of children was widespread and not prohibited by law.<sup>67</sup> CRC recommended that Papua New Guinea conduct public education campaigns about the negative consequences of corporal punishment of children, promote non-violent forms of discipline as an alternative to corporal punishment, and expressly prohibit corporal punishment by law in the family and other institutions.<sup>68</sup>

39. CRC was also concerned that the problem of neglect and abuse, including sexual abuse, within the family and at school appears to be significant according to, inter alia, hospital records.<sup>69</sup> CRC recommended that Papua New Guinea set up a comprehensive and nationwide response system with the aim of providing support and assistance to all victims of domestic violence. CRC also recommended that Papua New Guinea ensure that there is an effective mechanism for receiving, monitoring, and investigating complaints of abuse, and seek technical assistance in this regard.<sup>70</sup>

40. In 2010, the ILO Committee of Experts reiterated its previous comments that prostitution of young girls had become an important means of economic survival in Papua New Guinea's urban centres and in rural areas. Additionally, it was noted that there had been little systematic state intervention and that measures to protect and safeguard victims of prostitution were insufficient. The ILO Committee of Experts requested Papua New Guinea to take effective and time-bound measures to prevent children from being exploited for prostitution.<sup>71</sup>

41. In 2010, the ILO Committee of Experts also reiterated its comments that children who were informally adopted were actually trapped into situations of long hours of work, lack of rest and leisure, lack of freedom of mobility and association, and deprived of the right to education and medical treatment. It requested information on measures taken to protect these children from the worst forms of child labour.<sup>72</sup>

### **3. Administration of justice, including impunity, and the rule of law**

42. The Special Rapporteur on torture was concerned that the police are not always in a position to enforce the rule of law, leading to private security companies carrying out some of the police's main duties. He was particularly concerned about the lack of capacity to prevent and investigate crimes relating to domestic violence, tribal fighting and victims of accusations of sorcery.<sup>73</sup>

43. In his preliminary recommendations, the Special Rapporteur on torture urged the Government to reduce, as a matter of urgency, the period of police custody to a time limit in line with international standards (maximum 48 hours), and to establish accessible and effective complaints mechanisms in all places of detention.<sup>74</sup>

44. Regarding reports of torture in correctional institutions, UNJR reported that the lack of an effective complaints mechanism, independent investigation and monitoring, and similar safeguards created an environment of impunity that fueled these practices.<sup>75</sup>

45. UNJR noted that the formal justice system is not always accessible, effective and affordable, and that more people use the informal or village court system to settle disputes. Village courts operate in over 80 per cent of the country.<sup>76</sup> There are low levels of knowledge of rights among village and community leaders, and many of the decisions discriminate against women and children.<sup>77</sup>

46. UNJR also stated that limited legal aid is available from the Office of the Public Solicitors. In theory, all citizens are entitled to legal aid; however, in practice, there is a lack of access for the majority of persons seeking justice.<sup>78</sup>



47. CEDAW was concerned that although customary law is subordinate to the Constitution and statutory laws, it is the main law applicable in the village courts, resulting in continuing discrimination against women.<sup>79</sup> It urged Papua New Guinea to ensure that the village courts, in their decisions, apply the principles of equality and non-discrimination in line with the Convention.<sup>80</sup>

#### **4. Right to privacy, marriage and family life**

48. CEDAW expressed concern about the multiple marital systems that apply in Papua New Guinea, and the fact that the minimum age for marriage is 16 years for girls, and 18 years for boys. It was particularly concerned about the practices of polygamy, bride price, early and forced marriages, and that other discriminatory customary practices persist, especially in rural and remote communities, with regard to marriage and its dissolution, as well as family relations, including inheritance.<sup>81</sup> CEDAW urged Papua New Guinea to accelerate reform of the laws relating to marriage and family relations in order to bring its legislative framework into compliance with the Convention. CEDAW also called on the country to raise the minimum age for marriage to 18 years for both males and females, and to implement measures aimed at eliminating polygamy.<sup>82</sup> In 2004, CRC expressed similar concerns<sup>83</sup> and made recommendations regarding the age for marriage.<sup>84</sup>

49. CEDAW noted with concern that only a small percentage of the population has had been registered at birth, and that this might impact negatively on the legal status of women.<sup>85</sup> CEDAW recommended that effective measures be taken to achieve timely registration of all births and marriages.<sup>86</sup> In 2004, CRC raised similar concerns<sup>87</sup> and recommended that the Government increase efforts to ensure that all children are registered at birth.<sup>88</sup>

50. UNJR stated that Papua New Guinea's Cabinet had recently endorsed a review on existing laws governing prostitution and "unnatural" sex offences, to be undertaken by the Constitutional and Law Reform Commission (CLRC). The policy submission sought, among others, to review criminal laws to decriminalize sex work and consensual homosexual practices.<sup>89</sup>

#### **5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

51. UNJR noted that, in practice, the right to freedom of assembly is often limited. It noted that public demonstrations require police approval and 14 days' notice. And, asserting fear that the demonstration might generate violence, police rarely give approval in practice.<sup>90</sup>

52. UNJR also indicated that human rights defenders have been threatened with harm, attacked, and in some cases, killed.<sup>91</sup>

53. CEDAW expressed concern about the very low representation of women in Parliament, and at the low level of participation of women in other areas of public and political life, especially at the highest levels of decision-making, local government, the judiciary, including the village courts, and the international civil service.<sup>92</sup> UNJR made similar observations.<sup>93</sup> CEDAW urged Papua New Guinea to expeditiously adopt the Equality and Participation Bill through its parliament.<sup>94</sup>

#### **6. Right to work and to just and favourable conditions of work**

54. CEDAW called on Papua New Guinea to review its labour laws and ensure that employment legislation applies to, and is enforced in, the public and private sectors. CEDAW also called on Papua New Guinea to provide a regulatory framework for the informal sector, with a view to providing access to social protection and benefits.<sup>95</sup>

55. UNHCR urged the country to withdraw its reservation to article 17(1) of the Convention and provide all refugees and asylum-seekers with full work rights. It indicated that only refugees from a neighbouring third country who have current permissive residence permits (PRPs) have the right to work.<sup>96</sup>

## **7. Right to social security and an adequate standard of living**

56. UNJR indicated that poverty is a serious human rights concern in Papua New Guinea. More than one third of the population lives in poverty and an overwhelming proportion of the country's rural communities is caught in a poverty trap characterized by disease, low income, and poor access to clean water, health care, education, essential medicines, electricity, sanitation, communication, and transport.<sup>97</sup>

57. UNJR noted that the low capacity of the health system, limited basic health education and specific climatic and environmental conditions, contribute to high maternal and child mortalities in the country. The risk of an urban woman dying of maternal-related causes is estimated at 0.0028, that is, approximately 1 out of every 35 women (over age 12) in urban areas will die of maternal-related causes. The risk for rural women of the same age is almost double. In 2006, infant (under 1 year) and child (under 5 years) mortality rates were estimated at 57 and 75 (out of 1,000 children), respectively.<sup>98</sup>

58. CEDAW recommended the the Government review the laws relating to abortion, with a view to removing punitive provisions imposed on women who undergo abortion, and providing them with access to quality services for the management of complications arising from unsafe abortions.<sup>99</sup>

59. UNJR also indicated that in 2009, it was estimated that 5,610 children had become orphans, losing one or both parents, as a result of the HIV epidemic.<sup>100</sup>

60. CEDAW noted with deep concern that Papua New Guinea faces a serious HIV/AIDS epidemic with 1.5 per cent of its 6.5 million people infected, and that women and girls are disproportionately affected by HIV, accounting for 60 per cent of people living with HIV. CEDAW was particularly concerned that girls between 15 and 19 years of age have the highest rate of HIV/AIDS in the country, that is four times that of boys of the same age. In this respect, CEDAW was concerned that women and girls may be particularly susceptible to infection owing to gender-specific norms and that the persistence of unequal power relations between women and men may increase their vulnerability to infection.<sup>101</sup>

61. UNJR noted that forced evictions have occurred in many parts of the country. Forced eviction and destruction of property is commonly used by the police as a punitive measure, as a form of collective punishment for a community following a crime, and to pressure the community to provide information or handover those responsible for the crime.<sup>102</sup> In 2009, the Special Rapporteur on adequate housing sent two communications regarding allegations of forced evictions by police in Port Moresby, following crimes.<sup>103</sup>

62. UNJR indicated that in rural areas where land is taken over by international companies for resource extraction, traditional landowners have been forcibly evicted, or have accepted agreements, without genuine consultation and understanding of the consequences.<sup>104</sup>

## **8. Right to education**

63. UNJR noted that less than 50 per cent of children in rural areas are enrolled in primary school, and only slightly more than half of those enrolled complete Grade 5. Girls are less likely to be enrolled in school and frequently fail to complete their education.<sup>105</sup> In 2010, CEDAW called on Papua New Guinea to strengthen its efforts to provide a discrimination- and violence-free educational environment.<sup>106</sup>

64. UNJR further indicated that free education has been on the political agenda since 1982 when it was introduced by the Government, but survived less than a year. In 2002, the Government provided a ‘full-fee subsidy’, which, however, proved unsustainable.<sup>107</sup>

65. UNJR also noted the results of the Net Enrolment Study which highlighted the need to urgently address issues of access to and quality of education in order to achieve the MDG of development and education for all. Statistical data indicates that too few children are enrolled in school at the right age, over-age enrolments are issues in the basic education system – especially at the elementary level, and disparities exist to the disadvantage of girls.<sup>108</sup>

## **9. Minorities and indigenous peoples**

66. UNJR noted that several conflicts and disputes concerning land use and resource rights are ongoing between indigenous groups, the Government and corporate entities. Insufficient attention has been paid to the Government’s duty of due diligence with regard to protection of the rights of landowners, and corporate and social responsibility regarding environmental degradation and pollution from resource extraction.<sup>109</sup>

67. The 2006 Permanent Forum on Indigenous Issues desk review on MDG reports and indigenous peoples noted that Papua New Guinea needed to address its indigenous peoples specifically, as they constitute the bulk of the rural population facing the most negative health and economic outcomes.<sup>110</sup>

## **10. Migrants, refugees and asylum-seekers**

68. UNHCR indicated that the current policy and legal framework had resulted in the creation of three categories of refugees according to country of origin and/or possession of permissive residency permits. UNHCR further indicated that each of these categories is treated differently.<sup>111</sup>

69. UNHCR stated that the current policy and legal framework falls short of international standards and does not provide adequate protection to refugees without permissive residence permits from a neighbouring third country nor to non-Melanesian asylum-seekers and refugees.<sup>112</sup>

## **11. Internally displaced persons**

70. UNJR indicated that the situation of persons internally displaced as a result of natural disasters (volcano on Manam Island, rising sea levels on Caterat Islands), tribal conflict, and civil unrest (in Bulolo) is a serious concern in the country, leading to protracted problems, compounded by the lack of effective action to address the situation.<sup>113</sup>

## **12. Situation in or in relation to specific regions or territories**

71. UNJR noted that a violent conflict had broken out in 1989 in Bougainville province. A referendum is to take place within 15 years of the establishment of the Autonomous Bougainville Government on the future political status of Bougainville.<sup>114</sup> Discussions are ongoing between the national Government and the Bougainville administration on how the economic aspirations of Bougainville can be supported.<sup>115</sup> Meanwhile, a number of grievances persist among a number of groups and individuals on the island itself. To date there has been no transitional justice process for the human rights violations committed during the conflict.<sup>116</sup>

72. In 1995, the Special Rapporteur on extrajudicial, summary or arbitrary executions undertook a visit to the region and made recommendations concerning, inter alia, the disarming of armed elements of civilian society and the administration of justice, including

investigation and prosecution of human rights violations, the possible creation of a truth and justice commission, and establishing transparency and a system of reporting on human rights issues.<sup>117</sup> UNJR recommended the implementation of those recommendations.<sup>118</sup>

73. CEDAW expressed concern at the limited involvement of women in the formal decision-making processes in the post-conflict area<sup>119</sup> and also called on Papua New Guinea to ensure that both women and men war veterans benefit from equal recognition and rehabilitation.<sup>120</sup>

74. In 2010, the ILO Committee referred to reported shortcomings in the education process of former child soldiers and encouraged the country to pursue its efforts to improve their situation.<sup>121</sup>

### **III. Achievements, best practices, challenges and constraints**

75. UNJR indicated the main achievements have been legislative initiatives which have closed some gaps with regards to human rights protection. These include the enactment of the Sexual Offences and Crimes against Children Act under the revised Criminal Code, introducing a series of new offences, including marital rape, graded according to the seriousness of the harm and incorporating the ways in which women are sexually violated; the HAMP Act and the Lukautim Pikinini Act. There have also been some successes in juvenile justice.<sup>122</sup>

76. CEDAW took note of the fact that Papua New Guinea was very vulnerable to environmental threats, including coastal erosion and rising sea levels as a result of climate change, as well as national disasters, and noted its particular geographical situation, which poses restrictions on movement and communication.<sup>123</sup>

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

#### **Specific recommendations for follow-up**

77. CEDAW requested Papua New Guinea to provide, within two years, information on the steps taken to implement the recommendations contained in paragraphs 28 [incidences of torture and killings of women and girls] and 34 [participation of women in public and political life].<sup>124</sup>

### **V. Capacity-building and technical assistance**

78. CERD drew Papua New Guinea's attention to the possibility of availing itself of the technical assistance offered under the advisory services and technical assistance programme of OHCHR in order to comply with its reporting obligations.<sup>125</sup>

#### *Notes*

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>

<sup>2</sup> The following abbreviations have been used for this document:

ICERD International Convention on the Elimination of All Forms of Racial

	Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CED	International Convention for the Protection of All Persons from Enforced Disappearance

<sup>3</sup> Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.

<sup>4</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>5</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons, and 1961 Convention on the Reduction of Statelessness.

<sup>6</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).

<sup>7</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

<sup>8</sup> CEDAW/C/PNG/CO/3, para. 59.

<sup>9</sup> Ibid., para. 55.

<sup>10</sup> UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea, 25 May 2010, available at:

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E>.

<sup>11</sup> CRC/C/15/Add.229, para. 66.

<sup>12</sup> CERD/C/62/CO/12, para. 5.

- <sup>13</sup> UNHCR submission to the UPR on Papua New Guinea , paras. 1 and 8.
- <sup>14</sup> CEDAW/C/PNG/CO/3, para. 11.
- <sup>15</sup> Ibid., para. 12.
- <sup>16</sup> Ibid., para. 13.
- <sup>17</sup> Ibid., para. 14.
- <sup>18</sup> UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea, 25 May 2010, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E>.
- <sup>19</sup> United Nations Joint Report (UNJR) for the UPR on Papua New Guinea, p. 3.
- <sup>20</sup> UNHCR submission to the UPR on Papua New Guinea, para. 2.
- <sup>21</sup> UNJR for the UPR on Papua New Guinea, p. 19.
- <sup>22</sup> For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/65/340, annex I.
- <sup>23</sup> OHCHR 2009 Report, Activities and Results, p. 134.
- <sup>24</sup> UNJR for the UPR on Papua New Guinea, p. 3.
- <sup>25</sup> CEDAW/C/PNG/CO/3, para. 20.
- <sup>26</sup> UNJR for the UPR on Papua New Guinea, p. 4.
- <sup>27</sup> Ibid.
- <sup>28</sup> Ibid.
- <sup>29</sup> Ibid., p. 6.
- <sup>30</sup> CEDAW/C/PNG/CO/3, para. 8.
- <sup>31</sup> The following abbreviations have been used for this document:
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| CERD  | Committee on the Elimination of Racial Discrimination        |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CRC   | Committee on the Rights of the Child                         |
- <sup>32</sup> CERD/C/62/CO/12, para. 3.
- <sup>33</sup> UNJR for the UPR on Papua New Guinea, p. 5.
- <sup>34</sup> E/CN.4/1996/4/Add.2.
- <sup>35</sup> UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea, 25 May 2010, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E>.
- <sup>36</sup> Ibid.
- <sup>37</sup> The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 31 October 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, and referred to in the following documents: (a) E/CN.4/2006/62, para. 24, and E/CN.4/2006/67, para. 22; (b) A/HRC/4/23, para. 14; (c) A/HRC/4/24, para. 9; (d) A/HRC/4/29, para. 47; (e) A/HRC/4/31, para. 24; (f) A/HRC/4/35/Add.3, para. 7; (g) A/HRC/6/15, para. 7; (h) A/HRC/7/6, annex; (i) A/HRC/7/8, para. 35; (j) A/HRC/8/10, para.120, footnote 48; (k) A/62/301, paras. 27, 32, 38, 44 and 51; (l) A/HRC/10/16 and Corr.1, footnote 29; (m) A/HRC/11/6, annex; (n) A/HRC/11/8, para. 56; (o) A/HRC/11/9, para. 8, footnote 1; (p) A/HRC/12/21, para.2, footnote 1; (q) A/HRC/12/23, para. 12; (r) A/HRC/12/31, para. 1, footnote 2; (s) A/HRC/13/22/Add.4; (t) A/HRC/13/30, para. 49; (u) A/HRC/13/42, annex I; (v) A/HRC/14/25, para. 6, footnote 1; (w) A/HRC/14/31, para. 5, footnote 2; (x) A/HRC/14/ 46/Add.1, page 2; (y) A/HRC/15/31, for list of responding states, see [http://www2.ohchr.org/english/issues/water/ixpert/written\\_contributions.htm](http://www2.ohchr.org/english/issues/water/ixpert/written_contributions.htm); (z) A/HRC/15/32, para. 5.
- <sup>38</sup> OHCHR 2009 Report, Activities and Results, p. 140.
- <sup>39</sup> Ibid., p. 126.
- <sup>40</sup> Ibid., p. 134.
- <sup>41</sup> CEDAW/C/PNG/CO/3, para. 25.
- <sup>42</sup> UNJR for the UPR on Papua New Guinea, pp. 5-6.
- <sup>43</sup> CRC/C/15/Add.229, para. 26.
- <sup>44</sup> UNJR for the UPR on Papua New Guinea, p. 20.
- <sup>45</sup> UNHCR submission to the UPR on Papua New Guinea , para. 28.
- <sup>46</sup> Ibid., para. 27.

- 47 UNJR for the UPR on Papua New Guinea, p. 8.
- 48 UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea, 25 May 2010, available at:  
<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E>.
- 49 UNJR for the UPR on Papua New Guinea, p. 8.
- 50 CEDAW/C/PNG/CO/3, para. 27.
- 51 Ibid., para. 28.
- 52 UNJR for the UPR on Papua New Guinea, p. 9.
- 53 A/HRC/11/6/Add.1, paras. 555–559.
- 54 UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea, 25 May 2010, available at:  
<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E>.
- 55 UNJR for the UPR on Papua New Guinea, p. 9.
- 56 A/65/273, para. 10.
- 57 UNJR for the UPR on Papua New Guinea, p. 8.
- 58 UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea, 25 May 2010, available at:  
<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E>.
- 59 UNJR for the UPR on Papua New Guinea, p. 10.
- 60 A/65/273, para. 10.
- 61 UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea, 25 May 2010, available at:  
<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E>.
- 62 UNJR for the UPR on Papua New Guinea, p. 5.
- 63 CEDAW/C/PNG/CO/3, para. 29.
- 64 Ibid., para. 30.
- 65 Ibid., para. 32.
- 66 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182), 2010, Geneva, doc. No. (ILOLEX) 092010PNG182, 2nd para.
- 67 CRC/C/15/Add.229, para. 37.
- 68 Ibid., para. 38.
- 69 Ibid., para. 43.
- 70 Ibid., para. 44.
- 71 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182), 2010, Geneva, doc. No. (ILOLEX) 092010PNG182, 13th para.
- 72 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182), 2010, Geneva, doc. No. (ILOLEX) 092010PNG182, 12th para.
- 73 UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea, 25 May 2010, available at:  
<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E>.
- 74 Ibid.
- 75 UNJR for the UPR on Papua New Guinea, pp. 9-10.
- 76 Ibid., p. 11.
- 77 Ibid., pp. 11–12.
- 78 UNJR for the UPR on Papua New Guinea, p. 12.
- 79 CEDAW/C/PNG/CO/3, para. 17.
- 80 Ibid., para. 18.
- 81 Ibid., para. 49.
- 82 Ibid., para. 50.
- 83 CRC/C/15/Add.229, para. 24.
- 84 Ibid., para. 25.
- 85 CEDAW/C/PNG/CO/3, para. 35.
- 86 Ibid., para. 36.

- <sup>87</sup> CRC/C/15/Add.229, para. 33.  
<sup>88</sup> Ibid., para. 34.  
<sup>89</sup> UNJR for the UPR on Papua New Guinea, p. 8.  
<sup>90</sup> Ibid., p. 13.  
<sup>91</sup> Ibid.  
<sup>92</sup> CEDAW/C/PNG/CO/3, para. 33.  
<sup>93</sup> UNJR for the UPR on Papua New Guinea, pp. 13–14.  
<sup>94</sup> CEDAW/C/PNG/CO/3, para. 34.  
<sup>95</sup> Ibid., para. 40.  
<sup>96</sup> UNHCR submission to the UPR on Papua New Guinea, para. 23.  
<sup>97</sup> UNJR for the UPR on Papua New Guinea, p. 15.  
<sup>98</sup> Ibid., pp. 9, 16–17.  
<sup>99</sup> CEDAW/C/PNG/CO/3, para. 42.  
<sup>100</sup> UNJR for the UPR on Papua New Guinea, p. 7.  
<sup>101</sup> CEDAW/C/PNG/CO/3, para. 43.  
<sup>102</sup> UNJR for the UPR on Papua New Guinea, p. 16.  
<sup>103</sup> A/HRC/13/20/Add.1, paras. 64–66.  
<sup>104</sup> UNJR for the UPR on Papua New Guinea, p. 16.  
<sup>105</sup> Ibid., pp. 5–6.  
<sup>106</sup> CEDAW/C/PNG/CO/3, para. 38.  
<sup>107</sup> UNJR for the UPR on Papua New Guinea, pp. 17–18.  
<sup>108</sup> Ibid., p. 17.  
<sup>109</sup> Ibid., pp. 18–19.  
<sup>110</sup> UNPFII, MDG Reports and Indigenous Peoples: A Desk Review, New York, January 2006, p. 41, available at <http://www.un.org/esa/socdev/unpfii/documents/MDGRs2006.pdf>.  
<sup>111</sup> UNHCR submission to the UPR on Papua New Guinea, para. 14.  
<sup>112</sup> Ibid., para. 5.  
<sup>113</sup> UNJR for the UPR on Papua New Guinea, p. 20.  
<sup>114</sup> Ibid.  
<sup>115</sup> Ibid., pp. 20–21.  
<sup>116</sup> Ibid., p. 21.  
<sup>117</sup> E/CN.4/1996/4/Add.2, paras. 86–106.  
<sup>118</sup> UNJR for the UPR on Papua New Guinea, p. 21.  
<sup>119</sup> CEDAW/C/PNG/CO/3, para. 51.  
<sup>120</sup> Ibid., para. 52.  
<sup>121</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182), 2010, Geneva, doc. No. (ILOLEX) 092010PNG182, 10th para.  
<sup>122</sup> UNJR for the UPR on Papua New Guinea, p. 21.  
<sup>123</sup> CEDAW/C/PNG/CO/3, para. 5.  
<sup>124</sup> Ibid., para. 60.  
<sup>125</sup> CERD/C/62/CO/12, para. 7.
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