

# COUNTRY REPORT - PAPUA NEW GUINEA

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## I. INTRODUCTION

The issue of crime associated with urbanization in Papua New Guinea (PNG) has not been seriously addressed over the last twenty-nine years. This has contributed to increasing law and order problems facing PNG today.

In my paper, I will firstly attempt to highlight the issue of crime associated with urbanization in PNG. Secondly, I will outline efforts made by the PNG Government to address increasing law and order problems facing the country. Finally, I will provide an overview of the role Community Based Corrections (CBC) plays in the concerted effort made by government agencies and non-government organizations (NGOs) in addressing increasing law and order problems in PNG.

### **Background**

PNG is largely a middle-income country with a population of over 5.2-million people. It is one of the most culturally and linguistically diverse countries in the world with over 850 distinct languages. The population is widely dispersed and the rugged geographical terrain together with the generally poor and costly transportation and communication infrastructure make service delivery difficult and costly.

## II. CURRENT SITUATION OF CRIME ASSOCIATED WITH URBANIZATION

### **A. Urban Migration**

Rapid population growth and migration of people from rural to urban areas have contributed to the deterioration of basic services and infrastructure in towns and cities. The demands of the increasing population in urban areas have stretched the provision and maintenance of basic services to an extent where health centres and hospitals lack much needed supplies of medical drugs and schools and other educational institutions are inadequately provided with curriculum materials and resources.

The proliferation of illegal squatter settlements in and around urban centres without control by the authorities is a major concern. The increase in illegal squatter settlements, especially in and around towns, cities and satellite mining townships provide a breeding ground for crime and ethnic conflicts. This has made it difficult for local authorities and the government to improve the situation and make proper developmental plans.

### **B. Unemployment**

There are very little new investments taking place to absorb the unemployed young school leavers passing out of educational institutions. Each year fewer and fewer jobs become available for the tens of thousands of young people passing through PNG's education system. Many working parents continue to be breadwinners for their children who themselves are unable to find jobs.

The government cannot continue to ignore the current situation in light of the escalating law and order problems, which may ultimately lead to possible civil unrest and anarchy in the country.

## III. PROBLEMS FACED

Inadequate budgetary funding as a result of the general down turn of the economy over the last ten years or so and the chronic lack of resources are common problems faced by government agencies in the law and justice sector. The situation is further compounded by lack of inter-agency cooperation and sharing of information.

### **A. Inadequate Funding**

The lack of funding and inadequate resources, including shortage of manpower, has impacted on the capacity and performance of agencies in the law and justice sector. The unilateral freeze by the government

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on staff recruitment has also been a contributing factor. This has resulted in existing manpower ceilings of agencies unable to cope with increasing law and order problems.

**B. Lack of Integrated Information System**

While individual agencies collect and record their own statistical information and data, there is no integrated sectoral information system to evaluate and analyze trends in crimes committed in urban centres. The lack of up-to-date data has been a contributing factor to poor planning and disbursement of scarce resources in the law and justice sector.

**C. Lack of Inter-agency Cooperation**

The lack of inter-agency cooperation has been a major hindrance to the successful working of the law and justice sector. The better coordination of sector planning and budgeting is essential and would go a long way towards improving the deterrence system in the country.

**IV. EFFECTIVE MEASURES FOR THE PREVENTION OF CRIME**

**A. National Law and Justice Policy**

In August 2000, the PNG government formally adopted and endorsed the National Law and Justice Policy (NLJP) and Plan of Action. The underlying purpose of the NLJP is to improve the efficiency of the deterrence system; improve coordination within the sector; move towards prevention and; restorative justice. The NLJP further adopted the concept of restorative justice as a core rationale for the long-term future of the law and justice sector in PNG.

**B. Restorative Justice**

Restorative justice is not a new concept in PNG. It embodies the values and practices familiar in traditional PNG societies. The restorative justice approach is concerned with balancing the needs of the victim, offender and the community and draws on traditional and contemporary international practices to achieve a secure, just and peaceful society for all citizens.

**C. Diversion Programmes**

Diversion of minor offenders is a major requirement in the NLJP. One of the key strategies for juvenile justice reforms will be the introduction of programmes to divert juveniles away from the formal court systems towards community-based rehabilitation and restorative justice programmes.

Diversion and restorative programmes are slowly been introduced where minor offences are diverted through community-based work programmes or where an offender is made to apologize to the victim.

**D. Community Work Orders (CWO)**

A CWO is a viable option to imprisonment. The order incorporates essential elements of the restorative justice approach where there is a public act of reparation by the offender in providing work for the community. The orders can be linked to mediation, training and interventions, which are ultimately aimed at changing offender behaviour.

The *Probation Act* can be used by the Courts to impose a community work sentence in two ways:

Community Work (CW) only – This is imposed where the only condition on the Probation Order (PO) is CW. The PO expires when the CW hours have been satisfactorily completed. It is most suitable for first offenders, minor offenders or instead of imposing a fine on the offender.

Probation with a Community Work condition – This is imposed where CW is a special condition of a normal PO. It may also include other special conditions and is mostly suited to more serious offenders or where the Court wishes to impose other additional conditions.

Under the Probation Act, the CWO is applicable for both Juvenile and Adult offenders. The CWO can be supervised by a Probation Officer or Volunteer.

**E. Community Policing**

Community policing provides another important vehicle for enhancing crime prevention and community participation in the justice process. The aim of community policing is ‘to create an environment that

promotes a greater involvement of citizens in policing through a Constabulary responsive to the needs and feelings of the community'.

A number of community policing initiatives have been launched to address inherent institutional cultures and improve the police's relationship with the community at large. In some areas, 'Community Consultative Committees' have been established to implement community-level initiatives and empower communities to take greater responsibility in mediating minor disputes. School talk programmes and sports initiatives are being used to foster face-to-face contact between youth and police in order to overcome barriers and improve understanding between the two groups.

Neighbourhood watch and crime stopper programmes have also been set up in some areas. Some provinces are using local level agreements between police and the community to clarify roles and responsibilities and encourage greater cooperation.

While there are good reasons for devolving community policing at provincial levels, this change has meant that the commitment to community policing in a particular province is dependent on the support of the individual provincial police commander. In practice, there is a great deal of variation between provinces.

There are many examples of good community policing practice occurring in different parts of the country. For example, in the East New Britain Province, there have been tireless efforts by the Sexual Offences Squad to raise awareness and devise preventive strategies directed at reports of rising levels of sexual offences and child abuse cases.

#### **F. Village Courts System in PNG**

The primary role of the Village Court in PNG is to 'ensure peace and harmony', and endeavour to obtain an 'amicable settlement of disputes' and apply custom as determined in accordance with the *Village Court Act 1989*.

It is important to emphasize that the village courts are arguably the most significant community-based restorative justice forums in PNG. They play a vital, if not under-valued role, in preventing the escalation of minor disputes and conflicts. Under its enabling legislation, village courts attempt to reach a settlement through mediation prior to exercising their formal jurisdiction. Magistrates can impose fines, issue community work orders or order that compensation be paid to an aggrieved party.

#### **G. Community Justice Liaison Unit (CJLU)**

The CJLU commenced operation in April 2004 with a ceiling of less than five staff. The organizational structure comprises of the Director, his assistant, a support staff including a technical advisor funded by the Law and Justice Sector Programme.

The CJLU is an important new facility established under the law and justice sector programme to help build partnership between law and justice enforcement agencies and civil society as envisaged under the NLJP. The CJLU provides the linkage between the formal system and civil society.

The primary objective is working with civil society and the law and justice sector agencies to build a safer, stronger and peaceful community based on the principles of partnership. CJLU therefore uses some of the principles of community development processes alongside the government planning systems.

The Unit is located in the Department of Community Development, a step toward linking the formal system (CJS) to the community and civil society.

The process of developing the role of the CJLU is still at an early stage. On-going work includes providing inputs to the on-going review of the PNG police force, a nationwide NGO mapping study and the preparation of a Restorative Justice Guide. A crime prevention action plan is being prepared in collaboration with community policing and youth. There are also plans to develop training for para-legal NGOs through pro-bono work by private legal firms.

## V. OVERVIEW OF COMMUNITY BASED CORRECTION (CBC)

There are four pieces of parliamentary legislation governing the role and function of CBC.

### A. Probation

The *Probation Act 1991* is the mainstay of the community corrections system. Although, the Act is somewhat out-dated it offers wide powers for the courts to use. There are provisions under the *Probation Act* that allows the courts to tailor orders to fit most offenders and situations.

The *Probation Act* provides for both juvenile and adult offenders. The Court can impose probation for a minimum of six months to a maximum of five years. The Court can further impose any additional conditions necessary under the circumstances of the case to ensure compliance by the Probationer for his good conduct and welfare. For example, the court may order the probationer to pay restitution in the form of compensation within a certain period of time as an additional condition on the PO.

### B. Parole

Under the *Parole Act 1991*, all prisoners are eligible for parole consideration after serving one third of their sentence. Parole is similar to probation, except that parolees are subjected to a higher level of supervision. The transition from incarceration to returning to live in the community is for many detainees a difficult one. Detainees released under parole supervision have a better or greater chance of rehabilitation than those released on remission with little or no support.

### C. Criminal Compensation

Under the *Criminal Compensation Act 1991*, an offender can be ordered by the court to pay compensation below K5, 000.00 in monetary value and in kind.

### D. Juvenile Court

The final major Act that CBC is responsible for is the *Juvenile Courts Act 1991* (JCA).

The JCA covers all young persons aged between 7-18 years for all offences except for murder, rape or offences punishable by death or life imprisonment.

## VI. BACKGROUND OF PNG CBC

Community Based Corrections in the form of the Probation and Parole Service has existed in PNG since the mid-1980s. Initially, the Probation and Parole Service was well resourced with over 80 trained professional staff in all 19 provinces throughout the country. The service was regarded as a pacesetter in the field, especially in the South Pacific region.

However, years of budgetary constraints have taken its toll on the quality and level of service provided by CBC, resulting in a substantial reduction in the number of staff and offenders being placed on orders. On the other hand, this has also contributed to a significant increase in the number of people sent to prison unnecessarily at cost to the state, the offender and the community.

The resultant effect on the provision of service to courts, prisons and offender numbers has been profound. By 1999/2000 the number of offenders placed on community-based programmes had dropped from a high of 2,220 in 1992 to under 750 in 1999. CBC had reached a crisis point with few available options including possible closure of provincial offices (Appendix, Table 1: Field Staff and Number of Offenders).

### A. Technical Assistance

#### 1. Institutional Strengthening Programme - AusAID

In 2000, AusAID provided technical and funding support to agencies in the law and justice sector. The support has assisted agencies in many ways such as training and reviewing and redesigning appropriate administrative practices and programmes with a view to improving its services and increasing court confidence in the services CBC provides.

#### 2. Enhanced Cooperation Programme (ECP)

The ECP is a major undertaking between PNG and the Australian government. The aim of this programme is to place Australian public servants in key government agencies to improve systems and

processes in light of the escalating law and order problems faced in PNG.

Over 200 Australian police personnel would be deployed to assist the PNG police to curb the law and order problems in the country.

### 3. United Nations Children's Fund

UNICEF provided technical and funding support for the implementation of Juvenile Justice Reforms in 2002 and continues to provide similar assistance today.

## VII. SOME NOTABLE ACHIEVEMENTS FOR CBC

### A. **Development of Community Correction Policy (CCP)**

One of the major activities achieved by CBC in 2001 has been the development of the CCP. The CCP provides strategic directions for the operation of CBC. It highlights the need to improve partnership with community organizations and to develop effective community-based alternatives to imprisonment. The CCP establishes a set of guiding principles and priority areas for implementation.

Priority Areas under the CCP are:

- The need to incorporate restorative justice in all CBC programmes;
- Encouraging community participation in community corrections;
- Increasing services to the courts and Parole Board;
- Seeking support from provincial and local level governments;
- Increasing accessibility to CBC services; and
- Increasing available services to young offenders.

### B. **Fast Track Parole**

The revised system of preparing pre-parole reports has markedly reduced the backlog of outstanding prisoner reports across the country. There were a total of 900 backlogs of cases in 2000 and by October 2004 this figure was reduced to about 218. There is also a joint parole training programme between appropriate agency personnel in this area (Appendix, Table 2: Parole Statistics 2004).

### C. **Volunteer Training**

Volunteer training has been greatly improved with the development of a comprehensive volunteer training manual and 'train the trainer' courses for all officers at CBC headquarters. This has also improved the range of duties that can be covered by volunteers. It is hoped that this would continue to increase the number of volunteers which has fallen from 466 in 1991 to 84 in 2000. The number of volunteers has since risen to 225 in 2003 (Appendix, Table 3: Volunteer Table).

Although, volunteers are not paid they are not free of cost nor are they easy to find. Volunteers are entitled to be reimbursed for expenses incurred by them and certain provincial administrations have helped meet some of these costs.

A service of 35 field officers is not able to provide adequate supervision to offenders on community-based programmes. As a result there is considerable reliance on volunteers to deliver supervision services.

### D. **Capacity - CBC**

The CCP acknowledges that CBC does not have the capacity to wholly implement the strategies described in the policy document. However, through the establishment of focus centres and provision of adequate resources and training for Officers-In-Charge of provincial centres, it is hoped that a rolling system could be established which could realize an acceptable standard of service delivery around the country.

## VIII. BACKGROUND OF JUVENILE COURT SERVICE

The JCA was passed by Parliament in 1991; however, only parts of the Act were implemented while many of the provisions of the JCA were not proclaimed for one reason or another.

The system that was then designed to improve the situation for children charged with offences had in fact worsened the situation. Since the passing of the JCA by Parliament in 1991, there was little or no effort made to protect the rights of children in conflict with the law over the last 10 years or so. The JCA was intended to provide additional protection and consideration for children in conflict with the law.

In January 2003, the PNG government endorsed the full proclamation of the JCA 1991. The proclamation of the JCA in 2003 has resulted in CBC taking on the additional responsibilities including the Juvenile Court Service, recruitment and training of Volunteer Juvenile Court Officers, establishment of protocols with police and the courts and development of partnership for mediation, counselling and supervision.

Despite the increase in responsibilities there has been no corresponding increase in the allocation of resources. As a result the CBC had to put on hold some of its roles and functions such as district court work, development of sentencing options such as community work orders and coordination and/or rehabilitation committees and Provincial Justice Working Groups.

The introduction and proclamation of the JCA is a major undertaking by the law and justice sector and will make significant changes to the way children and young people are treated when they come into contact with the law. For the first time all parts of the law and justice sector including community groups, churches and provincial and local level governments will be required to work together to improve a system that has failed young people for so long.

CBC PNG is involved in all stages of the implementation and operation of the JCA and has major responsibility in the implementation of the Act. The Department of Justice & Attorney General is the central coordinating agency in respect to Juvenile Justice Reforms with relevant stakeholders, non-government agencies, and church groups in PNG.

#### **Juvenile Justice Policy**

Because the JCA lacks a statement of objectives and general principles, it was recommended that the inter-agency working group develop a common, sector-wide policy framework for juvenile justice for each agency.

As a result, the PNG Juvenile Justice Policy (JPP) was developed and completed in 2004 as a priority government law and justice sector activity.

The development of the NJJP is aimed towards a comprehensive Juvenile Justice System based on Restorative, Melanesian tradition and contemporary juvenile justice practices.

The current JCA does not include provisions of diversion, restorative and community mediation in the legislation. Therefore, it is strongly recommended that the JCA be reviewed to reflect the statement of objectives and general principles in the NJJP. The review of the JCA is a priority activity for CBC in 2005.

### **IX. CONCLUSION**

In concluding, PNG has faced many difficulties in the past and still faces many more challenges for the future. The lack of employment opportunities, rapid economic and social change, family and community break-downs, the migration of people from rural to urban areas in search of employment opportunities, lack of basic services and many more factors that contribute to the increase in law and order problems in urban centres.

Although, successive governments have failed to respond effectively to law and order problems and put in place appropriate intervention mechanisms to allow 85 percent of the indigenous population of the country to participate meaningfully in development activities, PNG remains committed to reform as can be seen in the number of initiatives outlined in this paper. The technical and funding support from international donor agencies has assisted the various government organizations to progressively implement new initiatives in the law and justice sector together with civil society to prevent and minimize law and order problems in PNG.

Finally, there are still many challenges yet to be overcome by both the government and the wider community for a safer and more secure PNG.

**APPENDIX**

**Table 1: Field Staff and Number of Offenders**

| <b>Year</b> | <b>Probation/Parole Officers</b> | <b>Offenders</b> |
|-------------|----------------------------------|------------------|
| <b>1991</b> | 80                               | 2,220            |
| <b>1999</b> | 46                               | 824              |
| <b>2000</b> | 29                               | 719              |
| <b>2002</b> | 35                               | 1,330            |
| <b>2003</b> | 35                               | 1,440            |
| <b>2004</b> | 35                               | 1,519            |

1992-1998 Data Not Available

**Table 2: Parole Reports**

| <b>Year</b> | <b>Parole Report Outstanding</b> | <b>Parole Report Completed</b> | <b>Total</b> |
|-------------|----------------------------------|--------------------------------|--------------|
| <b>1999</b> |                                  |                                |              |
| <b>2000</b> | 900                              | Nil                            | 900          |
| <b>2001</b> | 627                              | 273                            | 354          |
| <b>2002</b> | 481                              | 146                            | 335          |
| <b>2003</b> | 294                              | 187                            | 107          |
| <b>2004</b> | 218                              | 76                             | 142          |

**Table 3: Total Number of Volunteers**

| <b>Year</b> | <b>Volunteer Probation/Parole Officers</b> | <b>Offenders</b> |
|-------------|--------------------------------------------|------------------|
| <b>1991</b> | 466                                        | 2,220            |
| <b>1999</b> | 91                                         | 824              |
| <b>2000</b> | 84                                         | 719              |
| <b>2002</b> | 139                                        | 1,330            |
| <b>2003</b> | 225                                        | 1,440            |
| <b>2004</b> | 232                                        | 1,519            |

1992-1998 Data Not Available