



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

**Consideration of reports submitted by States parties under
article 18 of the Convention on the Elimination of All Forms
of Discrimination against Women**

Combined initial, second and third periodic report of States parties

Papua New Guinea

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**Report on the Status of Women in Papua New Guinea and the
Autonomous Region of Bougainville 2008**

Combined initial, first, second, and third
Periodic reports on the Convention on the Elimination of All Forms of
Discrimination against Women

The Government of Papua New Guinea

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Acronyms

ABG-Autonomous Bougainville Government
ADB- Asian Development Bank
ARB-Autonomous Region of Bougainville
BCC-Bougainville Constitutional Commission
BEC- Bougainville Executive Council
BRA-Bougainville revolutionary Army
BWPF-Bougainville Women for Peace and Freedom
CCAU- Community Courts Advisory Units
CIMC- Consultative Implementation and Monitoring Council
DFCD-Department for Community Development
DJAG-Department of Justice and Attorney General
ECPB- Education capacity Building Programme
FSCs-Family Support Committee Centres
FSVAC- Family and Sexual Violence Action Committee
GDI-Gender-related Development Index
GoPNG- Government of Papua New Guinea
HDI- Human Development Index
HDR-Human Development Report
ICPD- International Conference on Population and Development
IWDA- International Women’s Development Agency
ILO-International Labor Organization

LLG- Local Level Government
LNWDA- Leitana Nehan Women's Development Agency
LPV- Limited Preferential Voting
LRC- Law reform Commission
MDGs- Millennium Development Goals
MTDS- Medium term Development Strategy
NCD- National Capital District
NCW- National Council of Women
NDOE- National Department of Education
NDOH- National Department of Health
NEC- National Executive Committee
NEP- National Education Plan
NES- National Education System
NPP- National population Policy
NSP- National Strategic Plan in HIV/AIDS
ODW- Office of Development of Women
OLIPPAC- Organic Law on Integrity of Political Parties and Candidates
PIC- Pacific Island Countries
PNG- Papua New Guinea
RPNGS- Royal Papua New Guinea Constabulary
SAP- Strategic Action Plan (Bougainville)
SCP- Strengthening Communities for Peace
UNDP – United Nations Development Programme
UNICEF- United National International Children's Emergency Fund
UNIFEM- United Nations Development Fund for Women
UNGASS- United Nations General Assembly Special Session on HIV/AIDS
UNPOB- United Nations Political Office in Bougainville
WABHA- Women Affected by HIV/AIDS
WHO- World Health Organisation
WIAD- Women in Agriculture Development Desk
WIP- Women in Politics

Foreword

We are aware that since ratifying CEDAW on 12th January 1995, Papua New Guinea (PNG) had already missed four reporting deadlines; we have now undertaken with success this detailed report. The process for the production of this initial, second, third and fourth periodic CEDAW Country Report has been long and often circuitous, with many past attempts unrealised.

It is my hope that the distinguished members of the CEDAW Committee of Experts will see that despite the huge challenges the women of Papua New Guinea and the Autonomous Region of Bougainville face, the Government is committed to working with all stakeholders including development partners for positive change towards gender equality.

Dame Carol Kidu, DBE MP
Minister for Community Development
Papua New Guinea
July 2008

Introduction

As a consequence of ratifying CEDAW on 12th January 1995, the Government of Papua New Guinea undertook to report on its Convention commitments within one year, and thereafter every four years. None of the first three reports were submitted to the United Nations CEDAW Committee, although efforts were made to gather data and other inputs from public and civil society organizations in 2004. The major obstacle has been the difficulty in producing and compiling data on a range of topics, including sex disaggregation for the required indicators.

This is the first report covering the Initial, First, Second, Third and Fourth periodic Reports on the Convention on the Elimination of all Forms of Discrimination Against Women of the Government of Papua New Guinea and the Autonomous Region of Bougainville. Preparations began following the *Pacific Roundtable on the Convention on the Elimination of All Forms of Discrimination against Women* which was held in Fiji in March 2006. A donor-supported mission was subsequently requested by the Government of Papua New Guinea to enable national and provincial government officials and civil society partners to improve their capacity to process sex-disaggregated data and work with the CEDAW Steering Committee.

In 2008 the process of compiling the reports commenced with guidance from inter-governmental CEDAW Core Committee consisting of the Departments for Community Development, Justice and Attorney General, Foreign Affairs, Trade & Immigration, Prime Minister & National Executive Council and National Planning & Monitoring. This was augmented by a larger Reference Group, including other Government Departments relevant to the Convention with whom a series of participatory workshops were held. The National Council of Women was consulted, as were a number of United Nations Specialized Agencies.

The Report is divided into two sections: Part One covers the rest of Papua New Guinea while Part Two examines the Autonomous Region of Bougainville, which held its first elections in 2005. The autonomy arrangements for Bougainville include a high degree of freedom to choose its own government structures and the potential to exercise wide powers and functions and to establish its own public service, police, judiciary and correctional service. The Government of Papua New Guinea retains authority over Foreign Affairs, Defence and Judiciary.

Due to the prolonged eight year conflict and the fact that the Autonomous Government of Bougainville is still in its very early stages, there is a lack of specific data and information. What is available has been presented under the relevant articles of CEDAW, thereby facilitating the development of a separate Report at a later stage. Currently the first Human Development Report for Bougainville is being prepared which will provide an updated situational analysis.

Part A: Papua New Guinea

MAP OF PAPUA NEW GUINEA



Part One – The National Context

1.0 *The Land and the People*

Papua New Guinea shares borders with Australia to the south, Indonesia to the west, Solomon Islands to the east and the Federated States of Micronesia to the north with a total landmass of approximately 465,000 km². Comparatively, Papua New Guinea is the largest and most populous of all the Pacific Island Countries.

Topographically, it is one of the most rugged and diverse countries in the world, with an extraordinary range of ecosystems.

Papua New Guinea is one of the most heterogeneous nations in the world. There are hundreds of ethnic groups indigenous to Papua New Guinea. The majority are Non-Austronesian, whose ancestors arrived in the New Guinea region thousands of years ago. The others are Austronesian, whose ancestors arrived in the region less than four thousand years ago. There are also other nationalities in Papua New Guinea including Asians, Europeans, Polynesians and Micronesians. While Papua New Guinea is classified as “Melanesian”, there is considerable cultural diversity.

The 2000 National Census for the first time was enumerated using a single uniform questionnaire that included some basic fertility and mortality questions. PNG’s population of about 6.3 million (in 2007) is dispersed widely across the country, with an average growth rate above 2 per cent per year. Fertility remains high and as a result, the population has a very broad-based age-sex structure with about 40 per cent under the age of 15. This implies a very high level of youth dependency as well as a high child-woman ratio and a low median age of less than 20 years.¹

The population distribution is uneven with 38 per cent of the total in the interior highlands region, 28 per cent in the north coast region of the New Guinea mainland, 20 per cent in the south coast region, and 14 per cent in the Islands region. The labour force is currently growing by 53,000 persons per year and this is projected to increase to 66,000 by 2020.

Year Total Women Men Sex ratio women/100 men

2007	6,331.0	3,119.6	3,211.4	97
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¹ MILLENNIUM DEVELOPMENT GOALS - PROGRESS REPORT FOR PAPUA NEW GUINEA 2004 This report was approved by the National Executive Council on 20 December 2004. It was prepared with funding support from the United Nations Development Programme in Papua New Guinea.

By 2000, infant and maternal mortality had reached 64 per 1,000 live births (72 in 1980) and 370 per 100,000 live births (400 in 1980), respectively. Total fertility rate was high at 4.6 children per woman.² Although there are more men than women, according to census data, more boy babies die than girl babies and more male children die than female. While in all populations, more boy babies die than girls, this tends to even out the sex ratios at later ages, but this is not the case in PNG. Female life expectancy was lower than male life expectancy in the 1990 census, but females gained a slight advantage over men in the 2000 census. This could be attributed to the fact that women are under-counted in polygamous families, whereby the “second, third and fourth wives are sometimes not reported by the head of the household.

PNG is a country with an extremely diverse socio-cultural profile, with a multi-faceted and complex culture. It is estimated that more than a thousand different cultural groups exist with most having their own language. The small size of most settlements, their scattered distribution across a vast landscape, and their extreme isolation from each other, has resulted in there now being over 800 local languages. The distribution of languages is complex, but those of the south coast and some islands generally belong to the Austronesian family. Highlands languages are older and classified as “Non-Austronesian” and the official languages are English, Tok Pisin (pidgin) and Motu, the main language of the south coast region.

Custom is a very important part of PNG society even for those who have received a Western education or who live mainly in the urban areas. The “wantok” system is one of the key elements of the social environment being the safety net under which family and clan members are required to support each other. However, due to modern developments and the increasing burden of support, the “wantok” system is now under pressure. Another key element is the notion of ‘Big Man’ leadership and the system of control it has engendered is strongly associated with masculinity, physical strength, power and wealth, with leaders expected to be men. While in the past such leadership was hereditary, notably through the chiefly system based on reciprocity (indebtedness and networks of exchange, of giving and receiving goods). Many of these cultural norms have had a negative impact on the notion of women and leadership and contributed to the poor showing of women in appointed or elected positions. Contemporary leadership is more acquired than hereditary and is transactional.

Women in many parts of the country used to have more power in their society than they have today. Both colonisation and development have been major contributors to the decline in the status of women. Some missionaries with their Christian family models, where a woman’s primary role is that of a wife and mother, may have added to this. The dominance of Christian religions has also augmented the preeminence of male leadership. The 2000 census showed 96 per cent of citizens were members of a Christian church, however, many citizens combine their Christian faith with some traditional indigenous practices.

² Strategic Directions for Human Development in Papua New Guinea, Asian Development Bank, Australian Agency for International Development, World Bank 2007.

While there are aspects of Christianity that do marginalise women, Christianity simultaneously opened up new spaces for women to participate in the public realm, for example, helping women to take up responsible positions in the church as prayer leaders while others took training as health workers. Women's organisations of both the Protestant and Catholic Churches were catalytic for women's participation in the public sphere. However, while Christianity provided opportunities for education of both men and women in Church agency schools and colleges, leadership in this area still remains dominated by men.

2.0 Constitutional and Political Background

PNG gained political independence from Australia on 16 September 1975 and is a parliamentary democracy, modeled on the Westminster system of Great Britain. The Queen of the United Kingdom is the Head of State and is represented by a Governor –General who is elected by the Parliament. The Parliament elects the Prime Minister, who appoints his Cabinet from members of his party or coalition partners.

All ordinary statutes enacted by Parliament must be consistent with the Constitution and the courts have jurisdiction to rule on the constitutionality of statutes. The “*underlying law*” that is, the common law of Papua New Guinea, consists of English common law as it stood at Independence (16 September 1975), and thereafter the decisions of PNG's own courts. The courts are directed by the Constitution and, latterly, the *Underlying Law Act*, to take note of the “*custom*” of traditional communities, with a view to determining which customs are common to the whole country and may be declared also to be part of the underlying law.

The current single chamber national-level parliament has 109 members comprising of one representative from each of the nineteen provinces and the National Capital District, and one representative from each of the 89 open constituencies. Provincial governments were created shortly after independence to satisfy demands for self-determination among some cultural groups with the ultimate aim of decentralising decision-making powers and services to the people. These were formed by separate elections, legislatures, and ministers of state. The 1995 Organic Law on Provincial and Local Government created a new system of provincial representation combining national level and local level representatives into one legislative chamber.

Every five years political leaders are elected to the two tiers of government, national and local level government (LLG). The provincial legislature consists of the LLG presidents as well as appointed representatives of women's groups and other components of civil society. The ward (usually comprising one village or a cluster of villages) is the lowest political unit and is represented by a LLG councilor. Under a reformed system of provincial government introduced in 1995, the regional member usually serves as the Governor.

Political parties contest each election but they are often loose and temporary alliances rather than coherent organizations based upon broad-based public membership expressing a distinctive political ideology. The large number of candidates running for election, which was until 2007

combined with a first-past-the-post electoral system, resulted in members being elected with as few as 10 per cent of the vote, and up to half of all elected members losing their seats at each election. The electoral reforms in 2001 introduced the Limited Preferential Vote system (LPV), used in the 2007 elections in which an estimated four million votes were cast out of Papua New Guinea's population of about six million was the first to be conducted using LPV.

In the early years of independence, however, the instability of the party system led to frequent votes of no-confidence in Parliament with resulting falls of the government of the day and the need for national elections, in accordance with the conventions of parliamentary democracy. In recent years, successive governments have passed legislation preventing such votes sooner than 18 months after a national election. This has arguably resulted in greater stability though, perhaps, at a cost of reducing the accountability of the executive arm of government.

In terms of women's political participation, PNG is ranked 132nd in an international ranking of 138 countries,³ with only one women representative in the National Parliament for the past decade. This is despite the fact that during this time the percentage of women contesting at the national level increased and the recent introduction of the LPV system which is purported to favour women candidates.

3.0 Economic Situation

The economy of PNG is highly dualistic, with a natural resource-based export economy supporting a small number of people, and a subsistence/semi-subsistence rural economy supporting the livelihoods of more than 80 per cent of the population.⁴ Rural livelihoods activities, including agriculture, support the majority of the population. A large proportion of the labour force is engaged within the village economy producing their own subsistence on customary land along with a range of cash crops, including coffee, tea, copra, cocoa, and palm oil. Rural areas remain underprivileged in terms of physical infrastructure and access to financial and public services, which hinder agriculture growth and prospects in rural areas.

PNG has had a sustained lack of economic growth over the past decade, been declining over much of the first half of the 2000's, and poverty levels have increased significantly and are high relative to East Asia and the Pacific and the rest of the world. It is estimated that 40 per cent of the PNG population live on less than \$2 per day and 70 per cent on less than \$1 per day, compared with 39 per cent and 12 per cent respectively for the East Asia and Pacific Regions.⁵ **The 2007-8 UNDP Human Development Report ranks Papua New Guinea 145 out of 177 countries on the Human Development Index Scale, the lowest of the Pacific countries.**

³ Women in National Parliaments, IPU 30 April 2008.

⁴ Asian Development Bank 2006.

⁵ UNITED NATIONS DEVELOPMENT ASSISTANCE FRAMEWORK PAPUA NEW GUINEA 2008 – 2012 *CAPACITY DEVELOPMENT AND PARTNERSHIPS FOR NATION-BUILDING* Port Moresby November 2006.

The size of the formal sector in PNG is small. While reliable statistics are not available formal sector employment is estimated to be about 135,000 jobs of which about 70,000 are in the private sector, as against a working age population of about 2.6 million. Formal sector employment has been virtually stagnant since 1990; the increase over 12 years between 1990 and 2002 was by 3.5%, and since 1996 there has been a decline of 2.5 per cent.⁶

In rural and urban areas, the formal sector which is capital-intensive provides few employment opportunities. Neither the agriculture nor the other sectors have generated sufficient jobs to absorb the unemployed or the growing population of new entrants into the labor market. At the same time, the labor market suffers from low education, skill standards and poor motivation of much of the workforce. Among other problems, high unemployment rates, especially among young people contribute to the deteriorating law and order situation.

PNG's *Millennium Development Goals (MDGs) Report 2004* argues that not only is the country unable to meet MDG targets, but it may not be able to even meet its own targets which are already set below international MDG targets. Many people in a large part of the rural sector have only limited access or no access at all to basic education and health services. Furthermore, the limited empowerment of women and the high level of gender inequality also contribute to poverty in PNG.

The Medium Term Development Strategy (MTDS) is Papua New Guinea's overarching plan for economic and social development. The MTDS is a general, medium-term policy framework with the core goals being "*export-driven growth, rural development and poverty reduction, through good governance and the promotion of agriculture, forestry and fisheries on an ecologically sustainable basis*". The current MTDS 2005–2010 reiterates the government's commitment to the Millennium Development Goals (MDGs) and recognizes that health and education outcomes are crucial to meeting PNG's human development objectives.

The MTDS aims to foster sustainable improvements in the quality of life of all Papua New Guineans and although gender is identified as an important issue in the MTDS, it has not been designated as a priority for government expenditure. The Performance Management Framework Pocketbook developed by the Department of National Planning and Monitoring includes three specific gender equality indicators and several gender-related indicators for monitoring and evaluating the implementation of the MTDS. The key challenges to implementation relate to the need for good governance, political stability, accountability and the rule of law.

4.0 Sector Performance

The gender-related development index (GDI), which includes life expectancy, educational attainment and income shows that in every province, male achievement is greater than for females. Similarly, the gender empowerment measure, which includes measurement of

⁶ PAPUA NEW GUINEA: POVERTY ASSESSMENT, June 2004. World Bank.

inequality between men and women in key areas of economic and political participation and decision-making, is low.

In many provinces, women are disadvantaged in terms of access to services. The gender gap in education and literacy is significant, although recent evidence suggests that young females (aged 15 to 24) are catching up with their male counterparts. Gender differences in adult literacy are even larger than those for those aged 15 to 24, with a strong bias in favour of males. According to the 2004 MDG report, “these gender differences are more profound in the Highlands Region. This also applies to many other key indices, such as health, morbidity, [and] mortality.”

The national 2004 MDG Report shows that provinces with the highest gender equality are also the ones that are developing the fastest (National Capital District, the Islands Region Provinces and the Southern Region with the exception of Gulf). The Momase Region has a relatively high gender equity but dragged down by low performance in poverty, hunger and mortality indices. The Highlands provinces score relatively low on gender equity and on overall development, with HIV/ AIDS data also suggesting that they are amongst some of the worst affected provinces in the country.

Table 1: Social indicators 2000 Census⁷

Total Male Female
% of population 10 + yrs

Who are literate	56.2	61.2	50.9
who have ever been to school	56.3	61.7	50.9
who have completed grade six	38.3	42.9	33.4
infant mortality rate (per '000)	64	67	61
child mortality (per '000)	25	27	23
under 5 mortality rate (per '000)	87	92	82
life expectancy at birth (years)	54.1	63.7	54.8
life expectancy at 25 yrs.	37.9	37.7	38.1

⁷ World Bank, PNG Poverty Assessment, Table: PA Data at a Glance, June 2004.

The crisis in the country's health system, described by the National Health Plan 2001-2010 as "a collapse of the health system", underlines the need for a more sustainable approach to supporting rural health services, including new funding policies and strategies. Human development sectors are at an important crossroads with a large unfinished agenda and facing a range of critical challenges. Health outcomes have stalled over the last quarter century and have even been in decline over the last decade with maternal and infant mortality rates remaining unacceptably high. HIV and AIDS is a generalized epidemic and appear to be following trends in other countries and proving a disproportionate impact on women.

Life expectancy for women in PNG is lower than that of men, whereas the reverse is true for most societies around the globe. These and other factors such as women's excessive workloads, poor nutrition, and lack of access to safe water, poor access to health centers, high number of pregnancies and high rates of family violence undoubtedly contribute to the significant gender disparities between female and male life expectancy at birth.

While total fertility declined from 5.1 lifetime births per woman in 1990, to the current 4.4, with about 20 per cent of women using modern family planning methods,⁸ Papua New Guinea still has one of the highest global rates of maternal mortality with a figure of 930 per 100,000 births. The 2001 National Department of Health (NDOH) data reported that 15,000 babies less than 1 year old die every year, with another 13,000 children dying before their fifth birthday, and a total 3,700 mothers dying each year from childbirth. Almost 60 per cent of pregnant women are cared for by trained health personnel and about 35 per cent of births are in health facilities. Community support for health services is poor. According to the National Health Plan 2001-2010, staff are frequently harassed, female staff raped, equipment stolen and facilities vandalized.⁹

The government's Health Medium Term Expenditure Framework (HMTEF, 2004-2006) and the draft Strategic Plan (SP 2006-2008) provide a strong framework for gender equality interventions in the health sector, with priorities on safe motherhood and family planning being an opportunity to address reproductive health issues in restoring health services with regards to service delivery. The government relies heavily on churches and community groups. The extensive church/community group network provides around 50 per cent of all health and education services in the rural sector. Recently, government increased funding to the churches and community groups to improve service delivery.

Any advances, however, may well be overtaken by the fact that Papua New Guinea is facing one of the most serious HIV epidemics in the entire Asia Pacific region with a demonstrated potential for a generalized heterosexual epidemic with the potential impact of an African epidemic.¹⁰ In 2005 it was estimated that about 69,000 or 2.4% of the 2.9 million people (14-49 years old) are HIV positive. According to one of Papua New Guinea's leading child welfare

⁸ WHO 2005.

⁹ National Health Plan 2001-2010.

¹⁰ United Nations Development Assistance Framework, Papua New Guinea, 2008 – 2012 *CAPACITY DEVELOPMENT AND PARTNERSHIPS FOR NATION-BUILDING* November 2006.

authorities, “current HIV/ AIDS trends in the country, combined with the social, economic and political realities threaten a unique epidemic.”¹¹ It has been projected¹² that with an adult infection level of 18 per cent by 2020 the working age population will be reduced by 13 per cent, resulting in a 34 per cent reduction in the work force. The longer term gendered impact of this is yet to be determined.

In 2007 the adult literacy rate stood at 63.4% for males and 50.9 per cent for females,¹³ with literacy levels highest in the National Capital District (NCD) at 92 per cent for males and 89 per cent for females. The lowest literacy rates were in the five Highlands provinces and West Sepik. In 2000, 55 per cent male citizens over the age of 5 years had received some schooling while only 46 per cent of females over the age of five had done so. The number of students enrolled in school for both sexes were highest in the National Capital District, Manus and East New Britain Provinces and lowest in the Highland Provinces.

However, school enrollments have to be placed in the context of high attrition levels in PNG schools. The completion rate for girls in grade six is 33 per cent compared to that for males at 43 per cent. While the completion rates for grade ten are even lower still, 9 per cent of the female students had completed grade 10 compared to 14 per cent for males. The combined gross enrollment ratio for primary, secondary and tertiary education in 2005 was 38 per cent for females, and 43 per cent for males.¹⁴

The new Ten-Year Education Plan (2005-2014) launched in 2005 is guided by the targets set by the Millennium Development Goals (MDG) and the 1990 Jomtien Declaration on Education For All goal of universal primary education by 2014. A policy of Gender Equity in Education was launched in 2002 to redress the gender gaps at all levels of education.

5.0 Status of Women

Although men and women have equal rights under the constitution and PNG is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), gender inequality remains a severe impediment to development and one of the most visible violations of human rights.¹⁵ PNG can be characterized as a patriarchal society in which women continue to face, at times severe inequalities, in all spheres of life: social, cultural, economic and political. Papua New Guinea has a 2007/8 Gender-Related Development Index (GDI) of 124, giving it an equivalent ranking to its HDI and placing it once again at the lowest level for all Pacific Island Countries (PICs) and just above Haiti and Sudan.

¹¹ Families and Children Affected by HIV/AIDS and other Vulnerable Children in Papua New Guinea, AUSAID commissioned study, 2002.

¹² Ibid.

¹³ UNDP Human Development Report 2007.

¹⁴ Ibid.

¹⁵ Papua new Guinea Common Country Assessment 2001.

The unequal status and power relations of women's conditions in PNG, is perhaps most graphically illustrated in the personal insecurity faced by women and girls due to extreme forms of gender-based violence, including rape, with half of all reported victims of sexual abuse under 15 years of age and one in five assault victims are between ages 16 and 20.

While the current MTDS recognizes that “*while there has been progress in reducing the disparity between male and female enrollments in formal education, much work is still required to improve both the health status of women and their participation in decision making at all levels*”.¹⁶ Gender issues and approaches, however, are not explicitly and systematically integrated into all the MTDS components, in particular the major economic strategies.

The United Nations Country Programme (UNCP) 2008-12 has designated gender as a cross cutting theme to be mainstreamed across all outcome areas, it is also a specific outcome area in the UNCP. Thus, based upon an analysis of the status of gender relations and women empowerment in PNG, the UNCP 2008-2012 identifies three (3) key entry points for addressing gender inequalities in PNG: (i) Women in leadership; (ii) Gender-based violence, (iii) Girls education.

6.0 Challenges

In general, the operating environment in PNG is complex and consists of constraints in moving forward on gender equality objectives. There are many barriers to women's advancement and empowerment which require immediate attention:

- *Gender-based Violence:* Efforts to address family and sexual violence within government have been slow because of policy makers' reluctance to acknowledge domestic and other forms of gender-based violence as public matters, and to understand the dynamics and consequences of family and sexual violence. There has been little coverage on these issues or their human rights implications. The overall approach to gender-based violence issues has been unstructured and uncoordinated, with little communication and coordination between agencies and no existing network to link agencies working on similar issues around the country. The work by the Law Reform Commission (LRC) nearly collapsed because of inadequacies in its institutional framework and a lack of human and financial resources. In 1999 public concern towards domestic violence was given a renewed focus when a series of meetings were facilitated by Lady Carol Kidu to analyse the status of the recommendations contained in the LRC Report on Domestic Violence. Despite these attempts and more recent work done by the Family and Sexual Violence Committee to work on a Family Protection Bill, there still exists no legislation specific to domestic violence. One positive outcome of the on-going consultative meetings (government and non-government agencies) was the passage of amended and new

¹⁶ GoPNG Medium Term Development Strategy.

legislation on rape, sexual assault and child sexual exploitation accompanied by amendments to the Evidence Act.

- *Reproductive Health and HIV/AIDS:* In Papua New Guinea, girls and women are infected at a younger age than boys and men, with twice as many women as men are infected in the 15-29 age group. Girls between 15 and 19 have the highest rate of HIV/AIDS in the country; four times that of boys the same age. Trans-generational infection routes are common and customary practices enhance girls' and women's vulnerability. In addition, condom use is low, marriage is not a protective institution for women and gender relations are not equal. Biased gender norms prevent women from accessing information and seeking treatment. Behavior change strategies and activities should specifically address the link between gender-based violence and HIV/AIDS risks and vulnerabilities and should specifically be targeted at young men and boys. The strategy for restoring rural health services should include structural and policy reform, as well as human resource development linked to specifically reducing maternal and child mortality rates.
- *Public Finance Management:* The Public Expenditure Review and Rationalisation (PERR) process, has opened up the possibilities for greater consultation and participation in the budget process and national planning. A programme to build the capacity of government departments, women's organizations and gender-equity advocacy groups in civil society, to participate in national planning and budgeting processes should be undertaken. Strategies for this should be developed in collaboration with the Ministry for Community Development, the National Council of Women (NCW) and the Office for Development of Women (ODW). Indicators and mechanisms to assess and evaluate the gender-impact of public sector reforms need to be put in place.
- *Education:* Widespread lack of gender equity leaves girls and women without equal access to basic services. Proactive programs to accelerate the girl child's access to education and role model programs have had some positive impact statistically but the achievement of gender equity and improved access, retention and completion of basic education for females remains a challenging key result to achieve of the MDG target for Papua New Guinea.
- *Economic disparities/Livelihoods:* Gender-based impediments to private sector development and strategies need to be addressed at the highest policy-making levels, with a gender profile of the private sector undertaken to aid gender-sensitive policy development. The progress made on empowering women's entrepreneurship in the informal economy as an entry point to business for women with limited formal education needs to be accelerated with increased targeted government interventions. The increasing marginalization of women from land and resource usage rights (in both patrilineal and matrilineal societies) has also increased the feminization of poverty and indicate a need for specific engendered

land policies which unfortunately were not included in the recent land reform task force report.

- *Lack of women's representation in decision-making:* Affirmative action measures to accelerate women's political representation have been endorsed by the National Executive Council (NEC). This Cabinet Decision in June 2008 has recognized the need for affirmative action and also supported the drafting of an Organic Law on Gender Equity. The women's voice in high-level decision-making is also notably lacking in the public service and the judiciary, calling for affirmative action measures to be taken to redress the imbalances.
- *Gender Policy and Mechanisms:* A review of the Women's Policy is well overdue. It should also be noted that despite the existence of several policy documents, there is no overall strategy for implementing gender mainstreaming across government, particularly in poverty reduction and development. While agreeing to various policy initiatives has presented no significant problems in PNG, what is lacking are strategies and competent structures for women's empowerment and gender equality, fully supported and resourced, to carry on the task of institutionalizing gender in government institutions, systems, processes and programs. The implementation of the National Executive Council (NEC) decision to establish the Office for the Development of Women, including provision of government budget expenditures for the office, and development of staff capacity should be enhanced by placing it in a strategic area of government policy-making and building staff capacity to operate the office effectively.

Part Two: Commentary on articles of the Convention

Article 1 Definition of discrimination

Article I

For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

1.0 National Goals and Directive Principles

The PNG Parliament ratified CEDAW without reservations in 1995, and in so doing agreed to condemn discrimination against women in all its forms. The Constitution of Papua New Guinea contains what is generally called the National Goals and Directive Principles. These are the guiding principles for governance. Whilst they are not enforceable per se in a Court of Law, it is a requirement that all constitutional laws affecting rights of an individual must have a reference point in these Goals and Principles.

The National Goals and Directive Principles of the PNG Constitution uphold both *Integral Human Development* and *Equality and Participation*. The former declares that *every person to be dynamically involved in the process of freeing himself or herself from every form of domination or oppression so that each man or woman will have the opportunity to develop as a whole person in relationship with others*. The second National Goal provides for the equality of all citizens and directs that opportunities must be created for all citizens to participate actively in the political, social, education advancement and economic activities in the country.

1.1 The Constitution

The Constitution is the Supreme Law of Papua New Guinea and sets out to recognize the goals and principles of the people of PNG and to entrench rights and promote enforcement of those rights for all Papua New Guineans, subject to the public interest. The Constitution in furtherance of these National Goals and Directive Principles created a number of constitutional rights, which are absolute and also created a number of other rights, which are not absolute but can be regulated by an Act of Parliament that complies with a number of preconditions.

The Basic Rights section of the Preamble guarantees fundamental rights and freedoms of the individual “whatever their race, tribe, places of origin, political opinion, colour, creed or sex...” The Preamble also calls for ... *every citizen to have equal access to legal processes and all services, governmental and otherwise, that are required for the fulfillment of his or her real needs and*

aspirations. Section 55 permits “the making of laws for the special benefit, welfare, protection or advancement of females, children and young persons....

The Constitution recognizes “Equality of citizens” and in Section 55 contains acknowledgment that. *Subject to this Constitution, all citizens have the same rights, privileges, obligations and duties irrespective of race, tribe, place of origin, political opinion, colour, creed, religion or sex, and guarantees many of the rights and freedoms required by CEDAW.*¹⁷ Sanctions can be imposed for breach of the Constitution’s anti-discrimination clause with imprisonment for up to 10 years.¹⁸

The Constitution also recognises that the Papua New Guinea society is based on the family unit and it is the family unit that must be strengthened. *A proper implementation of this Directive Principle in our Constitution will mean that the exercise of individual rights must be for the benefit and strengthening of the family unit. This prime objective runs counter to the western philosophy of individual rights. The primacy of individual rights breaks down the family unit, creates social discourse and disharmony and leads to breakdown of state services*¹⁹ Absolute rights including the right to life are guaranteed under the Constitution. Accordingly, the question of the right to life is sacrosanct under the constitution, thereby determining that abortion is a crime under PNG’s criminal law system. Amending such a constitutional provision could prove difficult.

The Constitution does not contain a definition of discrimination or any specific anti-discrimination clause, nor does it guarantee substantive equality between men and women. There is no legal definition of discrimination against women in the private or domestic sphere and since CEDAW has not been accorded the status of domestic law under a Constitutional law or an Act of Parliament, the Convention does not form part of the domestic law of Papua New Guinea, hence having no domestic effect. If an Organic Law on Gender Equity was developed, it could incorporate CEDAW and thereby serve as the basis of a revised Women’s Policy.

1.2 Customary Laws

The Constitution declares the “underlying law” that is, the separate common law of Papua New Guinea is to consist of the Constitution, “customary law” derived from the “custom” of the various peoples of Papua New Guinea, and the common law of England as it stood at the date of Papua New Guinea’s independence on 16 September 1975. The “customary law” portion of the “underlying law” was contemplated by the original framers of the Constitution as deriving from the regional customs of the country in the same way as the common law of England. Subject to the Customs Recognition Act of 1963 *custom shall be recognized and enforced by, and may be pleaded in, all courts except so far*

¹⁷ Constitution of Papua New Guinea, s.55(1),s35-38.

¹⁸ Ibid., s 23.

¹⁹ PAPUA NEW GUINEA STATEMENT DELIVERED BEFORE THE TWENTY-THIRD SPECIAL SESSION OF THE GENERAL ASSEMBLY ENTITLED “WOMEN 2000: ON GENDER EQUALITY, DEVELOPMENT AND PEACE FOR THE 21ST CENTURY 6 June 2000.

as in a particular case or in a particular context its recognition or enforcement would result, in the opinion of the court, in injustice or would not be in the public interest; or in a case affecting the welfare of a child under the age of 16 years, its enforcement would not, in the opinion of the court, be in the best interests of the child. (Article 1)

In 2000 the National Parliament enacted the *Underlying Law Act 2000* which purports to mandate greater attention by the courts to custom and the development of customary law as an important component of the underlying law. In the application of sources of underlying law, both the *customary law; and the common law, shall be adopted and applied as part of the underlying law* and customary law shall apply unless it is *inconsistent with a written law; or its application and enforcement would be contrary to the National Goals and Directive Principles and the Basic Social Obligations established by the Constitution ; or its application and enforcement would be contrary to the basic rights guaranteed by Division III.3 (Basic Rights) of the Constitution.* (Articles 1 & 2).

1.3 Gender-based violence

In regards to violence, there is no specific reference to or law which addresses all aspects of gender-based violence. The Preamble to the Constitution specifically provides that the people of Papua New Guinea *reject violence and seek consensus as a means of solving our common problems* and that *No person shall be submitted to torture (whether physical or mental), or to treatment or punishment that is cruel or otherwise inhuman, or is inconsistent with respect for the inherent dignity of the human person.*²⁰ In regards to issues such as domestic violence, there is no specific legal protection, with two offences under the Criminal Code applicable, one covering common assault for which there is a maximum of 6 months imprisonment, and the other concerning aggravated assaults which carries a fine or up to 12 months imprisonment.²¹

Both provisions do not embrace the variety of situations that constitute domestic violence and fall well short of compliance with CEDAW²² as well as the United Nations Declaration on the Elimination of Violence Against Women, which calls on States to *exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the state or by private persons.*²³ Under the 1974 Criminal Code it is an offence for a woman over 18 to ‘permit’ carnal knowledge by father, brother, son, or other lineal ancestor and it is a defence if she was acting under ‘coercion’.²⁴ Full compliance with CEDAW requires an express definition of ‘coercion’, which includes either the differential power imbalance or the abolition of the provision.

The Code covers the offence of rape and defines coercive circumstances if there is a lack of consent, use of force, threats or intimidation, or fear of bodily harm, false representations as to

²⁰ Ibid., Section 36(1).

²¹ Criminal Code 1974, Section 343, 344.

²² UNIFEM/UNDP 2007.

²³ Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104 of 20 December 1993.

²⁴ Criminal Code 1974 Section 224.

the nature of the act.²⁵ The crucial issue of the offence is that of the consent, or lack of it, in the victim. Under the revised Criminal Code, the Sexual Offences and Crimes Against Children Act of 2002 has introduced a new sexual assault regime which incorporates a series of offences covering all forms of abuse, graded on the basis of seriousness to the victim with substantial penalties for such offences.

1.4 International Conventions, Treaties and Commitments

In addition to CEDAW, PNG has also ratified five other international human rights Conventions: the Convention on the Rights of the Child (CRC),²⁶ the Convention on the Elimination of all Forms of Racial Discrimination (CERD), the Convention Relating to the Status of Refugees (CRSR) (with some reservations entered). The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Papua New Guinea has also ratified a total of 24 ILO Conventions. The most relevant to women are the Convention on Underground Work (Women) (No. 45) and the Convention on Employment Policy (No. 122), Conventions on Maternity Protection (Revised) (No. 103), Discrimination in Employment and Occupation (No. 111), Equal Remuneration (No. 100) and on Minimum Age (No. 138). Women still face particular problems outside the legal framework covering employment which have nonetheless a considerable influence on their opportunities and treatment in the labour market.

The Government has also made international commitments to gender equality in implementing both the Beijing Platform for Action, the Pacific Platform for Action, as well as the Commonwealth Plan of Action. It is also a signatory to the Millennium Development Declaration and has undertaken to uphold the Millennium Development Goals, particularly Goal 3 to *Promote Gender Equality and Empower Women*. The MDGs have been incorporated into the Government's current Medium Term Development Strategy (MTDS) 2005-2010 which recognize that *Protection of the vulnerable and disadvantaged, and the promotion of gender equity, is both a moral and constitutional obligation for government.*

For the Conventions it has already ratified, and the commitments made at regional and international levels, PNG has yet to adopt any action plan to implement them. The public, meanwhile, is largely unaware of these obligations, let alone how any of these Conventions, would affect their lives if implemented.

²⁵ Ibid., Section 347.

²⁶ PNG submitted its Initial Report to the Child Rights Committee in 2000.

Article 2 Obligations to Eliminate Discrimination

States parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

2.0 Human Rights Bodies

The PNG Constitution extends the obligation to eliminate discrimination to public authorities and institutions, private persons, organizations and enterprises. However, there are no special provisions for discrimination on the grounds of sex/gender, or specific sanctions, fines or penalties for gender-based discrimination. The Constitution of PNG guarantees the basic rights and freedom of the individual regardless of their race, sex, political opinion, tribe and place of origin, capturing the spirit of the *Universal Declarations of Human Rights*.

There is currently no human rights commission in PNG. In 1995, the United Nations Centre for Human Rights in Geneva sent a mission to PNG to assess human rights needs which recommended the establishment of a national human rights commission as a key step toward human rights protection. After that, the National Executive Council (NEC)²⁷ approved the proposed establishment of such a commission but with a change of government in 1997 the

²⁷ The Cabinet, appointed by the Governor-General at the Prime Minister's recommendation.

issue was not a priority. Making efforts to revive the policy, the Department of Justice and Attorney General (DJAG) produced an options paper in 2003 on *Establishing a Human Rights Commission in PNG*. The work on establishing the Commission has progressed to an advanced stage. Drafting to amend the Constitution and establish an Organic Law on Human Rights Commission is underway with UNDP providing technical assistance.

The Ombudsman Commission (OC) operates independently from the Government and is one of three national bodies making any efforts to address human rights problems. Under the Human Rights Protection and Monitoring Project funded by UNDP/UNV (six months ended December 2005), the Ombudsman Commission set up the Anti-Discrimination and Human Rights Unit (ADHRU). The Unit receives human rights complaints and refers them to appropriate authorities for actions. Both the Department of Justice & Attorney General (DJAG) and the Department for Community Development (DFCD) have also set up a human rights desk to facilitate awareness on the role of the Human Rights Commission and to educate citizens on their rights and responsibilities guaranteed under the National Constitution and the International Human Rights principles.

The PNG judiciary is independent of the government and protects constitutional rights and interprets the laws. There are several levels, culminating in the Supreme Court.

2.1 Gender-Based Violence

A 1997 study of the situation of children and women in PNG concluded that: *“The prevalence of domestic violence must be viewed within the larger social environment that has given rise to increased levels of sexual violence against women. Whether an act of harassment in the workplace, an act of forced sex by a man against his girlfriend or wife, or the rape of an unknown victim, by a gang of criminals, the current climate of sexual violence has created a situation that restricts, controls and diminishes women’s meaningful participation in development and violates their basic human rights.”*²⁸

As recognized in a recent Law and Justice White Paper: *The gender of violence is a striking feature of contemporary disorder in our country. Most perpetrators are young men, while a disproportionate number of victims are women and young girls. Beneath the symptoms of disorder lie deeper issues regarding masculinity, identity, and socialisation among the young - matters that fall well beyond the narrow realm of the formal law and justice sector and its agencies. HIV and AIDS, a potentially crushing force in Papua New Guinea today, is tightly linked to how we treat our women and children. The poor behaviour of men and weak leadership inhibit urgently needed behavioural change.*²⁹

²⁸ GOPNG and UNICEF 1997.

²⁹ A Just, Safe and Secure Society: A WHITE PAPER ON LAW AND JUSTICE IN PAPUA NEW GUINEA 2007.

A World Health Organisation database on violence against women (1984-1998) in the *State of the Worlds Children 2000* Report states that 56.1 per cent of women were physically assaulted, not including sexual abuse or rape, making it the world's second highest rate of violence against women. Extensive research on domestic violence by the Law Reform Commission (LRC) found that on a national average wife-beating affected two out of every three wives. Research by the PNG Institute of Medical Research found that over half the women interviewed had experienced sexual violence, whether by their husbands or by other men.

Intimate partner violence, commonly referred to in Papua New Guinea as “wife bashing”, is perhaps the most common form of domestic violence, and violence against women more generally. To a large extent, the criminal law provisions already in place in Papua New Guinea enable the State to prosecute and punish acts of violence against women. No distinction is made in statute between violence which occurs in the context of a family relationship and in the wider community life.

In 1986, the Law Reform Commission (LRC) passed laws making wife beating a criminal offense and punishable by law, with perpetrators charged with offences such as common assault and grievous bodily harm. The LRC drew attention to the need for law enforcement officials to treat assaults against wives seriously, using existing charges. In 1992, the LRC was required to conclude its work on domestic violence. A final Report was produced which made 54 recommendations for further action covering areas such as:

- legal reforms and actions required to strengthen the application of the criminal law and police responses;
- legal reform and actions required to improve other means of legal protection outside of the criminal justice system;
- measures required to maintain public awareness campaigns, educational programmes and professional training;
- measures required to improve counseling for victims and offenders; and measures required to improve services, particularly in the area of health and accommodation, for victims.

This Report was presented to Parliament but neither the recommendations for legislative reform nor the recommendations for broader action were taken up by the government. Instead, government focus on domestic violence substantially decreased and the momentum for change dissipated. The majority of the LRC's recommendations are yet to be implemented.

2.2 Criminal Code (Sexual Offences and Crimes against Children)

The Criminal Code is the law that deals with all serious or “*indictable offences*”, that have to be tried in the National Court. Other minor criminal offences are dealt with under the Summary Offences Act which is in the District Courts. In 2003 with the introduction of the Criminal Code (Sexual Offences and Crimes against Children) Act PNG changed its sexual assault regime by introducing a series of new offences graded according to the seriousness of the harm and incorporating the ways in which women are sexually violated. Tougher sentences were

introduced, the marital immunity that had previously protected husbands from a charge of rape was removed, as was the requirement for corroboration.

The Act provides that a person who engages in an act of sexual penetration or sexual touching of a child between the ages of 16 and 18 years with whom the person has an existing relationship of trust, authority or dependency is guilty of a crime.³⁰ This offence is targeted especially at persons in charge of children and who have the duty and responsibility of caring, raising and generally providing for the welfare of those children in their care. These persons include parents, step-parents, adoptive parents or guardians, school teacher, religious instructor, counselor or youth worker, health care professional, and police or prison officers. The most common defence to a charge of sexual offence committed against a child was that the accused believed on reasonable grounds that the child was of or above the age of 16 years.

Under the new law the crime of rape is now recognized as an offence that can be committed by both males and females and both can be victims and a female can also be guilty of rape if she ‘sexually penetrates’, as defined, another person without his/her consent. The state of being married to the victim is no longer a defence for the accused, making the marital rape exemption rule under the old law is now a thing of the past. Under the new law, *A person who sexually penetrates a person without his or her consent is guilty of a crime of rape. Penalty: [Up to] imprisonment for 15 years ; and where an offence under subsection (1) is committed in circumstances of aggravation, the accused is liable, [Up] to imprisonment for life.*³¹

Section 223 of the Act also addresses incest and upholds that if the victim is a child under the age of 16 years or is between the ages of 16 and 18 in a relationship of trust, authority and dependency to the perpetrator, this would constitute an act of unlawful sexual penetration or conduct. Incestuous sexual connexion with a person under the age of 16 cannot be consensual and therefore amounts to incestuous rape as well as unlawful sexual penetration of a child. The penalty for incestuous sexual penetration of a child under the age of 16 years, regardless of whether the child is a blood relative or not, is up to 25 years imprisonment or up to life imprisonment if the victim child is less than 12 years old or is in a relationship of trust, authority and dependency, as defined, with the offender. So, the charge of incest is now extended to include not only the victims of most immediate family, but also to the extended family excluding adopted children unless they are from an immediate family.

To a large extent, the criminal law provisions already in place do enable the State to prosecute and punish acts of violence against women. No distinction is made in statute between violence which occurs in the context of a family relationship and violence which occurs in the context of wider community life. For example, it is not a statutory defense to a charge of assault, for a husband to claim that he was ‘chastising’ or ‘disciplining’ his wife. Likewise, the amendments to the Criminal Code reformed the definition of rape so that it includes sexual penetration without consent whether it occurs within marriage or not.

³⁰ Section 229E.

³¹ Sections 347 of the Criminal Code.

These amendments were introduced as a Private Members Bill by the Minister for Community Development, Dame Carol Kidu, and were drafted and passed with the assistance and lobbying of the Family and Sexual Violence Action Committee (FSVAC). The successful passage of the amendments through parliament represented a major achievement, particularly given that they challenged some deeply entrenched views regarding a man's assumed right to have sexual intercourse with his wife. In the past women subjected to marital rape had no legal recourse, but now the offending husband can be charged with rape. But the reluctance of police to lay charges in line with the amended laws still remains a challenge to be overcome, as does the manner in which such charges are dealt with in the Village Courts.

2.3 Amendments to the Evidence Act to Assist Victims of Gender-Based Violence

Legislative reforms have been introduced to overcome some of the fear and humiliation that victims often experience when giving evidence in rape and other sexual assault cases. Amendments to the Evidence Act, which came into effect in 2003, now provide that court hearings in sexual offences cases may be closed to the public, that the victim may have a support person while giving evidence and that the accused is not allowed to cross-examine the victim. Further there are restrictions on what types of questions the victim can be asked about prior sexual conduct and no evidence may be admitted as to sexual reputation. If it was proved that she was a 'common prostitute', the Court was inclined to not listen to her story. The accused is no longer able to cross-examine the complainant personally which has to be done by a lawyer or prosecutor. Under the newly amended laws an opportunity has been provided to allow the victims to tell the Court what she/he thinks should be done to the offender.

Medical evidence of rape is not obligatory since it is now recognized that it is almost impossible in PNG for victims of rape, many of whom live in remote areas, or in areas where health services are not accessible, to be medically examined soon after and a report made so that a conviction in Court can be secured. Under the old law on rape corroborating evidence was necessary in particular, medical evidence before the Court could make a conviction of rape. However, this does not change the burden of proving the case in Court, which in all criminal cases in PNG is "*beyond all reasonable doubt*".

This Act defines a child as under 18 years of age and the Court now has more options to make evidence giving in Court easier for child victims of sexual offences, for example, the use of a child welfare worker or a friend of the child to help translate between the child's evidence and official court language. Evidence can now be given at a pre-trial hearing or be video-taped.

2.4 HIV/AIDS Management and Prevention Act

The pattern of HIV/AIDS infection in PNG is following that of Africa, where for the same reasons - rape, child sexual abuse, domestic violence, poverty and prostitution - far more women than men are dying of AIDS, many after passing on the infection to their children at birth. According to the National AIDS Council, girls 15 to 19 years age group have the highest rate of HIV/AIDS, and are

being infected at four times the rate of boys the same age. The carriers are largely men who may not know they already have an infection, and look for younger girls who they hope are still “clean”.³²

The enactment of the HIV/AIDS Management and Prevention Act 2003 gave effect to the Basic Rights acknowledged in the Preamble of the Constitution. This Act caters for the prevention of the spread of HIV/AIDS and the management of discriminatory practices of people living with or believed to have HIV/AIDS; and the protection of public health, and for related purposes.

However, given that the epidemic is affecting particularly younger women at an ever increasing rate, Article 20 of the Act only permits a person providing treatment, care or counseling service to an infected person to notify the sexual partner at the request of the infected person. Notification can also be given if in the opinion of the person counseling the infected person and that person has failed to achieve appropriate behavioural change; and the infected person has also refused to notify, or consent to the notification of, the sexual partner.

The Act also deals with mother to child transmission but there is nothing which applies to the transmission of HIV by a woman to her child, either before, during or after the birth of the child. However, the Act does not contain anything about gender based violence or discrimination.

2.5 Legal recourse for the pursuit of women’s rights - Village Courts

While women have equal rights to pursue matters through the national courts, lack of legal understanding and processes, and financial assistance to seek legal redress, make access to the formal justice system difficult. PNG’s Public Solicitor’s Office long ago ceased providing legal aid in family cases. Given their lower rates of literacy, access to the cash economy, mobility and lack of decision making power, women have less access to the formal justice system than men. A person in Papua New Guinea who has been threatened with violence by another can petition the District Courts to require that other person to enter a “good behaviour bond”, which were not specifically designed to deal with domestic violence. In reality, very few women are able to apply for civil orders of this type.

The people accept and respect customary law, however, as a means to settle disputes. Formal courts such as the District Courts are irrelevant to the people in the villages and the urban settlements. Village Courts are intended to resolve disputes arising in a manner consistent with local customary law and operate throughout the country, providing an accessible and economical local level judicial system. This court system which has the principles of restorative rather than punitive justice at its core, is enshrined in legislation and supported by national, provincial and local level governments. In the village court, customary law has precedence over all other law except the Constitution.

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

³² PINA Nius Online, May 3rd 2001.

with the Village Court Act 1989. They play a role in preventing the escalation of minor disputes and conflicts and 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.

In 2001, it was reported that there were about eleven hundred courts, exercising jurisdiction across eighty per cent of Papua New Guinea. Of all government institutions, the Village Courts are in the best position, subject to restrictions on jurisdiction, to offer women protection from gender-based violence, to punish minor assaults against women and to order compensation be paid when women suffer violence. However, in applying customary law, the Village Courts, depending on the contents of that law and how it is applied, are also in a position to discriminate against women and deny them their rights.

While village courts can hear disputes about bride price, custody of children and matters relating to so-called domestic problems, they are not authorised to dissolve marriages. Women complainants or respondents face particular difficulties in their dealings with the village court system. The mixture of “contemporary traditional” and official western-style practices that have evolved has often led to unequal treatment of women when they appear in village court proceedings. Restorative justice subordinates women’s rights to protection from violence and for redress for wrongs against them as individuals to the goal of restoring harmonious relationships within and between groups dominated by men.

This is despite a Parliamentary amendment to the *Village Courts Act* in 2000, requiring each Village Court to have one or more female magistrates (out of a usual total of 4 or 5 magistrates per court). The 2003 revision of the Village Courts Handbook clearly calls for courts to involve women and treat them fairly, but old attitudes still prevail. A renewed effort is being made under the government’s Law and Justice Sector Gender Strategy, which will also monitor women’s experience as both users and operators of Village Courts.

The Community Courts Advisory Units (*CCAU*) are to work cooperatively with village courts to ensure that women have ease of access, are accorded equal status and fair treatment by the court. This will be done through training programs structured to reinforce the right of women to have access to the village court, be afforded equal status and treated fairly. Village courts are to support and reflect changing attitudes to domestic violence, with instances of domestic violence to be treated as assault. The Law and Justice Sector is also to train prosecutors and magistrates on the new Sexual Offences legislation and develop a medico-legal protocol and training on sexual assault.

2.6 Government Policies and Initiatives to Address Gender- Based Discrimination

2.6.1 National Population Policy (NPP)

The Integrated National Population Policy for Progress and Development was launched on 5 June 1991 by the Department of Finance and Planning. The key objective of the Policy was to reduce population growth and to maintain it at a level which was sustainable in terms of the

nation's resources and economic development. The current policy (2000-2010) reflects the ICPD Programme of Action and underscores the need for implementation at the provincial and district levels. The NPP recognises the promotion of gender equality and opportunities for women as an essential feature of nation building. The Policy addressed discrimination by calling on the *Government to promote and support the advancement of women, especially in relation to their human rights and to freedom of choice with regard to child bearing; and to support and strengthen women's organizations promoting the status of women.*

Policy Goal No 6 aims to “*Increase opportunities for women to participate more fully in the economic, political, cultural and social life of their communities and the country*”, and provides justification for a number of initiatives which should not only enhance the status and empowerment of women, but also have direct positive benefits on society and nation building at large. The NPP thereby identified four main objectives which should be pursued. The activities to be undertaken were to include amendment the legal framework to eliminate remaining barriers to equal participation by women in national development, with the Government to continue introducing special programmes to guarantee equal opportunities for women in education, employment, housing and business. Specific programmes designed to remove barriers to women's economic, social and intellectual independence were to be introduced and strengthened.

2.6.2 Law and Justice Sector Gender Strategy, 2005 – 2010

The Law and Justice Sector Strategic Framework gains its authority from the Medium Term Development Strategy (2005 - 2010), the Poverty Reduction Strategy (2003 - 2020) and the PNG National Law and Justice Policy and Plan of Action (2000). In keeping with the Constitutional goal of integral human development for all, the Law and Justice Sector Gender Strategy promotes gender equality for both employees and users of all law and justice sector agencies. This will be achieved through sector improvement strategies to assist it to maximize its human resources and deliver services equitably to the people of Papua New Guinea.

This Strategy incorporates development of equity policies and practices that will enable men and women to participate equally as employees of the Law and Justice Sector, as well as developing and supporting a human rights approach to service delivery throughout. Sector wide knowledge and involvement in the prevention and management of HIV/AIDS is to be undertaken along with strengthening relationships between sector agencies and civil society organisations to promote non-violent conflict resolution. Women's access to the formal justice system is to be increased and their experiences of restorative justice initiatives encouraged, and gender-equitable practices monitored. National capacity to provide detailed information on the situation of women and men before the law is to be enhanced.

The National Law and Justice Policy and Plan of Action **posits** restorative justice as a guiding principle for law and justice sector reform in Papua New Guinea. While restorative justice has great potential in Papua New Guinea, it is important to avoid restorative justice initiatives that perpetuate existing inequalities, including gender inequality. For this reason, where restorative justice and

informal dispute resolution forums are supported by the formal sector, women's experiences of restorative justice and informal dispute resolution forums must be monitored.

2.6.3 Being the Best We Can Be: Say No To Sexual Violence Against Women

This project to be undertaken by the Department for Community Development (DFCD), Gender Branch concerns addressing discrimination on the implementation of laws on rape in marriage and sexual assaults on girls. At present, despite the gazetting of laws criminalising rape in marriage in April 2003 no successful prosecution has occurred. There have also only been few successful prosecutions of sexual assaults against girls since the 2003 amendments (Part IV, Division 2A and 2B of the Criminal Code).

Key implementation barriers include: (1) lack of knowledge about the criminalisation of rape in marriage and sexual assault against girls; (2) an apparent cultural acceptance of sexual violence in some cultures, a manifestation of people outside the norms of their village society often related to alcohol and drug abuse. Further research is required to determine the linkage with drugs, alcohol and with attitudes to gender relationships, and whether it occurs more in settlements in urban areas than in villages. (3) under-reporting of sexual violence because of (1) and (2) and because of fears about reporting sexual violence to the police; (4) wider systemic discrimination against women in the law and justice sector; and (5) lack of accessible and appropriate services to meet the needs of women and girls that have experienced or are at risk of sexual violence.

This project focuses on areas (1), (2) and (5) making the laws about rape in marriage and sexual assault of girls known and understood to leaders, professionals and para-professionals and ordinary men and women throughout PNG, as well as enhancing community awareness about the brutalising consequences of sexual violence. The project will link with the Law and Justice Sector Project that seeks to improve the sensitivity of village magistrates and law enforcement officers to gender equality issues and the laws relevant to gender-based sexual violence.

The project also intends extending the capacity of front-line workers in the health, education, social care and non-government sectors in identifying, supporting and providing advice to women and girls who have experienced sexual violence and modelling two multi-agency collaborations that can provide service pathways for women and girls who have survived sexual violence.

2.6.4 The Family and Sexual Violence Action Committee (FSVAC)

The FSVAC is one of the 12 sectoral committees of the Consultative Implementation and Monitoring Council (CIMC). Established in 1998 by a decision of the National Executive Council, the CIMC facilitates communication between government, the private sector, NGOs, churches and academic and research institutions. The CIMC is chaired by the Minister for Planning and Implementation but is an independent body located outside the public service.

The Committee's role is to co-ordinate activities in each of the focus areas, which involves working with dozens of groups around the country, with funding from various bilateral and multilateral donors. Despite a very small staff, the Committee has made valuable contributions in numerous ways, including: assisting with reform of the sexual offences and child welfare legislation; promoting the Family Protection Bill; distributing legal literacy materials; setting up provincial branches of the FSVAC; developing training and advocacy materials; running national awareness campaigns especially during the 16 Days of Activism on Violence Against Women; collecting data from service providers; successfully lobbying for the establishment of Family Support Centres in hospitals; and commissioning researches.

2.7 Workplace Conditions

There is the 5th Draft currently a Bill before the Parliament for an ACT entitled *Industrial Relations Act* which is intended to provide for a fair and effective industrial relations system which promotes the development of Papua New Guinea and the welfare and prosperity of its people by giving effect to the constitutional right to freedom of association, freedom of employment and equality of citizens; and prohibiting discrimination in employment on the basis of race, colour, sex, sexual orientation, age, disability, marital status, family responsibilities, pregnancy, religion, political opinion, actual or perceived HIV status, national extraction or social origin.

This Act will prohibit discrimination which is defined to include any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, actual or perceived HIV or AIDS status, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. It also prohibits discrimination on grounds of harassment, including sexual harassment, of an employee or applicant for employment and states that every employer must take steps, including the development and communication of policies in the workplace, to eliminate discrimination and harassment. Equal remuneration will determine that every employer must pay male and female employees equal remuneration for work of equal value.

An Industrial Relations Commission of Papua New Guinea is to be established to oversee this Act and of the five members, *one member of the Commission shall be a woman*. This Commission will refuse to certify an agreement where, in the opinion of the Commission it *contains provisions that the Commission would not have power to include in an award; or the agreement contains provisions that are discriminatory*.

2.8 Women in Prisons

The Correctional Service Act of May 1995 Article 106 states that “:male detainees and female detainees shall be detained so far as possible in separate correctional institutions” and “*where a correctional institution is used for the detention of both male detainees and female detainees, the part of the correctional institution allocated to the female detainees shall be entirely separate*”. Strip searches of “*female detainees shall be carried out only by a female*”.

correctional officer, or female member and if no such member is available, the search shall be carried out by a correctional officer in the presence of a female” (Article 82). Under Article 39 regarding children of detainees, “at the request of a detainee who is the mother of a child, the Commissioner may permit the child to live with the detainee in the correctional institution, where....the child is under the age of three, and it is in the best interests of the child to live with his mother in the correctional institution”.

There are currently 657 female inmates in 15 women’s prisons in Papua New Guinea with the highest number (166) in Baisu prison in the Western Highland, followed by Bomana prison (110) in the National Capital District, with the third highest being Buimo prison (80) in Morobe Province. Of the total number of female inmates, almost 26 per cent are imprisoned for either murder, willful murder, willful killing, unlawful killing or manslaughter, crimes which could be related to responses to domestic or gender-based violence. According to a 2008 study by Human Rights Watch, almost 65% of women are imprisoned for killing another woman. Stealing accounts for 13.5% of all charges, possession dangerous drugs 12 per cent and failure to comply with a court order 10 per cent. Further analysis of a cross-section of inmates, location and offences would provide an understanding of the reasons for incarceration and the types of services available for women convicted of serious crime. Since most of these women would have been tried and convicted in the village courts an examination of the recourse available for women at the village level would also be advisable.

2.9 Areas Requiring Attention:

Minimum sentences and mandatory prosecution ensure that sexual violence against women is treated seriously. PNG, however, does not have mandatory prosecution or minimum sentences for sexual assault offences. In addition, the legislation specifically provides for custom to affect criminal sentencing which may reduce a sentence if there has been forgiveness.

Bail, which should not be granted if there is any risk to a sexual assault victim, is available as a matter of entitlement unless the charge is ‘serious’. *Bail for rape can only be granted by National or Supreme Court. There is a presumption that it will be granted unless it is ‘serious assault’. (With) No exception for sexual offences.*³³

Although General Recommendation 19 (which concerns violence against women) identifies domestic violence as a form of discrimination that inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men. PNG has not yet incorporated domestic violence offences into its criminal laws.

Under the 1974 Criminal Code a woman who causes the death of her child under 12 months by a willful act or omission in circumstances where her mind was disturbed from the effect of giving birth to the child or the effect of lactation consequent on the birth of the child may be

³³ Bail Act 1977, Section 4.

guilty of infanticide and punished as if she had been guilty of the manslaughter of the child.³⁴ Full compliance with CEDAW requires that an offence of infanticide replaces a charge of murder or manslaughter and has a reduced sentence recognising the societal pressures that lead women to kill their children. Women who do so should not be held accountable to charges of murder or manslaughter.

Article 3 The Development and Advancement of Women

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

3.0 National Policies

3.0.1 Women's Policy

The National Women's Policy was introduced and endorsed by government in 1991, reaffirming the goal for Equality and Participation and Integral Human Development as reflected in the National Constitution. It called for equal participation by women in all political, economic, social, religious and cultural activities. However, as stated in the Government of PNG Report on Beijing +5, *...the Women's Policy and programmes for women's advancement have generally been viewed as an extension of former social welfare programmes (which) places a low priority on women related projects. Support for Social development and the universal goals of Gender Equality, Justice and Human Rights issue have been given scant attention...*

This Policy was based on a 'Women in Development' (WID) framework, focusing on women's role in development rather than the role and relationship of women and men in development. The document accorded the dignity and respect for women by emphasizing their Melanesian identity and values by upholding their traditional way of life. Appreciating and retaining traditional cultural norms and ways of life and advocating for gender equality, practices posed some contradictions. One of the major initiatives of the Policy was to promote cross-governmental gender mainstreaming with the establishment of gender desks and women's development officers in key agencies and departments. It is to be reviewed in 2008 in light of developments over the past decade in order to guide the recently established Office for Development of Women.

3.0.2 PNG Platform for Action: A Decade of Action for Women Towards National Unity and Sustainability 1995-2000 is a national statement emerging from Provincial Reports, NGO Reports, the Women's Division Five Year Management Plan, and the Country Report on the Platform for Action to the Commission on the Status of Women of the United Nations and various workshops and

³⁴ Section 301(1)(a)(b).

consultative forums. The Platform reaffirmed the National Constitution, particularly strengthening the goals of Equality and Participation and Integral Sustainable Human Development and Peace. The Platform was developed with input from Non Government Organisations (NGOs) and reflected the spirit of partnership between Government and NGOs in the desire to co-ordinate a nationally recognised framework of action for the Fourth World Conference on Women in Beijing and for the next decade.

According to the Preamble: *The government of PNG officially recognises the needs and potential of women through the endorsement of the National Women's Policy. This is in line with the National Constitution where the first and second goal addresses Integral Human Development and Equality and Participation and further calls for: "Equal participation by women citizens in all political, economic, social, and religious activities."*

The critical areas of concern are:

- Health
- Education and Training and Literacy
- Mechanisms to Promote the Advancement of Women and Shared Decision Making
- Economic Empowerment and Employment Opportunities and Conditions
- Legal and Human Rights (Violence, Poverty, Peace, National Unity)
- Culture and the Family (Young Women and Girls and Special Groups)
- Transport, Shelter and Water, and Communication
- Environment and Development
- Agriculture and Fisheries
- Foreign Investments Affecting Women

It called for the following mechanisms to be established for effective implementation of the Platform;

- Inter-Agency Advisory Committee on Gender and Development which met from 1997; (which has ceased to operate)
- Establishment of the Office of the Status of Women. A submission was presented to the National Executive Council in 1998 and it took a decade later for the Office of Development of Women to be established.

The Platform for Action was not implemented effectively as originally envisaged. By 1996, the economy of Papua New Guinea began to deteriorate with the Government having to adopt an IMF-World Bank Structural Adjustment Program (SAP). A focus of the SAP was to reduce fiscal expenditures, which severely affected the social welfare sector. With the Government's major retrenchments in 1999, the Gender and Development Unit, then in the National Planning Office, lost

70 per cent of its staff³⁵ Women's advancement projects and particularly the Five Year Management Plan for Women's Division had to be shelved indefinitely due to funding constraints.

3.1 Institutional Mechanisms

3.1.1 Women's Machinery in Government

In 1983 the PNG Government had established the Women's Affairs Division in the then Department of Home Affairs and Youth responsible for the National Women's Development Programme. This Division oversaw the establishment of a mechanism for Provincial outreach with 20 Women's Development Officers appointed and the development of a National Women's Policy in 1992.

The Gender and Development Division which took over from its predecessor was placed in the Department for Community Development which after 2002 undertook major structural changes resulting in diversion of resources from traditional core functional areas. These changes affected the status of the Gender and Development Division which in 2004 became a Branch within the Division for Community Development, adjusting its functional responsibilities to operate within the parameters of the new policy. The major emphasis of the Branch is on social mobilization of women, empowering rural women, involvement in community governance, economic empowerment projects and poverty alleviation programmes.

The Gender and Development (GAD) Branch acts as the central focal point for women and wider gender equity issues within government. The Gender and Development Branch works predominantly with provincial and district administrations and other government departments, with work including preparing the CEDAW initial report, providing advice into sectoral policies such as the Women in Mining Action Plan, Gender Equity in Education and Gender Policy for HIV/AIDS with the National AIDS Council. The Branch has developed a national training programme on gender equity issues for roll-out through district focal points as part of implementing the Integrated Community Development Policy; represents the Government of PNG in international meetings about women's issues; and offers technical advice to churches and non-government organisations, the National Council of Women particularly (which is funded by the Government of PNG through DFCD); and undertakes public awareness activities concerning women's issues.

Role of Gender & Development Branch is:

- To provide mechanisms to assist departments and agencies to ensure that their policies, programs and projects provide equal opportunities for women as participants and beneficiaries.
- To monitor the status of women through the development of policies and implementation of programs affecting women;

³⁵ PNG Report on Beijing +5, 2000.

- To coordinate the dissemination of information and raise awareness on issues affecting women;
- To promote adequate funding for women's services and programs;
- To identify and coordinate research and data collecting needed for planning and new policy initiatives directed by the government on the needs of women in PNG;
- To assist and guide provincial women officers to develop and implement programs in relation to national policies;
- To coordinate research into new policy initiatives directed by the government and the unmet needs of women in Papua New Guinea.;
- To identify, develop and coordinate activities that will enhance family life and expand women's participation in development.

The Gender Branch undertakes the following programmes:

- *Women's Leadership* - With the support of the United Nations Development Programme (UNDP), the Gender Branch is undertaking a mapping of a network of women leaders and managers, and will become the repository of names of women leaders and women's organizations in a central data base for public access. With concerns raised regarding the need to raise women's parliamentary representation, it was decided to conduct a workshop encompassing all four regions of Papua New Guinea. In conjunction with the United Nation's Development Fund for Women (UNIFEM) and UNDP in April 2007 a candidate's workshop for women was conducted. A total of 80 intending women candidates participated in the three days and covered topics such as parliamentary processes, legislation and the electoral process, LPV, and the role of MPs, as well as regional strategic planning. This was followed by a post-election diagnostic assessment of performance of women *undertaken* in conjunction with the National Council of Women.
- *Policy Review and Development* - Another key area of programmatic focus is the development of a National Gender Policy to replace the 1990 Women's Policy; to be undertaken with review of the PNG Platform of Action, and the National Women's Five Year Strategic Plan.
- *Domestic Violence* - The Gender and Development Branch of the Department for Community Development, in conjunction with the Family & Sexual Violence Action Committee (FSVAC), will undertake consultations to identify and document issues relating to domestic violence, cultural biases that perpetuate the gender inequalities, alcohol and substance abuse as research topics to assess the full impact on the lives of the most vulnerable groups such as women, children and the elderly. It will be critical to involve the male members of the Local Level Government Councils and the organizations that deal with male violence.

3.1.2 The Office of Development of Women (ODW)

By reducing the former Gender and Development Division, there was a vacuum in government to address implementation of the Directives of the National Women's Policy, CEDAW, and follow-up to international conferences and implementation of the Millennium Development Goals. The Government in the National Executive Council (NEC) Decision No.84/2005 of 2nd May 2005, approved the establishment of an Office for the Development of Women as a "Stand Alone Structure" for enhancing the participation of women in contributing to and benefiting from development in PNG with a focus on whole-of-government policy making. The Mission Statement upholds, *Increased participation by women as both beneficiaries and agents in the social, economic, political and cultural development process for improvement in the quality of life for women and all.*

It was the intention of NEC that the ODW with its own organizational structure would dedicate its efforts to the formulation of policy advice on women and gender issues through appropriate research projects and gender responsive development programmes at agency level. Through such institutional arrangements, it would leverage women in their best endeavor for increased participation in the development process.

The ODW will comprise two divisions; Social Sector (Health, Education, Governance, Law & Justice) and Economic Sector (Infrastructure, Mining, and Environment). The Office will initially have a staff ceiling of fifteen (15) headed by an Executive Director. Its focus is on policy development work with a whole-of-government approach, ensures that line agencies continue to develop and implement programmes for the benefit of women. The ODW is consistent with the implementation of the Government of PNG's Medium Term Development Strategy that commits the Government to reduce inequalities between men and women in PNG. A major factor contributing to the current weakness of Government in promoting gender equality relates to the lack of capacity of its current machinery to monitor and evaluate programme impacts on women.

This Office established in 2008 is responsible for the following:

- *Policy advice, implementation and gender mainstreaming* - It will provide clear, accurate, well researched and authoritative advice to Ministers and the Prime Minister, on gender implications of policy decisions and outcomes, as well as consult with government agencies to investigate new emerging issues affecting women, putting forward policies that can generate structural change to improve the status of PNG women. It is to coordinate policy implementation across government sectors as it concerns the implementation of government policies relating to women and promote the provision of equitable employment opportunities for women both in the public and private sectors and monitor progress towards this goal. The Office will liaise with, consult and coordinate policy advice, undertake analysis and monitors policy/program development across all agencies of government to improve government response towards gender equality.

- *Research, monitoring and evaluation* - ODW will commission research projects or conduct regular market research both on specific issues and women's views and concerns as an adjunct to other consultative activities, and undertakes evaluation and audit of Government budgets and programmes to assess their impact on women. It will prepare a women's budget statement focusing on the socio economic situation of women as an analytical tool for drawing attention to government and interested stakeholders to the plight of women. To facilitate this it is to establish an information database that will contribute to policy development processes.
- *International commitments* - The Office will be responsible for coordinating and monitoring PNG's commitments and implementation of its international obligations, conventions treaties, such as CEDAW and PNG's participation in international forums on women. It will also liaise with the Foreign Aid Assistance Branch within the Department of National Planning & Monitoring to maintain a database, monitor and advocate for donor assistance for projects directed at advancing the status and improving the quality of life for women and their families.
- *Strengthening partnerships* - Building partnerships with women's non-government organizations and other civil society organisations, government agencies and professional groups is also a key area of responsibility. The Office will also provide informed and representative advice to government on policy and development issues relevant to the diverse views and circumstances of women. It will enhance partnership between Government and the National Council of Women, and other women's organisations, by providing technical and financial support to increase their input into government decision-making and conduct regular targeted consultation forums on priority issues providing opportunities for women's organisations to raise issues of concern directly with the Government.
- *Location* - For the ODW to achieve the above, it is essential that the present location be reviewed, and it be located either within the Prime Minister's Department or preferably as a stand-alone Statutory Authority reporting to the Prime Minister.

3.1 3 National Council of Women (NCW)

The major umbrella body for women's civil society organizations is the National Council of Women (NCW) established in 1975 after the International Year for Women and formally recognized by *National Council of Women Incorporation Act 1979*. NCW has a majority membership of rural women with twenty Provincial Councils of Women consisting of 89 District Councils of Women, with 296 Local Level Councils of Women, and 5,653 ward level Councils of Women, plus nine National Church Women organizations.

NCW Church Affiliates comprise the Catholic Women's Association; United Church Women's fellowship; the Anglican Mothers Union; Gutnius Lutheran Church Wokmeri; Evangelical Lutheran Church Workmeri; Dorcas Women's Federation; Apostolic Church of PNG Women's

Council; ECPNG Women's Fellowship; the Christian Apostolic Women's Federation. The NGO Affiliates are the Wancef Women's Association; Ramu Sugar Women's Association; Bahai' Women's Association; Business & Professional Women; Women In Politics; Women In Media; PNG Nurses Association; Public Employees Association; Soroptomist International; United Women's Association; UPNG Women's Association and the National Union of Students

The objectives of NCW include:

- to encourage and provide opportunities for mutual understanding among women in Papua New Guinea.
- to represent the women's views at all levels and publicize these views in the country and to promote understanding and exchange views with regional and international organizations, in matters of common concern to women.
- to work in close co-operation with other groups and organizations and carry on or participate, either alone or in conjunction with other persons or bodies, in any business or other activities of any kind, with the objective of benefiting the community as whole or women in particular;
- to safeguard PNG traditional cultural values and upholding the institution of family and marriage free from violence.

Under the provisions of the Organic Law on Provincial and Local Level Government, NCW members are eligible to represent women's views in all levels of the Provincial and Local Level Governments. These provisions allow for one (1) women representative from each Provincial Council of Women in all Provincial Assemblies; two (2) women representatives in all rural local level government as well as two (2) women representatives on all local urban authorities.

Programmmes:

Women's health was a critical issue in the National Platform for Action, particularly reproductive health and family planning. The Council undertakes awareness raising programs in this area, and more lately the focus has been on HIV/AIDS. There has also been an emphasis on shared decision-making, with gender training for women incorporating women's participation in decision-making at all levels. Through its network, NCW has nominated 296 women at Local Level Government (LLG) and 20 women in Provincial Assemblies. The Council also promotes economic empowerment of women through the National Women's Credit Scheme, however, this issue has not been properly addressed due to lack of resources and technical support.

Funding:

NCW receives PNG Kina 100,000 (US\$ 35,000) per annum from the government's recurrent budget and is funded through the Department for Community Development. This funding is spent on operational costs of the Secretariat such as salaries, executive members' allowances,

the four annual meetings of the National Executive, and administrative costs. These funds are released on a quarterly basis and upon acquittals of the funds are provided and approved by the Financial Section of the Department for Community Development.

The Council continues to suffer from insufficient funding, lack of qualified and skilled human resources, lack of accountability and poor management. However, the NCW is still recognized as the peak women's organization in the country. The UNFPA is currently developing a programme to assist the NCW restructure and build its capacity.

In theory it provides a structured conduit for channeling training and information to women's organisations from the national level down to the grassroots. In turn, it also provides a structured system of representation whereby women's views can be gathered and voiced by a coordinated body.

Review and Revision of the NCW ACT

The NCW Act of 1979 did not adequately cater for the changing political and socio-economic structure of the country and international developments. It was agreed that the legislation needed revision because it failed in a number of areas, namely the provision of a clear administrative structure for the management of the organization and lack of financial powers. There was also lack of clarity regarding the Council's roles and powers, and the functions of the Provincial, District and Local Councils of Women, nor was there any clear linkage between the NCW and relevant State institutions and other organizations. The Provincial Councils of Women operate autonomously in the provinces and quite a number have successfully done so.

The review of the Act has recommended repeal of the existing legislation, and replacement with a new Bill which would provide for a clear, transparent administrative structure, powers and functions, with a system of checks and balances and very clear linkages between the NCW and government and other agencies. It calls for a separation of powers and functions between political and administrative leadership, as well as an obligation from the State for annual funding. Because NCW is an umbrella NGO, the Bill must ensure that there is a clear linkage between NCW, the government and other stakeholders. The Bill's provisions should also enable the NCW to fulfill its obligations under international obligations such as CEDAW.

Article 4 Acceleration of Equality between Men and Women

1. Adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

*2. Adoption by States parties of special measures, including those measures contained in the present Convention, aimed at **protecting maternity** shall not be considered discriminatory.*

Papua New Guinea has incorporated special measures provisions into its Constitution for ‘the special benefit, welfare, protection and advancement of females’.³⁶

4.0 Medium Term Development Strategy (MTDS) 2005 - 2010

The National Government’s current Medium Term Development Strategy (MTDS) 2005-2010 aims to achieve quality economic growth, harnessing its natural resources for revenue generation, improving infrastructure, raising levels of education and providing primary health services, controlling the spread of HIV, improving rural life to check rural-urban migration flow, reducing poverty levels, and controlling population growth. The MTDS has adopted an affirmative approach to gender equality,

Applying a gendered based approach means fairness and justice should apply in the distribution of resources and services according to the needs of men and women. Work around specific issues such as community governance, community learning, or other aspects of the integrated model should ensure that women can participate and that barriers to their participation are addressed.

Men are also affected by changing gender relations. Programs need to recognise the needs of men, involve men, and specifically target them where appropriate. An example is providing opportunities for men to work with male role models around issues associated with domestic violence.³⁷

4.1 Women’s Political Representation

Affirmative action for women’s representation at the provincial and local levels is integrated into the Organic Law on Provincial Governments and Local-Level Governments enacted in 1995, which provides for the nomination of women representatives at the Provincial and Local Level Governments. It specifically allows for one women’s representative to be nominated in each of the 20 Provincial Assemblies and for two women to be appointed in the rural Local Level Governments and one in urban Local Level Governments. This revision has witnessed a rapid increase in the participation of women at Provincial and Local Levels.

The 2001 *Organic Law on Integrity of Political Parties and Candidates* (OLIPPAC) was revised and replaced by the current Organic Law in October 2003 and the Office of the Registrar of Political Parties was established, with relevant appointments made in accordance with Section 4 of the Law. Two thirds of the membership comprises constitutional Office holders, namely the Clerk of Parliament, Electoral Commissioner, the Chairman of National Fiscal Commission and the Registrar. These *ex-officio* members also include two community representatives from the church and women’s groups, with a crucial role in ensuring the independence of the Integrity Commission by standing above party politics and any other political pressure.

³⁶ National Constitution, section 55(2).

³⁷ Integrated Community Development Policy, Department of Community Development. July 2007.

This law should have enhanced women's chances of political representation, since in addition to having a voice on the Integrity Commission, the law stipulates that a representative of the National Council of Women must serve on the Central Fund Board of Management (CFBM). Section 62 of the law provides financial incentives to political parties to put forward women candidates. The law states that if a woman candidate gets 10 per cent of votes in her constituency, the CFBM is required to refund 75 per cent of campaign expenses. Section 83 on Funding of Female Candidates encourages *registered political parties to endorse or nominate female candidates for election to Parliament by providing a financial incentive in the form of 75% of K10,000 reimbursement to the political party where the female candidate obtains 10% of the votes cast in the electorate in that election. This Section has been amended by adding the following: "(3) The percentage of votes referred to in Subsection(1) includes primary and preference votes if they were counted"*³⁸

At a regional level, the *Pacific Plan for Strengthening Regional Cooperation and Integration* endorsed by Leaders at the Pacific Islands Forum meeting in October 2005 which sets out the path for the region in the coming 10 years, lists *improved gender equality* as one of its strategic objectives.³⁹ It notably sets as one of its initiatives in the first three years under its goal of "good governance", to "*develop a strategy to support participatory democracy and consultative decision-making and electoral process*"⁴⁰ in which women and other groups are better included. All Pacific Islands Countries and Territories have endorsed the *Revised Pacific Platform for Action (PPA) on Advancement of Women and Gender Equality (PPA) 2005-2015* which affirms as one of its goals the *Full participation of women in political and public decision-making*. A specific objective under this goal is to achieve *equitable participation by women and men in public life through the increase [in] the number of women appointed and elected to public office*.

An affirmative action submission to the PNG National Executive Council developed by the Minister for Community Development to amend Articles 101 and 102 of the Constitution concerning composition of Parliament was endorsed in June 2008 and also recommends the drafting of an Organic Law on Gender Equity. These Articles allow three nominated members to be appointed by *a two-thirds absolute majority vote*, with the submission proposing increasing the number to four to enable one woman to be nominated to the Parliament from each of the four regions until the next National elections scheduled for 2012.

Since an amendment to the Constitution would require the Submission to be debated in Parliament and hold up the decision beyond the current budgetary cycle, the Prime Minister, Deputy Prime Minister and Minister for Community Development have decided to move with the three nominated seats already allowed by the Constitution. This will raise women's

³⁸ Policy Issues relating to Elections in PNG, OLIPPAC, Integrity of Political Parties and Candidates Commission.

³⁹ Adopted by the 9th Triennial Conference of Pacific Women held in Nadi, Fiji, 16-19 August 2004 and the 2nd Pacific Ministerial Meeting on Women, held in Nadi, Fiji, 19-20 August 2004, as an update to the original 1994 Pacific Platform for Action for the Advancement of Women.

⁴⁰ PIFS, 2005: 18.

representation in the current Parliament to 4 in 2009 bringing the percentage from the current 9 per cent to just over 3 per cent.

4.2 Equal Employment Opportunity Policies

In 2004 a government commissioned Review of the Royal Papua New Guinea Constabulary (RPNGC) found that “...it was largely ineffective. It has been powerless to deal with rising incidents of violent crime, and unprofessional and unethical acts by some of its members have caused the community and the Government to lose confidence and trust.”⁴¹ AUSAID-funded programmes have been undertaken to train police on gender, family violence and HIV/AIDS, to improve their awareness of gender related issues in policing law and justice.

The RPNGC Corporate Plan 2002 – 2007 states that it wants to ensure that members are not disadvantaged by race, religion or gender. *It is our aim to ensure that the right person is selected for positions, promotions, transfers and special assignments. For too long, wantokism has meant that many people have received unfair advantage, and this practice will be stopped. Women also play an important role in the Constabulary. It is our intention to ensure that they receive equal opportunities to appointment, training and advancement.*

The Plan recalled that the past five years had seen a reduction in the level of crime experienced in some parts of the country however, there was still more that needed to be done to ensure especially the safety of women and children. Community Policing was regarded as a *shining light for the Constabulary and it will continue to be one of the major strategies used by the Constabulary, in partnership with the community, to continue improving the level of safety in communities.*

In May 2008, Papua New Guinea’s Royal Constabulary launched two new policies to promote and advocate gender equality and HIV/AIDS awareness in the police force. The EEO policy covers all aspects of employment including recruitment and training, pay and entitlements, career developments and other workplace opportunities to not only increase female police recruitment but also to redress systemic discrimination women face in promotion. In recognition of the disadvantaged status of policewomen, the RPNGC, in collaboration with Divine Word University, developed the Diploma of Women in Public Sector Management Course.

4.3 Private Sector Development

There are also positive examples of private sector businesses promoting gender equity and women’s employment. The National Provident Fund has printed and distributed anti-discrimination posters. The National Newspaper initiated program for sponsoring female university students to complete their education has now gained the support of several

⁴¹ Report of RPNGC Administrative Review Committee to Minister for Internal Security, Institute of National Affairs and the Government of Papua New Guinea, September 2004.

companies. Such initiatives have contributed to the perception amongst gender-equity advocates in government and in civil society that significant opportunities exist to successfully promote gender-equity considerations in private sector development.

Article 5 Sex roles and stereotyping

States parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

5.0 In PNG, the Constitution recognises the legitimacy of customary law provided however, that it is not repugnant to humanity, does not result in injustice or that it is not contrary to the interests of a child under 16.⁴² Although there is provision of some protection against discrimination, the absence of a guarantee that equality between men and women takes precedence over custom, traditional practices that discriminate against women being lawful in some circumstances.

Customary laws vary greatly across Papua New Guinea and continue to change and evolve. While there has never been an audit of customary laws designed to identify those customs which may be inconsistent with the Constitution and with Papua New Guinea's obligations under CEDAW, some Village Court decisions affecting women have been successfully challenged in National Courts on the basis that the customary law which was applied was discriminatory and therefore inconsistent with the Constitution.

5.2 'Big Man' Leadership

Papua New Guinea is a predominantly patriarchal society. The position of the father as the head of the family is deeply embedded because of the complex and intricate details of familial and extra-familial relationships and cultural ties. Since sons are considered future heads of families, the position of sons and male children in the family is more valued. All these relations lead to the overall wellbeing and survival of the clan and tribe as a community, and the individuals within the group. It is only with the process of westernization that PNG is being led to look at individuals and their wellbeing *per se* more than that of the community.

⁴² Customs Recognition Act 1963. Section 3.

Patriarchy plays a significant role in the formal and informal systems of power. Christianity brought with it an ideology which glorified male leadership. While the spread of Christianity helped women to take up responsible positions in the church as prayer leaders, others took training as health workers. This upheld the preeminence of male leadership and traditional roles of “Meri” or woman as an obedient help meet.

Closely related to the lack of visibility of women in leadership and public life is the notion of ‘big man’ leadership. The ‘big man’ leadership system is commonly founded upon the model of ‘Warrior, Feast Giver and Priest’ roles. Big man leaders proved themselves as leaders through distribution of wealth and a caring attitude towards their people. The ‘big man’ leadership system is strongly associated with masculinity, strength, power and wealth and therefore leaders are expected to be men. Leadership is either acquired or inherited depending on the traditions of the society and is transactional, based on indebtedness and networks of exchange, of giving and receiving goods.

Even in matrilineal societies, there is a dominance of men who do esteem women and include their views in decision-making, yet ultimately hold the power. In Bougainville, for example, men who ran the modern institutions overlooked women’s contributions to the peace process and domestic and local economies. Men in matrilineal societies are patriarchal in their ways because they are still leaders, so while descent and the custody of land is traced through women, the right to rule still remains the prerogative of the men.

A 1998 World Bank Report⁴³ noted that formal involvement of women as individual leaders and representatives of their lineages has diminished over a period of a hundred years with the advent of strongly patriarchal colonial and missionary structures. State organization of local politics has historically excluded women. Men now mediate all female interests and women are beginning to define themselves by virtue of their sex, as non-participants in politics as they are currently structured. Introduced organizational structures with the exclusive emphasis on male authority further weakened the position of women in society. Traditionally women in many communities were in the position that is most analogous to the concept of ‘jural minor’ in English law. That is, they were not considered capable of representing their own interests autonomously, and kinsmen had authority over them.⁴⁴

The ‘big man’ leadership model based on the concept of redistribution has been translated into the role of elected parliamentarians. Political activities are planned and decisions are made in the *Haus Tambaran* – the House of Parliament. *Haus Tambaran* is referred to the house of ancestral spirits where men assemble and perform their secret rituals. It is also used as a men’s house which women are strictly forbidden to enter. The National Parliament House is called the *Haus Tambaran* and it is architecturally designed as a Sepik men’s house or *haus man* which traditionally belonged exclusively to the men and only they could congregate there for

⁴³ Gender Analysis in Papua New Guinea, World Bank 1998.

⁴⁴ Gender Analysis in Papua New Guinea, World Bank 1998.

discussing men's affairs. Thus, the very symbol of parliament is exclusive in its notions of leadership and thereby not conducive to women's participation.

5.3 'Dava' - Bride-Price

Under customary law, parents and clan members negotiated marriage exchanges. Thus, if they wish to form an alliance with the men of another clan, they may marry her into that clan. Traditionally, injuries against women were dealt with by compensating the men whose rights in her had been breached by the offence – her father, husband or brother. Restoring peace between groups was paramount, and compensation might even include giving girls in marriage.

Most marriage exchanges had several stages – marriage was not an event in time between two people – it was a series of exchanges of wealth and fulfillment of obligations by both sides and after the final exchange to mark full marriage, it began a continuing networking of exchanges and reciprocal obligations forever. The process of '*dava*' actually protected women. The problem has arisen with the commercialization of 'bride-price' and the intermarriage between tribes that have different customs regarding rights of women, widows, children etc.

'Bride-price' which is an exchange of wealth between the groom's lineage and the bride's, continues to be practiced widely in PNG, particularly in the Highlands and Papuan Coastal societies. Over time, other groups have adopted the practice as well. The ideology of this practice is based on the desire to bring families together in cooperative alliances—for future marriage exchanges, trade, or other efforts. The valuables and the amount can vary from one society to the other, but the constant in this are pigs. Bride price is a traditional form of dowry given by the groom and his family and relatives, to his bride's family and relatives. The price is set by the family of the bride and this is met by the groom and his family and then distributed amongst the bride's family with the maternal uncles receiving benefits because they are consulted for the bride's marriage and are the most important uncles to the bride.

As the cash economy became more widespread, the cost of marriage rose in most groups, a social change that has had numerous negative consequences. A 1996 household survey, conducted as part of the Poverty Assessment for Papua New Guinea, found that the payment of 'wedding expenses and bride-price' was a significant household expenditure item – almost twice that recorded for 'school fees'. The modern adaptations of bride-price customs have continued to result in a commodification of women.

While the custom needs to be analysed and regulated, its abolition should be approached carefully because it is part of the social glue and safety network of society. Some people are by choice phasing it out and some young people are refusing to have the payment of a bride-price in their relationship.

5.4 Polygamy

Men's links with maternal kin were fundamental to the functioning of the social system. While public transactions were dominated by men, women's roles as the producers of food and children were valued highly, even though men controlled their production.

In most PNG societies, polygamy functions to enlarge a man's access to productive resources—i.e., more gardens, pigs and, children—as well as to satisfy his sexual needs during pregnancy and post-partum abstinence. The traditional right of men to have several wives has become distorted in the cash economy, where men take on other wives and girlfriends without supporting them all. Many husbands have more than one partner, but if a wife challenges that privilege, she faces the risk of being beaten.⁴⁵ What is more common now is serial promiscuity rather than traditional polygamy.

5.5 “Good” Woman Stereotypes

Gender norms also limit what “good” women are supposed to know about sex and sexuality so their ability to accurately determine their level of risk of HIV and Sexually Transmitted Infections (STIs), and to learn how to protect themselves from infection is reduced. They must rely on their husbands to know about these things but many husbands are just as ignorant as their wives.

When a woman becomes infected with HIV, gender myths lead to stigmatization by the community. Fear of the consequences of a positive diagnosis prevents some pregnant women from giving birth in a health facility, and many pregnant women who are diagnosed with HIV do not follow through with telling their partner and accessing methods to prevent transmission to their babies, because this will mean their status becoming known. Presently, only a small proportion of pregnant mothers are tested for HIV. The reason for this is that women are perceived as the “bearers” of HIV. HIV-positive women whose status is known are more likely to be abused, abandoned, or even murdered. Even if they were infected with HIV by their husbands, it is assumed that they are “bad” women who sought sex outside of marriage or exchanged sex for money.⁴⁶

5.6 Wife-beating

It is the traditional custom of bringing violence to women that stands contrary to the communitarian value of women and men and their activities. Domestic or intimate partner violence is very common in PNG and has been estimated to affect 70 per cent of women. The changing nature of the extended family unit and the need to redefine relationships and role expectations in a smaller family unit is possibly a cause for the increase in domestic violence.

⁴⁵ Ibid.

⁴⁶ Families and Children Affected by HIV/AIDS and other Vulnerable Children in Papua New Guinea, AUSAID commissioned study, 2002.

Partner violence, including domestic violence between spouses, has now been shown to be a marker of increased STI and HIV risk.

It is almost impossible to access reliable statistics about the rates of such violence in PNG as they are not collected – an example, perhaps, of its acceptance as a custom and of women's invisibility. In 1986, the Law Reform Commission passed a law making wife beating a criminal offense and punishable by law. While modern PNG laws have outlawed wife beating as a punishable crime but the perpetrators are only charged with offences such as common assault, grievous bodily harm, etc. The Law Reform Commission (LRC) drew attention to the need for law enforcement officials to treat assaults against wives seriously, using existing charges. Despite this, women do not commonly use the law largely because it is still seen to be a private, family matter.

5.7 Witch-Hunts, Sorcery

Despite the fact that Christianity is a powerful force in Papua New Guinea, many people still believe in the power of ancestral spirits to affect the living and in the power of sorcery (both good and bad) as it often explains the inexplicable with death and mysterious illness sometimes blamed on evil curses and suspected sorcerers are often blamed and then killed. The number of female victims appears to have increased in some areas, usually elderly women of little economic value to the village. In 2007 women in the highlands region were murdered as sorcerers because they were believed to have caused a fatal road accident.

Those suffering from HIV/AIDS are often seen as the victims of witchcraft because many people do not understand how it is spread and as HIV cases have increased, sorcery-related killings have doubled. Barely educated villagers living in remote mountain valleys are blaming the increasing number of HIV/AIDS deaths not on promiscuity or a lack of condom use but on malign spirits. Raising concerns about the increasing attacks on older women and the fact that interrogations were usually carried out by young men, the Minister for Community Development in 2003 sought funds on behalf of two doctors to research this new manifestation of sorcery in “witch-hunts” which possibly result from a confusion of sorcery and fundamentalist religious beliefs.

Article 6 Exploitation of women

States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

States parties are required to suppress all forms of trafficking in women and the exploitation of women in prostitution, with Articles 2 and 11 requiring the elimination of discrimination against women in employment. Cumulatively, these articles mandate both the protection of sex workers from exploitation whilst also affording them the rights and protections of other workers.

6.0 Sex Workers

Many sex workers are self-identified while a large number engage in transactional sex. The Highlands Highway has been associated with commercial sex since it was built with a WHO-sponsored study of sex along the highway conducted during the mid-1990s documenting numerous examples of commercial and transactional sex, some of which were loosely organized as a trade. There is long standing evidence of women being attracted to logging camps, mines, fish factories, and numerous other economic enclaves in rural areas, particularly on paydays, to sell sex to the men. While most are freelance sex workers operating from public, opportunistic locations, others operate out of residences.⁴⁷

Sex workers interviewed in a more recent study reported having started to sell sex young (median age 16 for highway based and 17 for non-highway based), were married at a young age (17 years for both samples) and many got divorced not long after marriage.

Women also reported both physical abuse and sexual violence, with 3 out of 4 women having had experienced sexual coercion and had been forced to have sex when they were not willing (74 per cent highway based and 73 per cent non-highway based). A third from both samples reported that they had been raped, with close to half having experienced physical abuse.⁴⁸

6.1 Legal Provisions

Nowhere in the law is it stated that prostitution or the act of soliciting is an offence. The Law Reform Commission, established in 1974, commenced its project of reform of the entire criminal law system, and regarding prostitution, the Commission said that the present laws were ‘most unsatisfactory’. The 1977 Summary Offences Act provides *that a person who knowingly lives wholly or in part on the earnings of prostitution is guilty of an offence.*⁴⁹ PNG criminalises the aiding and abetting of sex work and the operation of organised premises. The National AIDS Council, following the recommendations of the National HIV/AIDS Medium-Term Plan 1988-2002, continued to press in various ways for the decriminalisation of prostitution.

While this Act overrides the pre-independence *Police Offences Ordinance* which provided that *any common prostitute who solicits, importunes or accosts any person for the purpose of prostitution, or loiters about for the purpose of prostitution, in any public street, road, thoroughfare or place, or within the view or hearing of any person passing therein shall be guilty of an offence,*⁵⁰ there have been cases where premises have been raided and sex-workers arrested, detained, intimidated and abused. The victimisation of female sex workers, in particular, was clearly demonstrated in 2004 when a brothel raid by police netted seventy-two

⁴⁷ Strategic Directions for Human Development in Papua New Guinea, Asian Development Bank, Australian Agency for International Development, World Bank 2007.

⁴⁸ UNGASS 2008 COUNTRY PROGRESS REPORT, Papua New Guinea.

⁴⁹ Section 55(1).

⁵⁰ Police Offences Ordinance Section 38.

men, women and children sex workers. They were arrested and the women detained, but the men were set free because the law does not cover male sex workers.

Specific protection has been accorded to children under 18 years in the *Criminal Code (Sexual Offences and Crimes Against Children Act)* of 2003, a comprehensive range of offences protecting the exploitation of children. The Act amends the *Criminal Code* in order *inter alia* to protect children from sexual abuse and commercial sexual exploitation, including child prostitution. The Act criminalises both persons purveying or allowing child prostitution, and persons who are clients of a child prostitute. This Act was the result of the work of the Family and Sexual Violence Action Committee.

This Act also defines child prostitution as any sexual service provided by a child in return for *'financial or other reward, favour or compensation'* regardless of whether the reward or compensation is paid to the child or to some other person. The Act also prohibits the involvement of children in the production or distribution of pornography. Amendments were made so that it is an *offence to be a client to a child, to procure or to engage a child*, an offence which carries *15 year imprisonment or life if the child is under 12 years*; and also an offence for a *parent to allow or facilitate child*, carrying *10 years imprisonment*.

An important aspect of the new law is that a child, as defined, cannot be charged for engaging in prostitution. This is a reflection of the view that children under the age of 18, unlike their adult counterparts who may voluntarily choose to do so, often become involved in prostitution as victims of adult exploitation rather than opting to engage themselves. A 1994 study by the Institute for Medical Research which found that 30% of the 250 sex workers they interviewed were between 13 and 19 years of age.

This amended Code also prohibits any person from using a child to produce child pornography, or causing or procuring a child for the purpose of producing child pornography, or allowing or consenting for a child under his care or custody to be used for the production of child pornography. The maximum penalty for this offence is 15 years imprisonment. It is also a crime for a person to knowingly produce, distribute, print or publish any child pornography, or import, export, sell or show any child pornography, or possess any child pornography for any of the above purposes. The penalty for this crime is up to 10 years imprisonment.

While children are offered protection, no such protection is offered to women sex-workers who are powerless socially and economically, and ostracised for being involved and yet have no other means of earning an income than trading sex. Any move to decriminalise prostitution should also take into account the flaws in the *Criminal Code* amendments of 2002. Criminal law provides little protection for non-consenting adults forced into sex work and there is little protection for sex-workers from exploitation with sexual violence is common. Employment legislation including health and safety legislation does not protect sex workers which is not recognized as being 'work'.

6.2 PNG Friends Frangipani

PNG Friends Frangipani is a national network of sex workers formed by both male and female sex workers which officially started in a meeting held in April 2006 in Goroka. They formed a national network of sex workers in 2006; set up their organizational structure, created a constitution and has been registered as an NGO with PNG IPA and have also established working relationships with international sex workers' organisations. *Friends Frangipani* have just opened an office space with both male and female coordinators.

Friends Frangipani work to improve the rights of sex workers in PNG by:

- advocating for human rights for sex workers in PNG;
- making services friendlier for female and male sex workers through peer support to new and existing members;
- working to address the health concerns of its members in the areas of HIV, STIs, contraception and pregnancy; and
- creating and designing IEC material for peer sex workers; and by getting involved in local, national and international meetings to advocate on existing legislation that impacts the lives of sex workers.⁵¹

6.3 Trafficking of women and girls

Trafficking of a woman or a girl is considered an offence, since it is forbidden by the Criminal Code *to procure entice or lead away any girl or woman so that some person may have carnal knowledge with her either inside or outside Papua New Guinea*. It is an offence which carries a seven (7) year penalty and procuring a woman using drugs is also a criminal offence incurring three (3) years imprisonment.⁵² Although this legislation provides some protection against the trafficking of women, compliance is partial because penalties are low and corroboration is required placing an unreasonable burden on victims. There is no legislation dealing with sex tourism.

Article 7 Women in Political and Public Life

States parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

⁵¹ UNGASS Report PNG 2008.

⁵² Criminal Code 1974. s 218.

(b) *To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;*

(c) *To participate in non-governmental organizations and associations concerned with the public and political life of the country.*

7.0 Constitutional Framework

At the national level, the Preamble of the Constitution of Papua New Guinea calls for *equal participation by women citizens in all political, economic, social and religious activities* and the Constitution states that the equality of all citizens “*does not prevent the making of laws for the special benefit, welfare, protection or advancement of females, children and young persons, members of under-privileged or less advanced groups or residents of less advanced areas.*”⁵³ Section 50 calls for *equal eligibility for political representation*, and the Constitution *authorises the payment in certain circumstances of a percentage of electoral expenses incurred by a female candidate.*

Currently there is one woman in the 109-seat Parliament who is the only female holding a Cabinet position, serving as the Minister for Community Development. There is one female National Court Judge and no female provincial governors.

7.1 Women’s Political Representation

Women’s involvement in the political arena in Papua New Guinea has been a slow and gradual process, both before and after the achievement of Independence. Even though the Constitution of PNG guarantees the political equality of men and women both to vote and stand for elections, the statistics show that women’s involvement in contesting elections has been somewhat limited. In 1975 when PNG gained independence, four women candidates contested with one being successful. In the following election of 1977, the number of women contesting more than doubled with three women candidates gaining parliamentary seats, an achievement which did not ensure the success of those who came after.

For the decade from 1982 to 1992, a total of 48 women contested with only one returned. Despite greater efforts being made by organizations such as the National Council of Women (NCW) and Women in Politics (WIP) to train prospective candidates and build leadership capacity at all levels, no headway was made in the next election in increasing women’s representation. A total of 55 women contested the 1997 election and only two were elected. Despite the total of female political contestants doubling in the past ten years, there still remains only one representative.

⁵³ Section 55, subsections 1 and 2.

Table 2: Female Candidates in PNG National Elections 1964-2007

General elections	Number of women candidates	Number of women elected
1964 & 1968	nil	nil
1972	4	1
1977	10	3
1982	17	1
1987	18	nil
1992	16	nil
1997	55	2
2000	60	1
2002	41	1
2007	109	1

This pattern raises a number of issues, in particular how and why women's success in the 1977 election could not be repeated and why when more women ran for elected office the outcome continued to turn out so negatively. Much of this can be attributed to traditional cultural views of women's leadership, the 'big man' ethos, a weak political party system encouraging a large number of independent candidates, and a 'first-past-the-post' electoral system, all of which have disfavoured female candidates. In addition, the financial demands of running for political office, combined with endemic corruption and electoral violence which worsened over time, were all factors militating against women's leadership.

One organization which for quite a substantial period did work to bring a focus to women's leadership was Women in Politics (WIP). At its first WIP Congress in July 1999 participants identified strategies such as encouragement of women to participate in national politics through women's forums, intensification of education and political awareness raising among women politicians and those intending to run for public office, and encouragement of women to be members of political parties and to seek executive positions. In March 2000, WIP made two submissions of policy papers; one on the inclusion in the Organic Law of Integrity of Political Parties of the 30% quota for women candidates, and one on electoral reform issues, to the Constitution Development Commission. As a result of these

submissions, the provision for one woman to be nominated by any one political party was included in the Organic Law of Political Parties and Candidates.

WIP's decision to expand their voter education programme through forums, seminars and training workshops, gearing them toward raising public awareness about the value of expanding women's political participation, and correcting public misconceptions about women in politics had much to recommend it. These strategies which were very sound required strong leadership for implementation, and if WIP had remained functional it may well have been effective in bringing about real changes in women's leadership. Its failure to do so only contributed more to the lack of direction and disunity and served to further debilitate the chances of increasing the role of women in decision-making.

Despite the financial incentives in the *Organic Law on the Integrity of Political Parties and Candidates* for political parties to field women candidates, the number of women candidates endorsed by political parties in 2007 was relatively low. Of the 34 officially registered political parties, only 21 endorsed women candidates numbering 36 women altogether. The People's Action Party fielded five women candidates while four political parties endorsed three women candidates each and most parties supported one woman candidate each. The majority of women candidates (65) stood as independent candidates.⁵⁴ While an increased number of women received party endorsement there was limited mentoring of female candidates and insufficient funding provided, with most support going to males.

Commonwealth and Pacific Electoral observers noted that *with the high number of candidates contesting and single member electorates, the possibilities for women candidates to be elected using the Limited Preferential Voting (LPV) system appear to be no better than those under the recently replaced first-past-the post voting system. Unless further enabling mechanisms are examined to fast-track and increase the number of women entering Parliament, it appears to the Team that the numbers of women representatives in Parliament will continue to remain low for a long time.*⁵⁵

7.2 Provincial and Local Level Government (LLG)

The Organic Law on Provincial and Local Level Government (OLPLLG) is an initiative of the government under pressure from women's organisations, to encourage more women to participate in decision making in provincial and local-level governments. There should be 566 nominated women in all 296 LLGs, two in each rural LLG and one in each urban LLG. In all 19 Provincial Assemblies (with the exception of Bougainville and the National Capital District), there should be one appointed woman.

⁵⁴ REPORT OF THE COMMONWEALTH-PACIFIC ISLANDS FORUM ELECTION ASSESSMENT TEAM, PAPUA NEW GUINEA NATIONAL ELECTION, JUNE-AUGUST 2007.

⁵⁵ Ibid.

Local Level Government Councils

LLG councilors are directly elected by the First-Past-The-Post (FPTP) system under a ward system, each ward electing a single member to the Council. It is not known how many women are in LLGs at present, and to what extent that LLGs have implemented the provision on nominated women. Each Council may also have up to three additional members appointed to represent various interest groups:

- One nominated by the PNG Trade Union Congress
- One nominated by the Employers' Federation
- One to represent women's organizations. In rural areas, two women are nominated. This has ensured the inclusion of at least one woman appointed councilor in each of the 299 LLGs. Ten per cent of all councilors are women.

7.3 Voter Awareness and Civic Education

Another area with direct impact on women's electoral involvement is voter awareness and civic education programmes. Prior to the 2007 elections a major voter awareness program was conducted, with the assistance of civil society groups. Voter awareness focused on ensuring understanding of the new LPV system, and was undertaken throughout the country largely through the use of face-to-face meetings, which featured group meetings and discussions, separate group discussions for men and women, mock voting and counting, as well as music and performances by theatre groups. While it was impossible to cover every community in PNG in this way, radio messages were also used to reach isolated areas inaccessible by awareness teams through the Electoral Support Program (ESP).

A training manual, *Everybody's Business! Awareness Training for Civil Society*, was developed to increase understanding about good leadership and democratic governance. Although there was a separate section, Topic 5, which covered "*Women and Elections- a Woman's Road Blocks to Voting*" the issues of gender equality and women's leadership were not mainstreamed throughout the other topics. If such voter education is to be gender sensitive it should also take into account specific targeting of women voters on issues that particularly affect women voters, voter education materials produced by political parties, civil society or the media.

There should also be endorsement of many of the community issues important to women candidates and electors. In addition, the practice of family voting whereby one family member (usually the male head of the household) casts votes on behalf of other family members, or family members enter the voting booth together needs to be addressed, with both men and women targeted in order to understand that family voting deprives women of their political rights.

7.4 The Electoral Commission

The body responsible for managing national elections is the Electoral Commission of PNG, which has broad powers and provides oversight over the whole election process. The Electoral Commission is set up under the Organic Law on National and Local Level Government Elections. The Electoral Commissioner, a Constitutional officeholder, is the head of the Electoral Commission. The degree of gender balance in such bodies can help ensure that women's issues and concerns are taken on board in election administration decision-making, so participation of women in election management bodies is essential.

Of the seven most senior positions in the Commission, only one, the Director of Information and Community Awareness is occupied by a woman at headquarters and one female Election Manager at the provincial level (Manus Province) out of twenty. All electoral staff, including Presiding and Returning Officers are recruited by the Electoral Commission, with the latter recommended by the Provincial Administrator. Women were neither recruited as Returning Officers in 2007 nor did they participate in voter registration which was conducted house-to-house.

Some countries have addressed the issue of intimidation and harassment of women voters by establishing women's only polling stations. Providing appropriate security at polling stations is another way of addressing the issue. In order to guarantee security for women voters, the Electoral Commission decided to have a limited number of "women only" polling booths in the Highlands areas. However, these were not used in the Western Highlands Province and their effectiveness on the polling conditions for women, and how women regarded their voting experience has to be examined to determine if they had an impact on the way women voted and whether their future use may have a positive outcome for women candidates.

7.5 Programmes

7.5.1 Enhancing women's skills in leadership

Under the United Nations Country Programme 2008-12, the partnership with existing training programmes and women's organizations will support training workshops and training for women in leadership and management positions in order to enhance capacities of women to take on leadership and management roles and to identify potential women leaders and managers and provided training. This programme has already undertaken a training of women candidates before the 2007 elections, and followed with a diagnostic assessment of performance of women candidates in this election, with the output being a documented report for consideration by the Government.

7.5.2 Advancing Gender Equality in Pacific Governance 2008-2013

During the next five years, UNIFEM Pacific will undertake an AUSAID-supported programme in Papua New Guinea to increase women's understanding of democracy, citizenship and

leadership especially at community and local government levels and to support the application of democratic principles and accountability of leaders in local organisations, including women's own local and national organisations.

The programme will educate women and men on the gains made in other regions through the introduction of temporary special measures to increase women's political representation, including quotas to get more political party endorsement for women and the establishment of reserved seats for women in parliament and systems of local government.

The UNIFEM/AusAID partnership to advance gender equality in Governance (GEPG) will engage, and enlist the participation of women's machineries, the mainstream media, selected, genuine male champions of gender equality, electoral bodies and political parties. The programme will provide information, education and incentives to encourage these key social and political agencies, bodies and institutions to become an integral part of continuous action for broad-based change towards increasing women's political participation and representation.

The Programme will work towards opening up and gender sensitising parliamentary and local government structures and operations. Women's greater involvement in national and local policy formulation, legislative reviews and change and budgeting will be encouraged and supported, demonstrating that women can be politically active and effective as citizens, advocates and activists as well as in the capacity of elected members of legislative assemblies.

Throughout the five years of programme implementation, governments and partners will be involved in the collection of quality, sex-disaggregated baseline data, and sound systems to monitor and evaluate progress towards project goals, and expected results. The process and the outcomes will contribute to the implementation of CEDAW, the achievement of Millennium Development Goals and the implementation of the revised Pacific Platform of Action for the Advancement of Women.

7.6 Women in Government and the Law

According to a 2003 survey undertaken by the then Gender and Development Division the vast majority of the 15% of women engaged in the formal sector are employed in the public sector. As of December 2007 there was a total of 76,000 persons in the PNG Public Service covering 116 Departments and Agencies at national and provincial levels as well as Statutory Bodies. Of this number 18,740 are women, comprising approximately 25 per cent, twelve (12) out of the thirty-five (35) of whom occupy top level executive management positions of departmental secretary or deputy- secretary. This figure of approximately a third of women in senior management in the executive arm of government is the highest national figure for women in formal decision-making positions.

This is in sharp contrast to the fact that there was only one female judge in PNG and she was an expatriate, but in 2003 a national female judge and in 2005 the first female Lecturer in Law were appointed. The legal profession is 90 per cent male. While the legal institutions have this

considerable absence of women in the legal profession, the interest by women and their participation is slowly increasing, and this is not dissimilar to the other professions especially the ones deemed to be in the male domain – those professions in engineering, academia, medicine, the administrative and management level of all institutions.

Article 8 International Representation and Participation

States parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

8.0 There are twelve women in total in the diplomatic and foreign service both at headquarters and abroad, with two at the ambassadorial level. One is currently serving as Deputy Secretary of the Department of Foreign Affairs after serving as Head of various overseas missions, including Ambassador to South Korea and High Commissioner to New Zealand. The other is High Commissioner to the United Kingdom, with accreditation to North African countries without PNG representation. She acts as Head of delegation to Commonwealth Secretariat meetings. Three other women Foreign Ministry representatives are serving as Deputy Head of Mission to the United Nations Headquarters, New York; and as Foreign Service Officers to the PNG High Commissions in Malaysia and Fiji. There are a total of 18 overseas diplomatic missions (including two Consulates).

8.1 Although there is no legal barrier preventing women from representing their governments in PNG, the low numbers of women who do so necessitates an analysis of the reasons for this and consideration of the introduction of quotas to raise participation.

8.2 Women participate in regional meetings of the Pacific Island Forum and the Community of the South Pacific. They also participate at international fora, conferences including Asia Pacific Economic Cooperation (APEC), and are represented on delegations to international conferences and meetings..

Article 9 Nationality

1. States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States parties shall grant women equal rights with men with respect to the nationality of their children.

9.0 Under the Constitution, citizenship by descent applied to a person who (a) is born in the country on or after Independence Day; and had one parent who was a citizen or who, if he had survived to Independence Day, would have been or would have been entitled to become, such a citizen, is a citizen. It also applies to a person who is born outside the country on or after Independence Day; and who had one parent who was a citizen or who, if he had survived to Independence Day, would have been, or would have been entitled to become, such a citizen; and whose birth is registered as prescribed by or under an Act of the Parliament made for the purposes of this subsection, is a citizen.⁵⁶

9.1 The marriage of a woman to a non-national should not affect her nationality. The legislation does not alter the nationality of female citizen upon marriage and therefore there is full compliance with CEDAW. Dual citizenship for both males and females is disallowed.

9.2 As defined in the Passports Act 1982, Section 5 women who are PNG citizens have the same entitlement to a passport as men, since the *Minister or an officer authorized by the Minister, may issue to a citizen, a Papua New Guinea passport.*

9.3 Women have equal rights with men when they marry a non national, they can determine their children's citizenship and nationality equally with the fathers of their children and have equal rights to acquire and obtain citizenship.

Article 10 Education

States parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

⁵⁶ Constitution of the Independent State of Papua New Guinea 1975, Section 66.

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same Opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

10.0 Overview

The national education system of PNG includes i) general education, ii) pre-employment education and training, and iii) employment-located training. Within the Ministry of Education, the National Department of Education (NDOE) is responsible for developing and coordinating implementation of national policies and plans; supporting provinces with planning, professional services, and standards; managing pre-service training for basic teachers; control over curriculum; distributing school-fee subsidies; and managing teacher payrolls; while the Teaching Service Commission (TSC) is the employer of teachers in the National Education System (NES) and sets salaries and conditions of employment, approves appointment of teachers, and handles industrial relations.⁵⁷

In the decade since the major national education reform of 1993, PNG has seen a dramatic expansion of its educational system. The primary focus of the government's reform was to increase access, equity, and retention at all levels of education and in so doing to support the MDGs and Education for All (EFA) goals of achieving Universal Primary Education (UPE)—which in the case of PNG equates to nine years for universal basic education (three years of elementary and six years of primary).

⁵⁷ Strategic Directions for Human Development in Papua New Guinea, Asian Development Bank, Australian Agency for International Development, World Bank 2007.

Table 3:**Education⁵⁸ 2000**

% of population 10 and above	TOTAL	MALE	FEMALE
who are literate	56.2	61.2	50.9
who have ever been to school	56.3	61.7	50.6
Who have completed grade 6	38.3	42.9	33.4

The second National Education Plan (NEP 2 2005–2014) was launched in 2005 aiming to expand enrollments in basic education from 957,000 in 2005 to 1,370,000 by 2014 and setting universal enrollment of six-year-olds in the first year of school by 2012. Retention in the basic education cycle remains a major problem, with only 53 per cent of children who were enrolled in Grade 1 in 1998 completing Grade 6 in 2003 (a decline from 61 per cent for those enrolling in 1993). Some 30 per cent of children of the basic education age group did not attend school and as many as 19 per cent of children have never attended school.⁵⁹

Education data suggest that primary enrollment at the national level, although far from universal, is quite high at 81 per cent but some provinces have primary enrollment rates below 60 per cent. The recent education reforms have extended primary education to grade 8 and added a preparatory grade for six-year olds. These reforms should expand the number of places available in grades 7 and 8 and advance the pace toward the goal of Universal Primary Education.

10.1 Universal Primary Education

At every level of education, however, more males are represented than females. Male gross enrollment rate in primary education is 81.6 per cent, while the female rate is as low as 73.0 per cent. In secondary schools, male gross enrollment is 25.2 per cent, while the female rate is 19.9 per cent. In 2003, girls occupied between 44 and 46 per cent of school places across all provinces in the basic education cycle, dropping to an average of 40 per cent by Grade 10 and 35 per cent by grades 11 and 12—not significantly different from a decade earlier. The provision of compulsory education is essential to ensure girls are equally prioritised and not

⁵⁸ 2000 Census.

⁵⁹ Ibid.

discriminated against in early education. However, neither primary nor secondary school is compulsory for boys or girls in PNG.

Table 4: Progress in Education, 1996-2000⁶⁰

% of population 10 and above...	Total		Male		Female	
	1996	2000	1996	2000	1996	2000
...who are literate	50.5	56.2	57.3	61.2	43.1	50.9
who have ever been to school	64.2	56.3	71.7	61.7	56.1	50.6
who have completed grade 6	36.9	38.3	41.7	42.9	31.8	33.4

10.2 Girls' Education

In 2003, a Gender Education Policy was adopted, reinforcing the National Population Policy strategy to improve the quality of life through general education for all. Legal and policy frameworks demonstrate the government's commitment to human rights, gender equality and women's empowerment, but challenges remain to be addressed. Education and literacy levels remain low, especially among rural women. Universal Primary Education has been a goal since the 1970s, but still appears to be far from being achieved. Schooling is not compulsory.

The level of literacy, which may be considered as a measure of achievement in education, gradually improved in the 1980s and 1990s but is still very low. This applies in particular to adult (over age 15) literacy. There is a significant gender gap in education and literacy, but recent evidence suggests that young females (aged 15-24) are catching up with their male counterparts which is at least partly due to a decrease in male literacy. Gender differences in adult literacy are even larger than those for youths 15-24, with a strong bias in favor of the males.

Generally, the government is making efforts to accelerate girls' education in line with its gender equity policy, with PNG participating in the global initiative "Acceleration of Girls'

⁶⁰ Source: NSO (2002), Community Profile System: 2000 National Census.

Education” in six provinces. However, non-enrollment or dropping out of school particularly for girls can be attributed to the following reasons:

- Studies indicate that girls lower participation in education results from a number of factors, including school fees, poverty and safety;
- Increasing poverty levels make payment of increasing school fees a growing problem for many parents with many families are unwilling or unable to pay for school fees, particularly for girls;
- Many communities regard education to be more important for boys than girls, partly because girls cease to be regarded as a resource for family and clan once married. Particularly in the Highlands Region girls still get married at an early age, and are often kept at home since it is assumed that they will become homemakers.
- This clearly has a negative impact on the retention rates for girls at the secondary level. In the provinces, secondary schools (which are small in number) are four hours away from the average primary school—about five hours in poor areas and six hours away from schools in remote areas.
- Poor sanitation and unfriendly environments force girls to leave school. In some schools, girls complain of toilets that they share with boys and which leave them vulnerable to abuse. Some girls are subject to sexual abuse by their teachers.
- Many girls in rural areas are subjected to gender based violence including sexual verbal harassment from youths called ‘steam bodies’, who are intoxicated by drugs or alcohol.⁶¹
- Discrimination is still prevalent in schools where girls and women face expulsion because of their pregnant status. An absence of a prohibition on the expulsion of pregnant girls from school perpetuates such discrimination.

10.3 Tertiary and Pre-employment Sector

A total of 11,170 full-time students were recorded as enrolled in 2007. Of these, 6,921 (62%) were males compared to 4,249(38%) females. There is a decrease in total full-time enrollment from 13,750 in 2006 to 11,170 by 2,337. There was also a decrease in both male and female enrollments. The decrease is attributed largely to inadequate completion of enrollments by institutions or complete data missing for some institutions. Although, at the tertiary education level, females, while still underrepresented, have improved their representation from 34 per cent of students at senior secondary to 41.8 per cent of those awarded the Tertiary Education **Scholarship Assistance Scheme. In awarding the scholarship their representation follows the traditional gender stereotyping, with the highest representation being in nursing and the lowest in technical colleges.**⁶²

⁶¹ Development Programming and the Well-Being of the Girl Child, 2004, UNICEF.

⁶² National Department of Education School Census 2003.

Table 5: Full-Time Enrollments Higher Education Institutions 2001-2007⁶³

	2002		2003		2004		2005		2006		2007	
	M	F	M	F	M	F	M	F	M	F	M	F
Universities	3639	1953	5238	2696	5197	2924	5925	3289	5244	3135	3058	1677
Teacher's Colleges	1399	820	1369	1167	1161	1132	1310	1186	1363	1192	1204	1091
Technical Colleges	1245	297	1271	319	1239	372	1250	405	1013	217	1358	302
Business Colleges	250	398	379	401	438	422	359	336	369	286	700	667
Nursing Colleges	115	305	128	273	132	351	111	296	75	194	128	361
TOTAL	6548	3872	8365	4856	8067	5501	8955	5512	8064	5024	7448	4098

Universities: PNG has four government and two private universities. Students at all six universities receive government-funding assistance and in addition, the government universities receive budget appropriations for staffing, capital, maintenance, and some operational costs.

Table 6: Percentage of Male and Female Enrollment Distribution per Institutional Type⁶⁴

<i>Institutions</i>	<i>Male %</i>	<i>Female %</i>
Universities	65	35
Teachers' Colleges	52	48
Technical Colleges	81	19
Business Colleges	51	49
Nursing Colleges	22	78

⁶³ PAPUA NEW GUINEA HIGHER EDUCATION STATISTICS, GoPNG 2007.

⁶⁴ Ibid.

Primary teachers' colleges: Six church and one government-agency primary teacher colleges exist. Four are now affiliated with universities: Madang and Balob with the University of Goroka, and St. Benedict's and Kabaleo with Divine Word University.

Five out of the seven teachers' colleges had 2,283 which was 21 per cent of the total full-time enrollments, of these, there were 1198 (52%) males and 1,085(48%) females.⁶⁵

Technical and Business Colleges: There are four state technical and three state business colleges. National Department of Education (NDOE) is responsible for providing central support services (including management and coordination, research, curriculum, and inspectoral services), staffing and capital provision and maintenance. Additional resources are largely provided through fees. The key stakeholders for the vocational centers are much the same as for secondary schools. The national and provincial levels of government have the same responsibilities. Church agencies and communities may take a more active role in the management of these centers.

The government through the Office of Higher Education largely subsidises the fees of the scholarship holders undertaking the Technical Training Certificate courses, while parents and industry pay fees of self-sponsored students. The technical colleges have also been recently equipped as the principal testing centers for the National Apprenticeship Trade Testing Board (NATTB) competency based trade testing programmes. There are three state run Business colleges in the country. In 2007 a total of 1,367 students were at the three business colleges of which there were 700 (51%) males and 667(49%) females which was evenly distributed between males and females. This indicates that business courses are preferred by both male and female students. In the five technical colleges, the total enrollment was 1,495 which was 13 % of the overall full-time enrollments, with 1,208 (81%) males and 287(19%) females.

Nursing and other single-occupation institutions: Some pre-employment institutions, such as colleges of nursing within the agencies of NDOH and of church agencies, have a similar relationship between key stakeholders, as do the primary teacher colleges. Likewise, students are largely funded through the government or by self-sponsorship. There are seven nursing colleges operating in the country with a total of 488 students enrolled of which there were 128 (26%) males and 360 (74%) females.

⁶⁵ Ibid.

Table 7: Summary of Tertiary Education Enrollment by Institutional Type, Sponsorship and Sex

Govt. Scholarship Non-Govt. Sponsorship Foreign Govt.

Self Private/corporate

Institution	M F	M F	M F	M F
Universities	898 362	453 200	112 125	104 99
Teachers Colleges	580 495	473 524	151 72	
Business Colleges	99 87	570 540	37 40	
Technical Colleges	259 37	1042 247	57 18	
Nursing Colleges	98 282	30 78		1
TOTAL	1932 1259	2568 1589	657 255	104 100

10.4 Teaching Profession

The percentages of females involved in teacher training at all levels in 2002 ranged from 41 per cent for Elementary, 45 per cent of students in Primary training, some 30 per cent of students in Vocational training are female and 25 per cent in the Technical area. In 2004, of 13,860 vocational center students, 3,850 (27.8 per cent) were female.⁶⁶

The lower levels of the teaching profession are dominated by women, and although the proportion of female teachers in basic education has increased from 35 to 41 per cent, it has only increased marginally from 34 to 35 per cent at the secondary level.⁶⁷ At the elementary level teacher numbers have increased by 843 per cent, from 801 in 1997 to 7,553 in 2002, with the cadre 41 per cent female. Primary level teacher numbers however increased in the same period by 2.8 per cent, from 16,140 in 1997 to 16,596 in 2002, with 39 per cent being female. At the secondary level there was a slight increase of 2.1 per cent female while in the vocational and technical areas there have been increases in teacher numbers with women constituting 30 per cent in both.⁶⁸

⁶⁶ Technical and Vocational Education Training Division, NDOE.

⁶⁷ *Strategic Directions for Human Development in Papua New Guinea*, Asian Development Bank, Australian Agency for International Development, World Bank 2007.

⁶⁸ Ibid.

At the tertiary level in 2007 there were 39 full-time national female teaching staff in all universities as opposed to 202 full-time male staff. Teachers Colleges had 76 full-time national male staff, with 36 female teaching staff. The Business and Technical Colleges had a combined full-time national staff of 88 males to 55 full-time female counterparts, while Nursing Colleges had 19 full-time males to 28 full-time national female teaching staff.

Leadership in the education sector is overwhelmingly male-dominated, with a Department of Education study finding that female teachers have refused promotions because they were afraid it would provoke their husbands to behave more violently.

10.5 Gender and Education Policy: Education Capacity Building Program (ECBP) 2003-2008

For the past decade, PNG's education sector has been implementing an Education Reform Agenda (ERA), with the goals of universal primary education, a literate population and skills development for life. The reforms, which commenced in 1995, have already made significant contributions to formal schooling through achieving higher entry and retention rates, improving curricula, improving teacher training and developing a vernacular elementary education program. However, reforms at the school level have not yet been matched by institutional reforms enabling adequate planning and financing of an expanding education system.

Gender equity addresses issues related to access to resources, information and decision-making within the organisational change context and at different levels of the education system. The ECBP supports activities designed to address these aspects of equity, with a particular focus on gender equity. Key objectives of the gender policy are to improve women's access to education and to promote women's participation and leadership in decision-making at all levels. ECBP contributes to the achievement of the key policy objectives with its emphasis on reviewing and strengthening the organisational capacity of the Department of Education and improving human resource management procedures and practices - improvements which will help ensure that the needs, priorities, strengths and interests of women, as well as men, are appropriately considered.

The overall gender strategy for ECBP is based on mainstreaming gender in all activities undertaken by the Programme and in assisting the Department of Education to mainstream gender in its work. Gender mainstreaming requires that everyone involved in the Programme understands and is committed to its achievement. At each point in planning, implementing, monitoring and evaluating ECBP activities, the different needs of women and men, girls and boys, will be considered and addressed with the aim of achieving gender equity. Specifically the Programme's gender strategy focuses on the following areas:

- improving the gender balance in membership and participation.
- empowering women to reach their full potential.
- ensuring that all materials, communications and media are gender sensitive and promote gender equity.

- improving the gender responsiveness of the school community through the Integrated District Management Project and of senior education managers through the development of an action plan for the Gender Equity in Education Policy that mainstreams gender across all Department of Education activities.
- ensuring gender responsive data collection and analysis and gender sensitive monitoring and evaluation. This will include collecting data which is sex-disaggregated, ensuring analysis identifies gender issues and developing gender sensitive indicators for monitoring both the Program and the outcomes of the National Education Programme.

Article 11 Employment

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

11.0 Article 11 obligates States parties to eliminate discrimination in employment. Women in PNG have many of the same rights in employment as men. However, there are a number of aspects of employment law in PNG which discriminate against women and do not comply with CEDAW, including the absence of anti-discrimination provisions in the employment legislation. The legislation prohibits women from working at night in mines and from engaging in heavy labour. Although there are exceptions to these protectionist provisions, they nevertheless restrict the autonomy of women to freely choose their occupation.

In the area of maternity leave, the public service sector in PNG offers more generous allowances than the minimum standards granted in the private sector. Neither sector fully meets the standards of 14 weeks paid maternity leave recommended by CEDAW and the International Labour Organisation. The public service entitles female civil servants to 12 weeks of maternity leave of which 6 are on full pay.

The private sector also provides 12 weeks leave but it is unpaid. Further protection from dismissal ends upon the expiry of the approved maternity leave period, leaving women in precarious positions in relation to job security if they require (or choose) to take further leave.

Whilst the legislation creates a general duty on employers to provide 'safe' working conditions, PNG has not introduced any specific health protection for pregnant workers. Breastfeeding mothers are provided with breaks of half hour duration twice daily. However, these conditions are insufficient to enable breastfeeding mothers to balance the needs of young children with the demands of work. Similarly, the absence of any state or employer funded childcare facilities in PNG is likely to accentuate the difficulties nursing mothers face in the workplace.

Protection from sexual harassment is provided in the public sector, however, it is absent from the Employment Act leaving workers in the private sector without any means of redress.

11.1 Economic participation

The labor force is growing at 2.6 per cent per annum and is expected to grow faster in the future. Only 15 per cent of the workforce is engaged in formal wage employment and only 5 per cent thereof are women. The 2000 census defines labour force as all those over the age of

ten years who are economically active, including those employed in subsistence agriculture, at 68% and 67% for males and females respectively. Labour force participation in the urban sector was 58 per cent for men and 36 per cent for women.

In the rural sector labour force participation for women was higher at almost 71 per cent and 70 per cent for men. Subsistence employment for women was also much higher at 77.5 per cent and 66 per cent for men in the rural areas.

Labour force participation and employment rates for PNG females in the rural sector are very high by international standards, especially in the five provinces of the Highlands Region, but this is the result of the fact that most women (as well as men) in this sector are engaged in agriculture and/or fishing for subsistence (household consumption), thus technically they are employed.

Article 12 Health

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition.

12.0 States parties have to ensure that women have access to health care services including those related to family planning. In Papua New Guinea, the three most important areas which have the most adverse impact on the health of women are reproductive and maternal health; HIV/AIDS and gender-based violence.

12.1 The National Health Plan 2001 – 2010 “Health Vision 2010”

The overall deterioration in health status since the 1990s is attributable in part to the increasing non-performance of the public health system, especially in rural areas and at the district level. In a 2001 review rural health services were found to be in a state of “*slow breakdown and collapse*”.

The Plan identifies objectives to be achieved and indicators to measure achievement in five main areas, including public health services, with priority areas on, (i) Immunization, (ii) Malaria control; (iii) Safe motherhood, (iv) Sexually transmitted infections (STI) and HIV and AIDS), and (v) TB control. The overall size of the health workforce financed by the public sector grew by 36 per cent between 1988 and 2004, from 9,082 to 12,355. In 2004, almost 85 per cent of the

health staff was accounted for by four cadres: doctors, health extension officers, nurses, and community health workers.⁶⁹

The United Nations system support will focus mainly on the area of strengthening public health services and its five main components: Child health (child survival); Maternal health (reproductive health and safe motherhood); Disease prevention/control; and environmental health; and health promotion. It will also focus on two reform areas relating to the strengthening of leadership and management to achieve public health strategic directions and organizational performance of the Department of Health at the provincial level.

12.2 Reproductive and Maternal Health

The burden of disease in PNG is dominated by high maternal and infant mortality rates and by communicable diseases, which together account for about 60 per cent of the disease burden. Total fertility rates (TFRs) are high; in 2000, the rate was estimated to be 4.6 births for all women 15–49 years, down from 5.4 births in 1980. Only half of pregnant mothers in the country deliver with the assistance of skilled health personnel. About 500 women die each year from complications of pregnancy or childbirth, 90 per cent of them in their homes, outside the formal health system. A further 15,000 women are significantly handicapped because of the similar complications.⁷⁰

It is also important to note that a large proportion of children are born to women outside the 20-34 age range. Teenage pregnancy is common and spacing of children and family planning implementation is weak. The country's maternal mortality ratio of 300 deaths per 100,000 live births is among the highest in the Western Pacific. Health policies are aimed at improving women's health. Fees have been waived for all antenatal and childbirth services and a Health Sector Improvement Programme (HSIP) has been launched in 2004 to implement the National Health Policy.

Abortion is criminalised in PNG with a penalty of 7 years imprisonment and there is no exception to save a mother's life. The failure to decriminalise abortion and to provide safe accessible facilities for women who require abortions endangers their health and that of any child born subsequent to a failed abortion since research indicates that when a mother dies (including as a result of unsafe abortion) the chance of survival of all surviving children under 5 is significantly reduced.

The Department of Health in conjunction with WHO, UNICEF and UNFPA are working together to provide training of health workers and health system strengthening to implement the child survival package, particularly relating to child health (MDG 4), women's health, safe motherhood, and reproductive health (including adolescent reproductive health) (MDG 5) and nutrition issues. In particular they are collaborating towards the National Health Plan outcome of "Family health

⁶⁹ Strategic Directions for Human Development in Papua New Guinea, Asian Development Bank, Australian Agency for International Development, World Bank 2007.

⁷⁰ Development Programming and the Well-Being of the Girl Child, 2004, UNICEF.

services strengthened and made up of preventive and curative health interventions addressing the health of mothers and children.

The disproportionate care burdens on the mother in Papua New Guinea reveal noncompliance with at least two principles of CEDAW, namely the principle that the state and development programming must provide services to address the needs of women as women, and that the state and development programming must promote the understanding of maternity as a social function and the common responsibility between men and women in the upbringing and development of children.

12.3 Nutrition

Due to poor nutrition and a high birth rate, a mother's weight decreases with increasing number of children, with prolonged breastfeeding linked to loss of body fat. The average period of breastfeeding is 43 months, with little use of family planning and children less than 3 years apart. Many women are unable to meet the different dietary requirements, particularly sufficient micronutrients and protein in early pregnancy. Undernourished children are more likely to become short adults, have lower educational achievement and to give birth to smaller infants, with under-nutrition also associated with lower economic status in adulthood.

12.4 HIV/AIDS and Sexually Transmitted Infections (STIs)

The HIV infection rate in PNG is the highest in the Pacific Islands region. The PNG Parliament recently passed the HIV Prevention and Management Act that provides protection for victims against stigma and discrimination and makes it an offence to knowingly spread the virus. Population Education Curriculum, including HIV/AIDS topics, is being taught in upper primary grades in some of the provinces.

The HIV epidemic in PNG is due primarily to heterosexual transmission, which accounts for 90 per cent of all detected cases. Roughly equal proportions of men and women have been infected since the first cases were reported in 1987. In a culture where women have little say in sexual relations and are often subject to violent sexual exploitation Married women can be at high risk as they acquire the virus from their husbands. In Papua New Guinea they account for half of all new infections.

The epidemic has spread relatively rapidly into rural areas through circular migrations of men and women. Despite the fact that national data collection systems are biased toward urban settings, HIV/AIDS in PNG is overwhelmingly a rural problem. The 2002 World Bank⁷¹ assessment notes this rural bias: "The virus is firmly established in the general population with prevalence rates in the 15 to 49 year old population of between 3 and 4 per cent in Port Moresby, well over 2 per cent in other urban areas and over 1 per cent in rural areas. But these differential prevalence rates must be seen in the context of a population that is still 83 per cent rural. As a result, 70 per cent of all

⁷¹ 2002 World Bank.

infections are among the rural population (despite lower prevalence rates), 15 per cent of all infections in Port Moresby and the remaining 15 per cent in the other urban areas. In contrast to the urban/rural distribution of cases that is apparent from indirect estimates, around 70 per cent of known cases have been detected in Port Moresby where testing at the Port Moresby General Hospital is most frequent – HIV testing in rural areas is still very limited.

Table 8: HIV/AIDS Infection Detected in Papua New Guinea, 1987 – 31/12/2006⁷²

Year of Diagnosis and cases reported

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Sex not stated</i>	<i>Total</i>
1987	2	4	0	6
1988	8	5	0	13
1989	11	7	0	18
1990	24	12	0	36
1991	17	16	2	35
1992	12	18	0	30
1993	19	21	0	40
1994	42	31	1	74
1995	68	57	1	126
1996	94	96	2	192
1997	173	174	1	348
1998	331	307	23	661
1999	418	335	37	790
2000	598	448	27	1073
2001	642	615	56	1313
2002	840	796	78	1714
2003	1058	1137	121	2316
2004	1152	1193	284	2629
2005	1310	1587	156	3053
2006	1711	1965	341	4017
Total	8530	8824	1130	18484
%	46.15	47.74	6.11	

⁷² National Aids Council Secretariat And Department Of Health, HIV/AIDS Quarterly Report, December 2006.

Due to the low level of education and literacy, there is limited awareness of the HIV/AIDS threat, particularly in the rural village sector. This is compounded by the limited empowerment of women and a high level of gender inequality. Another factor is that concerns about morality and Christian values are repeatedly confounded with public health matters. Access to condoms is very limited since they are very scantily distributed, especially in most of the rural village sector. There is still a high level of complacency with regards to the HIV/AIDS threat at the decision making level since it is not seen as a priority area. This makes an efficient multi-sectoral response difficult.⁷³

Table 9: New HIV and AIDS Infections Reported Per Month in 2006⁷⁴

<i>Month of detection</i>	<i>Male</i>	<i>%</i>	<i>Female</i>	<i>%</i>	<i>Sex not stated</i>	<i>%</i>	<i>Total</i>	<i>%</i>
<i>January</i>	152	8.88	164	8.35	38	11.14	354	8.81
<i>February</i>	154	9.00	170	8.65	32	9.38	356	8.86
<i>March</i>	182	10.64	223	11.35	57	16.72	462	11.50
<i>April</i>	108	6.31	128	6.51	58	17.01	294	7.32
<i>May</i>	121	7.07	174	8.85	38	11.14	333	8.29
<i>June</i>	175	10.23	161	8.19	19	5.57	355	8.84
<i>July</i>	169	9.88	195	9.92	29	8.50	393	9.78
<i>August</i>	186	10.87	193	9.82	15	4.40	394	9.81
<i>September</i>	50	2.92	57	2.90	7	2.05	114	2.84
<i>October</i>	44	2.57	47	2.39	2	0.59	93	2.32
<i>November</i>	63	3.68	80	4.07	5	1.47	148	3.68
<i>December</i>	45	2.63	70	3.56	5	1.47	120	2.99
<i>Unknown</i>	262	15.31	303	15.42	36	10.56	601	14.96
<i>Total</i>	1711		1965		341		4017	

Contributing factors to the spread of the epidemic include high rates of multiple and concurrent sexual partnerships; early sexual debut among young people more particularly among girls and sexual partnerships between younger women and older men. High rates of sexual violence and sexual coercion against women combined with high rates of heterosexually transmitted infections, and low rates of condom use have also compounded the problem. AusAID projections suggest that, in the absence of effective interventions, the number infected with the virus may rise to over half a million, or 10 per cent of the adult population by 2025. Effective interventions, however, could reduce the potential HIV-affected population nearly three-fold to 200,000, or 4 per cent of the adult population, by 2025.⁷⁵

⁷³ MILLENNIUM DEVELOPMENT GOALS - PROGRESS REPORT FOR PAPUA NEW GUINEA 2004.

⁷⁴ National Aids Council Secretariat And Department Of Health, HIV/AIDS Quarterly Report, December 2006.

⁷⁵ GOVERNMENT OF PAPUA NEW GUINEA /UNITED NATIONS DEVELOPMENT SYSTEM, UNITED NATIONS COUNTRY PROGRAMME PAPUA NEW GUINEA 2008 – 2012: A PARTNERSHIP FOR NATION-BUILDING.

Unequal gender relations and biased gender norms prevent girls and women from accessing information, seeking treatment for sexual infections, negotiating for safer sex and create highly unequal sexual partnerships. Knowledge gaps in relation to sex and sexuality and cultural inhibitions in accessing related information on the part of both men and women deny them safer sex options. Women are disproportionately burdened in HIV through care giving, experiencing greater levels of stigma and discrimination, and partner violence. People in rural areas of the country are less informed, less well educated, have worse health facility access, poor access to water and sanitation, low access to media, low condom usage and low access to other government services.

They are least well-equipped to prevent HIV-transmission in their communities.⁷⁶

12.4.1 The HIV/AIDS Management and Prevention Act

This Act is now in force, and provides relief for HIV/AIDS-related discrimination. Examples of such discrimination can occur for example where a woman is treated unfairly because she is presumed to be a prostitute, and prostitutes are presumed to be responsible for transmission of HIV; or where a person is presumed to have AIDS because he associates with someone who is rumoured to be gay, and HIV/AIDS was brought into the country by expatriate homosexuals; or where a person is presumed to have HIV/AIDS or to be associated with HIV carriers because he or she is carrying or distributing condoms. The Act also makes it unlawful to deny access to a means of protection from HIV infection: (Section 11), and the possession of condoms is specifically included as a means of protection from infection. Given current reports of condom possession being used by police as evidence of any number of criminal activities, it is possible that this provision will be useful in court actions.

12.4.2 Papua New Guinea's National Strategic Plan on HIV/AIDS 2006-2010 (NSP)

The Plan recognises that gender is a key factor shaping both the epidemic and the national response to it. The Policy Framework, addresses gender inequality: women and girls are more vulnerable to HIV infection than men but less able to protect themselves, because of their dependent situation. The NSP promotes gender equality in access to prevention, treatment and care, strengthen the leadership of women, improve the ability of women and youth to protect themselves with less reliance on men's choices, create partnerships for reducing gender inequality, and mainstream gender into all HIV and AIDS activities. Gender based violence, both physical and sexual are regarded as major sources of risk to women and girls, thus requiring a major emphasis in programming.

The National Plan⁷⁷ notes that "care for people with HIV is almost non-existent, except where church health services are building programs of community-based care." It notes that 'common to the many cultural groups, is gender inequality that is expressed through the dominance of

⁷⁶ Development Programming and the Well-Being of the Girl Child, 2004, UNICEF.

⁷⁷ National Strategic Plan.

men in family, clan and community decision making.’ Consequently, the blame for AIDS is being unfairly placed on women. “*Sexism facilitates the spread of STDs, obscures the social relations by which transmission occurs and most concerning for the girl child, drags down the public health by enabling the misidentification of what are often for women the real risks of infection..*”

The National Aids Council Secretariat is the lead agency for mainstreaming a gendered approach to HIV/AIDS across all sectors, providing mechanisms and training personnel to ensure that gender considerations are integrated into the planning, implementation, monitoring and evaluation of responses. As a companion document to the National Strategic Plan, an ambitious *National Gender Policy (NGP) and Plan on HIV and AIDS 2006-2010* was launched in December 2007 which acknowledges the critical importance of gender in shaping the epidemic and the country’s response to it. The NGP identifies eight key policy areas: gender inequality, gender mainstreaming, gender based violence, poverty, involving men, stigma discrimination and risk, burden of care and young people. The Gender Work Plan appears not to have been integrated in the 2008 Development Budget and thus it was not well integrated into work plans for 2008.⁷⁸

12.4.3 Women affected by HIV and AIDS in PNG (WABHA PNG) is a newly formed national network of women living with HIV launched in November 2007. They have an organizational structure and a plan to work around issues of prevention of mother to child transmission, gender-based violence, stigma and discrimination. WABHA PNG plans to employ a coordinator and strengthen their core working group before expanding to other provinces.

12.4.4 Sexually Transmitted Infections (STIs)

In addition to widespread HIV/AIDS prevalence, there are exceptionally high Sexually Transmitted Infection (STI) rates. According to the 2000 Consensus Workshop on HIV and STIs, more than one million new cases of STIs occur every year, two-thirds of them Chlamydia infections. Two factors play a major role: the relative late advent of STIs in the country and the absence of widespread male circumcision, which is correlated with high STI infections, including HIV; and low levels of access to, and use of, condoms, which the MDG report says are “scantily distributed, especially in the rural village sector” with the rural sector comprising around 83 per cent of the population.⁷⁹

The prevalence of STIs is high in both males and females. One 1997 survey of sex workers in Port Moresby and Lae found high levels of chlamydia (31 per cent), syphilis (32 per cent), and gonorrhoea (36 per cent). In a sample survey of village women living on secondary roads in the Eastern Highlands, prevalence levels were similar for Chlamydia, 26.5 per cent, but lower for

⁷⁸ PNG UNGASS Report 2008.

⁷⁹ Families and Children Affected by HIV/AIDS and other Vulnerable Children in Papua New Guinea, AUSAID commissioned study, 2002.

syphilis, only 4 per cent, and gonorrhoea, 18.2 per cent. A study in 2005 by the Papua New Guinea Institute of Medical Research (PNGIMR), a statutory body under the Ministry of Health, at Porgera (a voluntary sample) showed high levels of syphilis both among men (6.9 per cent) and women (9.5 per cent)⁸⁰.

12.5 Gender-based violence

The levels of violence against women and children in Papua New Guinea is undoubtedly a serious health issue. The police continue to treat wife-beating as a “family matter”; male-dominated village courts offer no protection to beaten wives and treat rape as a matter for compensation to the victim’s male relatives. The Health Department has no national policy or procedures on domestic violence or rape and there are very few support services for victims of abuse with “safe houses” or “shelters” for victims and their children almost non-existent outside Port Moresby. Few workplaces have policies on sexual harassment and counselors have minimal training.

The *Department of Health Protocol on Domestic Violence* was introduced in 2003, and based on a simple desk-top checklist of 6 steps. The health worker is required to ask about domestic violence with certain presenting conditions, ensure privacy, inform the client she has the right to be protected, provide treatment, plan with the client how to reduce future risk, and record injuries in the woman’s health book. Each health worker is required to develop a local referral network, recorded on the inside of the checklist. A teaching poster, and separate leaflets for men and women to be used in health promotion activities or given to individual clients, were produced and distributed. A full package of training materials was created, and tutors from all the colleges of health work and nursing were trained to use these during 2004.

For many abused women, the first and often the only help they seek is medical treatment for their injuries. The Health Department therefore, decided to set up hospital-based centres for women who have been physically abused or raped where they can receive treatment, counselling and referrals in privacy, where they cannot be pursued by husbands, and where medico-legal evidence can be collected speedily. These are usually called Family Support Centres (FSCs) with funding provided by AusAID, UNICEF and Medecins Sans Frontieres.

The preferred model is the “One Stop Centre”, where treatment, counselling and legal aid are ideally provided on the spot by paid staff and trained volunteers, and where police statements are prepared. This spares women the many difficulties, dangers and costs involved in visiting other agencies around town. Overnight accommodation is available in an emergency, with referrals to shelters for longer periods. Lae’s Angau hospital has the country’s current best practice model, operating since 2001.

The “safe space” model is being used by hospitals which do not yet have large enough facilities to operate as a “one stop” centre. The FSCs at Goroka and Kainantu hospitals have only one room, but

⁸⁰ Strategic Directions for Human Development in Papua New Guinea, Asian Development Bank, Australian Agency for International Development, World Bank 2007.

each have one paid staff and are expanding their volunteers roster. Both are coordinated by Family Voice, an NGO concerned with reducing gender based violence, provides follow-up support and connections to other organisations.

There is no safe accommodation or women's shelter available in the area. In 2007, the Department of Health stepped up its efforts to improve, standardise and expand the FSCs to all provincial hospitals, to formalise protocols and referral pathways and introduce training.

Article 13 Economic and Social Life

States parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

13.0 Article 13(b) of CEDAW provides that women should be afforded equal rights to bank loans, mortgages and other forms of financial credit free from discrimination. Although there is no legislative barrier to women in PNG from accessing such services, discrimination continues to hinder women from obtaining credit and loans to purchase property or businesses, thus interfering with their autonomy and ability to earn a livelihood. Article 13(c) of CEDAW requires that women have an equal right to participate in recreational activities, sports and all aspects of cultural life and there are no legislative barriers in Papua New Guinea preventing women from doing so.

13.1 Women in the Economy

Between 1996 and 2002 the number of Papua New Guineans living on less than US\$ 1 per day is estimated to have increased from 25 per cent to 40 per cent — mostly in rural areas and highest among female-headed households. The Highland Region has a high labour force participation rate, but this is because women are employed in subsistence agriculture, raising household food in family farms and gardens.⁸¹

For females, however, options for formal employment are far more limited. Less than 5.7 per cent of women in the labor force participate in the formal non-agricultural wage-earning labor force, compared with 15.2 per cent of men – the lowest rate for the Pacific region.⁸² There are

⁸¹ 2004 MDG report.

⁸² Strategic Directions for Human Development in Papua New Guinea, Asian Development Bank, Australian Agency for International Development, World Bank 2007.

other realistic constraints to increasing the involvement of women in nontraditional economic activities. Many women are already fully involved in domestic and traditional activities and unless some of these responsibilities can be devolved to others, they will merely assume a “double burden”.

Women’s participation was mainly in their domestic roles and in subsistence farming. The post-colonial era from independence until today, has more educated and employed women, but still not clearly representative of women at the executive and decision-making levels of the nation’s workforce, let alone the national political arena.

Studies by Department of Social Welfare in 2002 showed that women sell their fresh products and other goods at the market to meet the immediate household needs of their families. School fees, bus fares and supplementing husband’s income, stand out as the expenditure priorities for women’s earnings and savings. Their earnings are subject to the control and/or influence of their families and clans, with women ill-equipped to save and re-invest earnings.

According to the Registrar of Companies, in the formal sector, the ownership of companies as per the listings of directors is, as expected dominated by men. The Registrar estimates that women signatories as members of board of directors or as company directors would be, on average, less than three persons in every 10 applications lodged in a week.⁸³

While some of the impediments identified by women entrepreneurs in the private sector are similar to those faced by their male counterparts, such as the lack of knowledge and capacity to run a business even when start-up capital is available, women face additional cultural impediments which contribute to perceptions that women on their own cannot succeed in business activities. This results in a lack of support for women entrepreneurs, from their families and in society overall, translating into concrete impediments in the market place. However, there are several examples of successful women-owned businesses in the private sector both, in the urban areas and in commercial agriculture.

13.2 Natural Resource Development

A key gender issue to emerge in relation to natural resource development in PNG is the lack of equity, including gender-equity, in the benefit arrangements of community royalties. The cash benefits that are distributed to the community, for example, are generally received by male clan leaders and elders.

The Women in Mining National Action Plan 2007-2012 supported by the World Bank was drafted by an inter-departmental Technical Team led by the Mining Department, with the Departments of National Planning and Monitoring, Community Development, Environment,

⁸³ Country Gender Assessment Papua New Guinea 2006, Asia Development Bank

and Attorney General. Gender Development Officers in each of the six mine sites⁸⁴ contributed information and coordinated planning team consultation visits to the mine sites.

The Women in Mining Plan is a comprehensive document that conceptually links the MTDS, the MDGs, the Beijing and Pacific Platforms for Action, and PNG's international treaty obligations. The Plan is conceived as a women's empowerment project. Among other things the Women in Mining Plan is intended to increase women's access to mining income.

The Plan has eight goals, which include:

- ensuring that reproductive health care services including family planning are accessible, affordable and consistent with community values and norms;
- preventing and controlling the incidence of TB and STIs (including HIV) and minimizing the social and economic impacts of STIs on families;
- increasing opportunities for women and girls to participate in and benefit from the economic, political, social and cultural life of their communities;
- strengthening the capacity of women's associations to operate beyond mine closure;
- ensuring that communities are able to sustain their livelihoods;
- promoting and maintaining safety, security and peace in the communities.

Activities under the Plan will encourage female school enrollments (including through subsidized fees), promote understanding of gender issues through public education, provide training in cottage industries and micro-finance, sensitize males on human rights in relation to land and culture and educate men and women on their rights to freedom from abuse and violence. It also promotes livestock farming and diversified food and fruit production, and redistribution of 5% of mining royalties to women by 2012 among others.⁸⁵

13.3 Department of Commerce and Industry Gender Responsive Policy Initiatives

The Department of Commerce and Industry has formulated supporting policies and programs that are gender responsive and is determined to create and promote a conducive economic environment for the development and promotion of dynamic and competitive private sector. These are the National Investment Policy Volume(I, II and III,) Small and Medium Enterprises, Revolving Fund, Micro-Finance Policy, Garment and Textile Policy and The Cooperative Policy (to be submitted to NEC in 2008 for endorsement and approval).

The National Investment Policy Volume One provides a framework, built on past achievements and aims to provide an ongoing environment conducive to business and investment growth. It was needed in order to provide the transparency, equal treatment and consistency required by the private sector, to enable it to make medium term strategic decisions to invest in Papua New

⁸⁴ OK Tedi, Progera, Hidden Valley, Lihir, Tolukuma and Kainantu.

⁸⁵ UNIFEM 2007.

Guinea. National Investment Policy Volume Two examined the incentives and disincentives which affected investment in Papua New Guinea. Such reforms will provide more opportunities for women to become involved in the private sector.

The Microfinance Policy was formulated to support the provision of effective services to Finance Sector, SME Sector and to enable effective implementation of the SME Policy. The objective of the policy is to establish a framework that leads Microfinance Institutions (MFIs) towards enhanced institutional capacity, and better access to refinance mechanisms. This is to enable MFIs to support and assist the development of formal and informal enterprises, particularly those owned and/or operated by women currently excluded from mainstream financial services.

Experience in PNG's microfinance industry, including ADB supported interventions in the microfinance sector such as the Microfinance Competency Centre (MCC), indicates that even if gender-equity is not a stated objective of the project or incorporated in project design, women's participation in this sector is high. Microfinance schemes like *Liklik Dinau* (Small Credit) in Goroka, the Lutheran Development Services supported *Putim na Kisim* in Lae (Deposit and Withdraw), and national *Meri Dinau Association* (Women's Credit Association) were specifically women oriented microfinance schemes. Other schemes, such as the PNG Sustainable Development Ltd funded Koki Bank and the Bougainville *Haus Moni* did not specifically target women, but had large numbers of female depositors. The lessons learned in this sector concord with experiences internationally: women are better re-payers of loans than men; women as beneficiaries in this sector, more reliably translates in to benefits for their families.

13.4 Women in Garment and Textile Industry

In recognition of the trends in unemployment, particularly among women and youth, a Women Textile Training Project was initiated by the Department of National Planning and Rural Development and managed by the Minister of Trade and Industry effective from 2001. The Project was funded under the Public Investment Programme for five years (2001-2005) with its objectives to provide basic training in garment construction, enabling participants to establish small garment business activities. Since 2001 more than 600 women and young people have been trained.

13.5 Women in the Informal Economy

Agricultural products, together with vegetables mostly grown by women, enabled them to enter into the cash economy. In the highlands, for example, women's skills in gardening were heavily used in tending the coffee trees, thus extending their labour from subsistence gardening to cash cropping. However, women's contribution to the cash economy had very little cash returns because the men kept most of the money earned from the sale of coffee. When the growth of towns created a demand for fruits and vegetables, village women who grew these could sell

their produce, but their earnings were minimal compared to the men's earnings. This has left the women on the fringes of cash economy.

Most women are self employed in the informal economy and this factor has not been well recognized in terms of proactive policy making. The Informal Sector Development and Control Act 2004 was viewed by many women as a doorway to income-generation. Progress has been made in areas such as textiles and floriculture including the drafting of the Informal Economy Policy and Workplan.

The limited data collected on the informal economy clearly shows its significance to women with little formal education. Women comprise 63 per cent of the informal sector with males constituting 37 per cent, and of these women 69 per cent are married, with a median age of 33 years. The majority of women (41%) have basic primary education, with almost a third (32%) having no formal education at all, and 27 per cent proceeded beyond Grade 6 level. The vast majority (77%) of these women are self-employed, and for 69 per cent of them, the average income of Kina 60.50 per week is their only source of income, with an average 7 person household to support. Approximately half of the women engaged in the informal sector have been in business for over 6 years.

A more recent survey of women roadside sellers in Madang Province found that they earn a weighted average income of more than three times the national minimum wage. The relative economic success of these roadside vendors relies to a large extent on access to good-quality customary land and proximity to major roads.

Some of the constraints faced by women in business are stated in the following quotations: *“women have always been looked upon as support labour, not as managers”* (Bungtabu Brown, Businesswoman) *“men need to change their way of thinking about women and give them the right to decide how to spend the money they themselves earn”*. (Cathy Rumint, Banking Industry). *“Due to the volatile nature of the money market it is very difficult for women to obtain financial assistance. Usually the need for collateral security is emphasized, rather than the viability of the project and the management skill of the women concerned.”* (Cecelia Kuman, Banking Industry)

13.6 Loans, mortgages and credit

Major constraint to women's participation in small business projects has been their lack of access to credit and banking facilities. Most women do not have control or ownership of land or other substantial resources which banks generally require as collateral for loans.

Women have limited access to obtaining financial credit. If they want to take out a loan from a private bank or financial institution they must complete a loan application, enclose three pay slips and a letter of confirmation from an employer, plus quotation or invoices for the purpose of the loan, in addition to confirmation of ownership of assets. Given that the vast majority of women are not in the formal waged sector and have equal legal rights to administer property,

customary ownership of land discriminates against them, thus making loan requirements extremely difficult. In recent years a number of micro-credit schemes have been initiated by aid agencies, and women have been trained to take over management and educate participants in business practices. There are difficulties in the management and sustainability of these projects, particularly in more remote areas.

13.7 Social Security

There are no social safety nets, unemployment insurance, or social security systems in PNG. In PNG, the breakdown of the 'wantok' kinship system of support has left many of the elderly, who lack family support, in extreme poverty. This system enabled an individual to cater for the needs of his/her extended family. The Government depended on this system without providing alternative systems.

Article 14 Rural women

1. States parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counseling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

14.0 In PNG more than two-thirds of the population lives outside urban centres, where the majority of women are engaged in subsistence livelihoods. Agriculture is divided into two major sectors: village and non-village agriculture. Village agriculture provides subsistence and cash incomes for approximately 85 per cent of the population. Non-village agriculture includes three sub-sectors: the large holdings or estates; the smallholder land settlement schemes; and urban horticulture. In rural PNG, gender roles, and the associated gender division of labour, are strongly defined. In terms of rural livelihoods, women have the major role in food-crop production (and local food-crop marketing), and rearing pigs and chickens for subsistence, contribution to cultural events, reciprocity, and also sometimes for cash.

Rural women play a significant role in the economic survival of their families and communities although they are frequently disadvantaged in areas such as land ownership, health, education and income. Papua New Guinea has not as yet incorporated temporary special measures provisions into both the Constitution and legislation to ensure substantive equality for rural women.

14.1 Land Tenure⁸⁶

The land ownership arrangements is also a critical gender and development issue. While the country is richly endowed with natural resources including oil, gas, copper, marine resources, tropical timber and arable land for farming, about 90% of land is under customary ownership where men determine most, if not all decisions, pertaining to its use. In the majority of mainland PNG societies, groups of men control land and resources and make major decisions about their use. Land registration practices have consistently resulted in the effective diminution of women's traditional rights to land.

When the land is acknowledged as belonging to a specific group of people, males are usually the ones who are consulted, are the signatories to any legal documents and often are the ones who benefit from changes in inheritance, to the detriment of women. This is also the case in matrilineal systems where men gain a permanent right over land and then bequeath it patrilineally to their children, a practice that has no precedent in custom. In patrilineal systems women are often entirely excluded from owning registered land. In PNG's predominantly patrilineal cultures, men are the "*papa bilong graun*" (owners of the land).⁸⁷ Women cannot enforce rights to land and property, nor claim the income from cash crops or land leases such as for mining, logging and infrastructure construction.

⁸⁶ Gender Analysis in Papua New Guinea, World Bank 1997.

⁸⁷ This applies also to the few matrilineal societies in the region, except those which are also matrilocal, meaning that women stay on their clan land and their husbands move to live with them.

14.2 The Role of Women in Agriculture and Food Security

The majority of women in the rural areas dominate the informal, subsistence sector of PNG. Household security for a majority of families is dependent on agriculture which is predominately subsistence production managed by family labour differentiated by gender roles in household production.

Gender differentiated labour organization within the family makes women responsible for food production in smallholder farming including management of small livestock and home gardens. Women are responsible for 60-70% of work involved in food production and produce over 80% of the country's food. Many women who grow food for self-consumption also engage in selling food, with about two thirds of all households producing food crops also getting at least some cash income from their sale.⁸⁸ Despite this, women's contribution to food production is however, rarely recognized or compensated with improved services to enhance their participation.

Agricultural production has changed from a system where women were integral to the production of food and subsistence for the family, to an industry driven economy which men control and operate and women's role has shifted to one of dependence. Men have become the sole breadwinners and women can often do very little to contribute to the family income in town if they are unemployed. Conversely, in the village, women still have gardening activities to supplement their husbands' contributions to their family, in towns, that privilege is curtailed. Women are still producers in the subsistence economy but their work is not given monetary value.

14.2.1 National Food Security Policy (NFS) (2000),

The National Food Security Policy was approved by the Government in May, 2000 in accordance with the FAO Plan of Action (1997). The NFS Policy defines the food security goals of the government and sets out a strategy to achieve them so that PNG can effectively address the main issue of food insecurity. The primary goal of the National Policy is *"to ensure that all people of PNG at all times have access to safe and nutritious food in adequate quality and quantity to maintain a healthy and active life."* It also aims to *ensure maximum participation of women in all aspects of agricultural production"*.

The Department of Agriculture and Livestock (DAL) recognizes the importance of an active agenda to identify, enhance and utilize the full potential of women as key human resources in food and nutrition development to achieve sustainable household food security. DAL being a specialized technical agency is vested with the mission to improve the food production in PNG to ensure that household food security and sustainable livelihood working a fragile resources environment.

⁸⁸ PAPUA NEW GUINEA: POVERTY ASSESSMENT, June 2004. World Bank.

Taking advantage of the reform process and with reorganization structure included the creation of a Women in Agriculture Development Unit (WIADU) and the formulation of the National Food Security Policy to address these issues.

14.2.2 The Women in Agriculture Development Unit

This was established to facilitate, coordinate and monitor women's participation in both formal and informal agricultural activities through inter-sectoral consultation.

The Unit's Five-year Development Plan aimed, among other things, to achieve gender mainstreaming in the agricultural sector by establishing Women in Agriculture and Development Unit (WIADU) desks in each of the 20 provinces, facilitating gender training as well as collecting and maintaining a gender-disaggregated database for planning purposes.

Despite the fact that implementation of the Plan suffered from a lack of funding, the Unit was able to establish representatives in 18 provinces, collect data and district profiles and disseminate information, as well as undertake limited gender training.⁸⁹ The 'Women in Agriculture Development Programme' is a concerted effort to integrate women in agriculture and rural development.

The programme aims to facilitate and coordinate women participation through inter-sectoral consultation and collaboration particularly to solicit support for capacity building aimed at enhancing women and youth-centred development programs, particularly, the role of women in household food security.

14.2.3 The Integrated Agriculture Training Program (IATP) was initiated in 2002 as a partnership between the University of Vudal, East New Britain, and the Australian Agency for International Development (AusAID). The programme collaborated with local stakeholders including local-level governments, non-government organizations (NGOs), and research institutions. The IATP aimed to improve livelihoods of rural communities in East New Britain Province, by providing targeted training and information services to both men and women. During the time of the AusAID funding (2002- 2005), 16 separate training modules were produced and subsequently delivered to rural communities in East New Britain. Both men and women farmers, community leaders, and local stakeholder organisations were involved in the identification of training needs, and in the design of the training modules. Over 6,000 men and women received training from the programme, which is now self- sustaining and operates in other provinces.

⁸⁹ Mainstreaming Gender and Development in Agriculture and Livestock, 2005 Annual Report, Department of Agriculture and Livestock.

14.3 Marketing and Access to Credit

The savings and credit module was also of particular interest to women, since it enabled them to increase their access to financial capital in both formal and informal ways, with the aim of developing their livelihoods activities, reducing vulnerability to financial shocks, and enabling them to save to meet education and health needs, and cultural obligations. Another important step in ensuring women's interests were integrated into the programme was gender-sensitive monitoring and evaluation. Monitoring provided the means of learning from women participants as the programme progressed, so that women's concerns and needs could be included in the programme.

While the government recognizes and acknowledges contributions of rural women, they have virtually no access to training, improved technology, human and financial resources. The absence of targeted extension services for women is essential to sustain production, employ more efficient practices and ensure year-round food security. While most men are able to link their business activity with commodity agencies or through broader industry lobby groups, women are unable to access such groups and are thereby functioning at a much lower economic level.

Rural women have limited entrepreneurial exposure, marketing or business management skills. Despite the fact that the majority of women who participate in marketing activity, most marketing boards are male-dominated. Women also have little experience of banking generally which combined with low levels of education has meant that mechanisms and procedures associated with credit facilities are not widely understood. The requirements for loans are complex and women may be unable to write submissions set out business plans or put up collateral or unable to assert personal control over money they earn. The lack of secure banking facilities in rural areas militates against this even further.⁹⁰

14.4 Programme for Women Market Vendors 2008-2011

Women market vendors are taxed heavily by the local government authorities, through aggressive male tax collectors. The women are not organised, are not aware of their rights and have no insight into the real economy of the market. Preliminary findings suggest that local governments derive at least half of their revenue from daily taxes imposed on market vendors, most of whom are rural women. Local governments allocate a small proportion back into routine market maintenance and very rarely into substantial marketplace improvements.

This UNIFEM programme will use participatory research and bottom-up planning strategies to support PNG's rural women market vendors to collaborate with local governments to analyse, understand and improve the physical, social and economic conditions of market places. Through this learning process women will become informed and empowered to influence all stages of future planning with local governments for the development and implementation of

⁹⁰ Gender Analysis in Papua New Guinea, World Bank 1997.

local government policies, programmes, budgets for better and more women friendly marketplace governance.

The project will gender sensitise men and policies in local government. It will enable women to analyse their situation, recognize their valuable contribution to family income and local government revenues and prompt them to organise and act to promote their rights to innovate and to improve their situation. Women will be encouraged to develop new market infrastructure projects in partnership with local governments. Expected outcomes include more women-friendly by laws and regulations governing market operations and the transformation of markets to attractive and safe social hubs with a range of basic services and opportunities for rural women to add value to their products.

14.5 Other Rural Activities

14.5.1 Women in Fisheries Development programme was initiated in 1989, supported by overseas aid funding. Its aims are both nutritional and economic and the target beneficiaries, women, children and youth in villages, have consistently been identified as deprived in these aspects of their lives. An ADB initial assessment for a Coastal Fisheries Management and Development Project in 2002 revealed the importance of women's small and large scale fishing, and women's dominance in fish processing and marketing. The resulting project included women in quality control, marketing and business management skills training.

One issue that has received little attention is that *oil palm plantations* which have a differentiated gender impacts. For instance, the oil palm companies only pay the men, although women and even the whole family also work in harvesting the oil palm fruit. This means that the men can spend the money they receive in whichever way they see fit, while women are left without payment. Additionally, the fact that women work long hours doing back-breaking work for little reward from oil palm plantations, means that at the end of the day they are too tired to carry out properly the extra burden of cooking and taking care of the children.

Growing, collecting and hunting of food is an important part of PNG culture. Women sell goods in the village markets, thus obtaining an income. At the same time, this activity provides for a valued time for socialising with other village women. When customary lands are converted to oil palm, many of these age-old traditions are lost and women find themselves left without both the income and the opportunity of socialising.

14.5.2 Forestry, Logging and Mining

Migration to economic "enclaves" – mines, plantations, logging camps – in rural and remote areas is common. Some rural residents migrate to urban areas to escape tribal violence in their home communities. Men look for work and other business opportunities while women come, sometimes with their families in town, to sell sex. Agricultural production has been changed from a system where women were integral to the production of food and subsistence for the

family, to an industry driven economy which men control and operate and women's role has shifted to one of dependence.

Forestry and logging are, like mining, dominated by foreign companies and expatriate men mostly hold the managerial positions. With no training programs for women and the cultural attitudes of both Papua New Guinean people and expatriate men ensure that women are effectively excluded from employment in logging operations.

The situation of women in the mining sector in many respects exemplifies the ways in which economic development strategies have not taken the specific social and cultural situations of women into account and have not implemented policies that ensure that women benefit equally with men. The jobs available for women tend to be either secretarial/clerical or unskilled domestic jobs. So far no PNG women have been appointed or promoted to any senior managerial positions. A gender action plan has been drawn up by a joint team from the Department of National Planning and Rural Development and the Department of Mining.

Article 15 Equality before the law and in civil matters

Article 15

- 1. States parties shall accord to women equality with men before the law.*
- 2. States parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.*
- 3. States parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.*
- 4. States parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.*

15.0 While PNG does not guarantee women equality before the law under the Constitution, there are no legal barriers to women's participation in court and tribunal processes. Women have equal rights regardless of marital status to conclude contracts related to credit, real estate and other property as well as commercial transactions. Women also have a right to administer property without interference or male consent, regardless of whether they acquire it during marriage, bring it into a marriage or are unmarried.

There is no legal barrier to the participation of women in all courts or tribunals, and there is no specific legislation that states that all contracts and all other private instruments with a legal

effect directed at restricting the legal capacity of women be deemed null and void. A woman can also sue and be sued in her own name.

Freedom of movement and choice of residence are granted to both men and women on an equal basis, and marriage does not limit a woman's right to choose her residence.

Article 16 Marriage and Family Law

1. States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

16.0 Marriage

The Marriage Act of 1963, which came into force in 1965, created a dual system of marriage in Papua New Guinea: customary marriage and statutory marriage. Section 3 of the Marriage Act states “*a native, other than a native who is party to a subsisting [statutory] marriage. . . can enter. . . into a customary marriage in accordance with the custom prevailing in the tribe or group to which the parties to the marriage or either of them belong or belongs.*” There is no “proof” required for customary marriage beyond compliance with custom. Should a dispute arise, the question of what constitutes the custom of the parties is a matter of fact to be determined by a court. Customary marriages are forbidden *where the woman objects to the marriage or purported marriage and excessive pressure has been brought to bear to persuade her to enter into the marriage; or in the circumstances it would be a hardship to compel her to conform to custom.* Any person who contravenes this is guilty of an offence and can be fined and/or imprisoned for a term not exceeding six months, or both.

Statutory marriages can be performed by Ministers of Religion, District Officers or Registrars. Seven days notice of an intended marriage must be given, the parties must declare their ages and eligibility to marry, the parties must be over 21 years of age (persons under 21 years of age may marry with parental consent unless a court has dispensed with this requirement), and the ceremony must be attended by two witnesses and followed by the preparation of a marriage certificate.

As a rite of passage, marriage is so important in Papua New Guinea that it results in child betrothal, and arranged, early marriages. A recent study calculated that at least 3870 children aged 10 to 14 had been married and were living in rural areas in 2000. In the urban areas, the figure was 633. Of the total 4503 girls, approximately one quarter of these girls had already been separated, divorced or widowed. Based on the 2000 Census figures, this study noted that 676 households in rural areas were headed by children aged between 10 and 14, compared to 76 for the same age group in urban areas.⁹¹

In PNG the minimum age for marriage is 18 for males and 16 for females, reinforcing a view that girls ‘mature’ more quickly than males. In ‘exceptional’ circumstances the court can grant permission for males of 16 and females of 14 to marry. Permitting the marriage of girls at 14 falls well below the accepted age for marriage recommended by the CEDAW Committee and the Child Rights Convention and constitutes child marriage. Thus, a person who purports to have marital sexual intercourse with the girl would be engaging in a sexual activity not authorized by law and therefore unlawful even if the ‘married’ girl-child consents to the activity. The Convention on the Rights of the Child, to which PNG is a signatory, defines a child as a human being below the age of 18, or the age of maturity established in the country if it is lower. The legal age of maturity is 18 years.

A UNICEF country study also noted that although the legal marriageable age is 16, marriages in some rural areas involve children as young as 13 years of age, with child marriages are

⁹¹ Development Programming and the Well-being of the Girl Child, 2004, UNICEF.

usually arranged by parents, other family members, or village chiefs on behalf of the families.⁹² Under the written law, a female person under the age of 14 years lacks the capacity to consent to or contract a marriage regardless of her wishes and physical condition. Such a marriage is void. By contrast, under customary law, because the emphasis is on physical maturity rather than on the chronological age, a girl of 14 years of age who has the attributes of a physically ‘fit’ person may enter into a valid customary marriage. Her consent to the marriage is generally also irrelevant because her parents contract the marriage for her. Since the present law recognizes customary marriages, one can conclude that the conflict between the two forms of marriage is legally recognized. This creates difficulties in the application of written laws that criminalize certain sexual activities involving children.

Under Schedule 2.1 of the Constitution, custom will not be applied and enforced if, and to the extent that, it is inconsistent with the *Constitution*, or a statute, or ‘repugnant to the general principles of humanity’. Additionally, s 3 of the *Customs Recognition Act*, Ch. 19, provides that customs which, if applied and enforced would result in injustice, or infringe public interest requirements or be contrary to the best interests of a child under the age of 16 years will not be recognized. Thus customary marriage of a female child under the age of 14 years would violate all of the above criteria or considerations.

16.1 Family Characteristics

PNG’s traditional social systems control women’s ability to speak out, either within their family or in public settings, and make it difficult for women, without the assistance of men, to own property and/or build up economic security. Kinship systems determine where females live when they are children, and for women, how much say they have in their own lives. Children and women are considered to be possessions in the traditional PNG family and marriage for most women is the principal means of acquiring a livelihood and social status. Although national legislation does guarantee equality to men and women in inheritance, it does not apply to customary land which is based instead on patrilineal lines and can discriminate against women.

Unemployment, poverty, unstable family relationships have contributed to the neglect and abuse of children. Increased formal and informal fostering/adoption of children particularly within the extended family is another potentially harmful cultural practice placing young children at risk. At the time of the 2000 census, the proportion of children not residing with their biological parents was 22.4 per cent.⁹³ Papua New Guinea has traditional and legal adoption/fostering, however, most adoption and fostering occurs without formal recognition. While these children retain rights and responsibilities in their birth family, they also assume domestic responsibilities in their foster families and are often expected to support both sets of parents in their old age.⁹⁴

⁹² A Situational Analysis of Child Sexual Abuse and the Commercial Sexual Exploitation of Children in Papua New Guinea, UNICEF PNG, Port Moresby, 2004.

⁹³ Development Programming and the Well-being of the Girl Child, 2004, UNICEF.

⁹⁴ Ibid.

16.2 Domestic Violence

The Law Reform Commission's findings in 1992 on the nature and extent of domestic violence in Papua New Guinea is presented. Results showed that husbands beat 67 per cent of rural wives, 56 per cent of urban low-income wives, and 62 per cent of urban elite wives. With regard to wives hitting their husbands, 30 per cent of rural husbands, 37 per cent of urban low-income husbands, and 50 per cent of urban elite husbands reported having been hit by their wives. This shows that wife beating is a much more serious problem than husband beating is. Further evidence showed that 97 per cent of wives and only 3 per cent of husbands receive treatment for domestic violence over a 10-week period.

The conclusion to be drawn from these differences between rural and urban attitudes towards wife beating is that there is a significant trend in urban areas away from seeing wife beating as acceptable. Causes of marriage problems are factors that lead to domestic fights and eventually domestic violence. Sexual jealousy comes in first for the rural area, while in the urban areas, alcohol is the main cause of domestic fights. However, underlying causes were also cited: unequal position of men and women; stress; lack of communication; culture and aggression.

The Law Reform Commission found that domestic violence, defined as "...*physical violence between marriage partners*", occurs in over two-thirds of all Papua New Guinean families, with most domestic violence being 'wife-beating' (PNGLR, 1992) In addition to underlying causes of domestic violence such as the unequal position of men and women in society, stress, lack of communication and the prevalence of violence and aggression in local cultures (PNGLR, 1992: 23), 'surface' or 'trigger' causes of domestic disputes were identified.

Rural respondents claimed that sexual jealousy, wives failing in their duties and men disliking their spouses were the most immediate causes of marriage problems, whilst urban low income and urban elite respondents referred to alcohol, money problems and sexual jealousy (PNGLR, 1992: 21). The criminal law was shown to offer little protection to the victims of domestic violence as spouses were exempt from the duty of giving evidence against each other in court, sentencing options caused further hardship for families, and 'battered-wife' syndrome as a defence of provocation for murder was not admissible.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygamy was customary, an increasing number of women were charged with murdering one of their husband's other wives, with up to 65 per cent of women in prison for attacking or killing another woman.

Between 1986 and 2000, the Commission took action in each of these areas, most notably in the provision of special training programs for the police, village courts and Probation Service. Today, there is no relevant policy, basic services for victims and offenders are virtually non-existent, police are reluctant to respond to cases of domestic violence, the justice system is dominated by men, and there is little emphasis upon awareness raising and prevention. Since

the publication of the Law Reform Commission's Final Report in 1992, government attention to domestic violence has diminished significantly.

16.3 Divorce, Separation, Maintenance, Custody

The whole body of family law relating to divorce, separation, division of marital property, maintenance orders and custody of children is both confusing and discriminatory against women, making it very hard for women to leave abusive marriages and fault based divorces, which require proof of a matrimonial offence such as desertion or habitual rape, place women in the difficult position of having to provide evidence of situations that may be humiliating, embarrassing, or that may interfere with their dignity and privacy.

The lack of laws that validate the various forms of customary marriage mean that women are often unable to claim their rights as wives. De facto marriages have no legal basis with similar consequences for women and children who are deserted. Women also face discrimination in proving fault, particularly cruelty and adultery if they choose not to be witnesses or they do not wish to attend court proceedings. Divorce in PNG is based on fault based criteria (including adultery, desertion and cruelty) and is therefore not compliant with CEDAW.

In addition, the court can order the restitution of conjugal rights, a provision which is manifestly discriminatory. There is also provision for damages for adultery, which is a criminal offence. These are discriminatory provisions imparting the notion that one spouse (typically the female spouse) is the property of the other. Maintenance orders during separation and after divorce for both children and spouses can be provided, however, the basis on which maintenance is determined is left largely to the discretion of the court with the broad criteria of the '*means, earning capacity and conduct*' of the parties. The latter, however, imports a notion of fault which is discriminatory to both children and spouses. The standards recommended by CEDAW pertaining to the needs and means of both parties, the financial commitments of both parties to themselves and others, their respective capacities to earn and the needs of any children for whom maintenance is sought are unlikely to be prioritised.

While the right to own, manage, enjoy and dispose of property is central to a woman's right to enjoy financial independence, women in PNG do not enjoy equality in relation to the ownership, administration, enjoyment and disposition of property since land tenure is based on custom leaving men in control of many aspects of land and property. PNG has adopted the recommended standard of the best interests of the child as the paramount consideration in custody disputes after separation and divorce. However, a lack of economic independence or an inability to gain custody of their children upon separation forces many women to stay in violent or difficult relationships. The division of property is based on what is '*just and equitable*', which fails to provide a clear criteria for judges. Such criterion is unlikely to include women's unpaid contributions to the household.

In PNG, while access to public solicitors is technically free and in theory available, in reality access to such services is minimal due to inadequate human resources and insufficient government funding allocations. There is no legal aid available and without a lawyer, the only

alternative is to turn to NGOs skilled in assisting complainants in filing necessary documentation. Women also find it difficult to proceed with divorce due to the fact that if the divorce turned out to be her fault and not her husband's, her family would have to return the bride price they had received for her. Her family might therefore be unwilling to welcome her back and if she came from a patrilineal society, she would not be able to take her children with her when she left her husband because they belonged to his clan.

Part B – Autonomous Region of Bougainville



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Part One: Background

1.0 *The Land and the People*

The Autonomous Region of Bougainville, also known as North Solomons, is an autonomous region in Papua New Guinea with a high degree of political autonomy. While the province of Bougainville is politically a part of Papua New Guinea, geographically and culturally, it is part of Solomon Islands. The province comprises the large islands of Bougainville and Buka, a number of small adjacent islands, and the more remote atolls of Nissan, Caterets, Mortlock, Tasman and Fead. Much of Bougainville Island is mountainous, with the highest peaks rising to over 2,000 metres, and contains many large rivers, while the southern half of the island has extensive areas of coastal swampland. The climate is tropical, with high annual rainfall. The capital is temporarily Buka, though it is expected that Arawa will once again become the provincial capital.

The last incomplete census undertaken in 2000 gave a population figure of 141,161 persons in the areas covered. Estimates for 2000 put the figure at between 150,000 and 200,000. Most Bougainvilleans trace their clan through their mothers, and land ownership in most communities is traced through the mother. Although the roles and status of women varied considerably between language and culture groups, the idea of balance and the practice of reciprocity held social responsibilities for both women and men. Because they had designated roles, women and men understood their place in society.

Table 11: Distribution of Population in Bougainville Regions⁹⁵

Region	>5		5-9		10-14		15-19		20-49		50+		TOTAL
	M	F	M	F	M	F	M	F	M	F	M	F	
Bougainville													
North	5464	4772	5412	5017	6069	5756	5756	5569	16474	15816	3127	2665	81337
Central	2914	2166	2946	2742	2987	2876	3110	2952	8195	7730	1454	1105	41177
South	4270	3524	4746	4362	4668	4118	4412	4221	14045	13858	3049	2838	68109
TOTAL	12648	10462	13104	12121	13724	12750	13091	12369	38712	37404	7630	6608	192225

There are 23 languages on Bougainville, with the major ones being Buin, Siwai, Nagovis, Banoni, Halia, Teop, Solos, Nehen, Nasioi, Rotokas and Eiiivo. Tok Pisin is the main second language.

2.0 *Constitutional and Political Background*

The islands of Buka and Bougainville formed part of the North Solomon province of Papua New Guinea. In 1972 the establishment of the large Panguna copper mine by Bougainville

⁹⁵ WHO 2008.

Copper Ltd. (BCL) and the signing of the Bougainville Copper Agreement with the then Government in 1974, were strongly resented by local landowners. In 1987, the Panguna Landowner's Association demanded US\$15 billion in compensation but when these demands were not met, militant action was taken and the Bougainville Revolutionary Army (BRA) was formed. The mine operators decided in January 1990 to close the mine leading to a declaration of a state of emergency.

Skirmishes between the BRA and the PNG Defence Force increased to the point where, early in 1990, the Central Government decided to remove all government personnel including its troops from the island and deny the inhabitants all government services. In addition, many public services and private enterprises, such as banks, withdrew from the province in 1990 as the violence increased. Further hardship occurred as the PNG government imposed an economic and communications embargo in mid 1990, resulting in a severe lack of medicine, food and fuel in the BRA controlled areas.

The BRA responded with a unilateral declaration of independence in May 1990. The hostilities over the following eight years resulted in the reported deaths of some 12,000 to 15,000 people and the displacement of thousands more. The 1997 truce was monitored by a Truce Monitoring Group (TMG), led by New Zealand, and comprising unarmed peacekeepers from New Zealand, Australia, Fiji and Vanuatu. In 1998, the TMG was replaced with a Peace Monitoring Group, led by Australia. Its task was to facilitate the process of peace-building by monitoring the ceasefire and supervising the collection and containment of weapons. In July 2003, the Bougainville Transitional Team replaced the PMG.

In April 1998 a permanent cease -fire was signed and deployment of a multinational Peace Monitoring Group commenced. On 30 August 2001 a Peace Agreement was signed giving Bougainville special status as a province with the right to establish an autonomous administration to manage its own affairs.

3.0 Economic Situation

In Bougainville the conflict resulted in many deaths and other social costs, including disrupted or non-existent education, the migration of many with skills and the destruction of much of the island's infrastructure. While some migrants have returned and many health and education services been re-established, the infrastructure remains in poor shape.

In areas where long periods of instability and armed conflict affected socio-economic development, the harnessing of local capacities for peace, income generation and employment promotion was a key concern. According to the current Bougainville Education Plan (2007-2016), the economic performance of the region has not been subject to serious study, with lack of regional accounts creating difficulties in estimating precisely the performance of the region since 1998. The economy is mainly agricultural, with major cocoa and coconut production.

Bougainville's development priorities are guided by Papua New Guinea's Medium Term Development Strategy (2005-10) which is the ABG's policy document for development. The ABG Development Plan aims to achieve integral human development through the empowerment of family units to ensure they become more productive, entrepreneurial and are internationally competitive so that they assume greater ownership, responsibility and accountability for improving and sustaining their quality of life and that of their communities. The Government's development objective is to improve and sustain the quality of life of all Bougainville families through a proactive, efficient and effective government and public goods and services delivery system.

Currently Bougainville generates less than 2.5% internal revenue. External support is still required to implement the five year Strategic Action Plan in services such as health, education, business/economic development, or to repair/rebuild roads and bridges. The challenges to provide high quality education and health services are still enormous. Lack of basic school and curriculum materials still hamper the provision of education services while the chronic shortage of the most commonly used drugs and other medical supplies continue to impede the delivery of an acceptable level of health service to the people, especially the rural majority.

Bougainville is dependent on the PNG government and donor agencies to provide necessary funding to re-establish the economy. Since 1999 UNDP has undertaken a programme focusing economic development through the rehabilitation of Bougainville's agriculture sector, ex-combatant training and employment activities, the Arawa Women's Vocational Training Project, as well as community development.

4.0 *Political System*

The 2001 Bougainville Peace Agreement granted autonomy to Bougainville and allowed for the disposal of weapons, the development of a constitution for an autonomous Bougainville, and elections for an autonomous government. In early 2005, the Bougainville Interim Provincial Government and the PNG government approved the constitution with elections held in May–June 2005. A referendum on the future political status of Bougainville is to be held among Bougainvilleans no earlier than 10 years, and no later than 15 years after the election of the Autonomous Bougainville Government (ABG), with the actual date to be agreed between the ABG and the PNG Government taking account of the achieving of standards of good governance in Bougainville and progress on weapons disposal. The outcome of the referendum will be subject to the final decision-making power of the PNG National Parliament.

The Peace Agreement stipulated that the Bougainville Interim Provincial Government in consultation with the Bougainville People's Congress established a Constitutional Commission, which, while not required to include women, was to “*consult widely with,*” and be “*broadly representative*” of the people of Bougainville. The Agreement also called for the establishment of a “representative” Constituent Assembly, the Judiciary and a system of government that met internationally accepted standards of good governance. There was also a complex three-stage plan for disposal of weapons of ex-combatants which was to be under the supervision of the

United Nations Political Office in Bougainville (UNPOB). Integral to the Agreement is a longer-term prospect of a referendum on possible independence to be held by 2015 at the latest. Since independence would be an option, this referendum is conditional to endorsement by a two-thirds majority of the PNG Parliament.

In June 2003 the United Nations Political Observer Mission on Bougainville verified and certified the completion of stage II of the Weapons Disposal Plan, which allowed establishment of the Constituent Assembly and brought the Constitutional Amendments and the Organic Law on Peace-Building in Bougainville/Papua New Guinea into full operation. The National Parliament of PNG gave the *Bougainville Peace Agreement* legal effect by amending the *Papua New Guinea Constitution* and passing the *Organic Law on Peace-Building in Bougainville*.

In an attempt to build national consensus and peace, this Agreement was passed through the PNG Parliament with only one amendment pertaining to control of weapons. The constitutional amendments opened the way for the election of an autonomous Bougainville/Papua New Guinea government and in 2003, Stage III of the peace process was reached when the parties to the conflict agreed to destroy weapons collected.

In terms of political institutions, autonomous Bougainville's Constitution was developed through a lengthy series of consultations both within Bougainville and with Papua New Guinea. The process to develop the Constitution was inclusive, participatory and wide-reaching, and was a process of reconciliation and community consensus building. Immunity and amnesty were guaranteed as part of the peace negotiations, with NGOs involved in trauma counseling and reconciliation at local levels.

Elections for an autonomous Bougainville government were held in May and June 2005. The Autonomous Bougainville Government (ABG) is now working towards fulfilling the ABG Constitution through the five year Strategic Action Plan (SAP). The SAP's Mission Statement; is *Together to help village people improve their wellbeing through a sustainable local level approach*. The Plan's objectives are *to address priority goals identified by our leaders....to reduce poverty levels and help people improve their living standards,....strive for economic prosperity and self-reliance, and encourage peace and reconciliation amongst our people*'.

5.0 Status of Women

The onset of armed conflict (1988–97) changed many things, not least the roles and responsibilities of women, men and children, and, more importantly, gender relations. Women, in particular suffered through the loss of family and friends, reduced levels of trust and security in their society, and the increasing violence against them. Violence in many forms is far more prevalent than before 1988, so much so that there are fears that high levels of violence may be a long-term consequence of the conflict.

The naval blockade of the island, and particularly the areas controlled by the BRA, meant that essential services such as health and education were shut down. The impact of the conflict was

far reaching with the physical destruction of one of the most developed provinces in the country, with a vast devastation in socio-economic, political as well as governance structures. Throughout the crisis, women were often intimidated and threatened. Some were raped or mutilated, others watched their sons and husbands killed and their daughters raped. Many Bougainvillean women fled to the jungle and adapted to life there but their limited access to health care resulted in higher maternal mortality.

In Bougainville language and cultural groups are matrilineal, which means that women have an independent status and land rights pass through themselves and their daughters. Because of this cultural and historical respect for women, women were able to be very active in the peace and reconciliation efforts at both local and national levels. Women also used their influence as go-betweens with the warring factions to maintain constructive dialogue. Mothers went into the jungle in attempts to bring their sons home. Women played a critical role in fostering the peace process by lobbying and pleading with men to lay down arms and settle into community life as well as advocating a return to peace and harmony.

The women of Bougainville were active agents for peace, with women leaders involved in setting up a process for negotiation between the Bougainville leaders with the PNG Government to bring about an end to the war. They called for a declaration of a cease-fire to take effect with the arrival of the first contingent of peacekeeping forces, with a neutral United Nations peacekeeping force to be invited to Bougainville at the beginning of the peace process for no longer than 3 years. In June/July 1997, the New Zealand Government again offered to facilitate the resumption of the peace talks between the PNG Government and Bougainville leaders. A total of some 75 Bougainville leaders attended representing all the major interest groups throughout the island, including traditional chiefs, youth, women, church representatives and political leaders.

Women's groups in the region, such as the Leitana Nehan Women's Development Agency (LNWDA) were instrumental in working for peace and reconciliation at local, national and international levels. Women created opportunities to stimulate dialogue; they participated in peace talks and were most importantly a part of the Constitution building process. All actors - the warring parties, the United Nations, donor agencies and NGOs gave credit to women for being instrumental in the cease-fire and peace process. This widespread recognition of women's role in creating and maintaining the conditions for peace stands in stark contrast to the absence and exclusion of women from the peace process, complex three stage disarmament and weapons disposal plan, which was intricately linked to progress on political and constitutional issues in the Bougainville Peace Agreement, finalized in August 2000.

Part Two: Commentary on Articles of the Convention

Article 1 - Definition of Discrimination

1.0 Bougainville's Constitutional and Legal Framework guaranteeing equal rights

Under the Bougainville Peace Agreement the parties established an Interim Joint Supervisory Body as the main forum through which the National Government consulted with Bougainville leaders. The Agreement also established the Bougainville Constitutional Commission (BCC) in September 2002 as a broadly representative body. It carried out extensive consultations across Bougainville and developed a draft Constitution. Bougainville's Interim Provincial Government and the Bougainville People's Congress established a Constitutional Commission of 24 members, which included three women and a Constituent Assembly, which included eight women. The Constitutional Commission drafted constitutional proposals for consideration by the Constituent Assembly. The Constituent Assembly debated and amended the drafts before submitting a final draft to the PNG government, which endorsed it as consistent with the PNG Constitution.

The Constitution of the Autonomous Region of Bougainville endorsed on 15 December 2004 by Papua New Guinea's National Executive Council stipulates that the Autonomous Bougainville Government *shall develop a level or levels of formal government, below the level of the Autonomous Bougainville Government, with the Councils of Elders recognized by this Constitution as a level of formal government below the level of the Autonomous Bougainville Government. Such levels of government shall be mainly elective, but shall recognize the traditional role in governance of traditional chiefs and other traditional leaders; and where appropriate and practicable, traditional systems of governance shall be incorporated into levels of formal government.*

The Constitution empowers the Autonomous Bougainville Government to develop a level of Regional Government for each of the following Regions of Bougainville: North Region; Central Region; South Region, *and may thereafter divide the level of Regional Government into further Regions. It shall also make provision for the establishment, powers and functions of a Regional Government. Traditional Systems of Government and the roles and responsibilities of traditional chiefs and other traditional leaders and of the clan system are also to be recognized and these shall include matters relating to customary land, preservation of the environment, family matters, dispute resolution and the maintenance of peace and good order.*

In dealing with ownership of customary land and elections, the Constitution states that *A Bougainvillean (and no other person) in accordance with this Constitution and Bougainville laws in accordance with custom, may own customary land in Bougainville; and who is a citizen, may be a candidate in any election to the House of Representatives and any other elected body established by or under this Constitution; and who is a citizen, may vote in any election referred to in Paragraph (b).*

Among the obligations of a Bougainvillean, according to the Constitution, are *to promote reconciliation and healing throughout Bougainville... to engage in gainful work for the good of himself, his family and the common good; and to contribute to the well-being of the community where that Bougainvillean lives, as well as promoting responsible parenthood, democracy and the rule of law.* The Constitution enables the Bougainville Executive Council to formulate policies for *dealing with human rights issues and victims of human rights issues.*

Bougainville's approved Constitution uses male gendered language throughout, stating that "words importing the masculine gender include females," but it does contain special provisions for women. In addition to those provisions mandating representation and involvement of women in the new government, the Constitution lists several "*Objectives and Directive Principles,*" which include *fair representation of women and other marginalized groups and welfare for widows, children, orphans, the aged and the disabled.* It also asserts that "*the role and welfare of women in traditional and modern Bougainville society shall be recognized and encouraged and shall be developed to take account of changing circumstances.*"

The "*Objectives and Directive Principles*" do not confer rights giving rise to judicial remedy, and are meant to guide the government in applying and interpreting the Constitution, in making and implementing policy decisions and laws. In terms of political participation, the Constitution stipulates that the House of Representatives must include three female members, representing the North, Central and South regions of Bougainville, "*to represent the interests of the women of the Region.*" The Bougainville Executive Council is to include one female member of the House of Representatives nominated by the other women members of the House and appointed by the President.

Article 2 Obligations to Eliminate Discrimination

Article 19 of the Constitution calls for *fair representation of women and marginalized groups on all constitutional and other bodies,* with the Article 20 encouraging *customary practices of provision of care for widows, children, orphans, the aged and the disabled.* Article 28 gives recognition and encouragement to the *role and welfare of women in traditional and modern Bougainville society which shall be developed to take account of changing circumstances.*

2.0 Leitana Nehan, a leading women's NGO met with the Bougainville Constitutional Committee (BCC) and UNICEF to lobby for the inclusion of clauses in the new constitution in support of women's and children's rights. Leitana Nehan, in partnership with UNICEF, also visited primary schools in the districts to discuss women's and children's rights with teachers and parents. Leitana Nehan met with the families of police personnel to discuss domestic violence issues. Furthermore, their 2004–07 Strategic Plan states that the organisation promotes these rights '*as stipulated in the Convention on the Elimination of all Forms of Violence against Women (CEDAW) and the Convention on the Rights of the Child (CRC)*'.

2.1 ‘Strengthening Communities for Peace’ (SCP)

In September 1999, Leitana Nehan launched a programme entitled ‘Strengthening Communities for Peace’ (SCP), which was sponsored by the Australian-based International Women’s Development Agency (IWDA), and funded as part of AusAID’s Bougainville Reconstruction Program. In accordance with Leitana Nehan’s constitution, the project focused on the organisation’s main goals, namely, to create a less violent and more peaceful Bougainville, placing specific emphasis on combating violence against women and promoting women’s rights.

Phase 1 of the project comprised a variety of community-based peace-building activities, as well as organisational development and training for Leitana Nehan that provided invaluable capacity-building for staff and volunteers as project workers and managers. The main peace-building objective of the SCP project was to strengthen the ability of women, communities, community leaders and Leitana Nehan trainers to address violence in Bougainville in general and violence against women in particular.

An evaluation of the programme found that women with a close association with Leitana Nehan were more likely to be vocal about issues relating to violence against women and equity for women in leadership roles. These include the recruitment of a number of women into the new police force in Bougainville; the appointment of three women representatives to the Bougainville Constitutional Committee, the body responsible for drafting a constitution for the newly-autonomous region; the demonstration of women’s leadership capacities in Leitana Nehan and the willingness of men to work under women leaders; and the education and mobilisation of women to participate in a new society, speak out for their rights and protest against violence.

In 2001, the Leitana Nehan Women’s Development Agency received UNIFEM’s Internal Millennium Peace Prize for Women. The Agency’s motto is “Women Weaving Together” and they aim to rescue Bougainville/Papua New Guinean women’s human rights and restore peace to ravaged communities. Leitana Nehan began rebuilding the trust that had eroded between neighbors and within communities. By building relationships between young people, their workshops helped heal the deep rifts caused by war. They pushed the government to allocate funds for public awareness and studies concerning the root causes of violence and challenged the police to shift their attitudes and focus their concerns on the issue of violence against women.

Article 3 The Development and Advancement of Women

3.0 Women’s Machinery

The Division of Women, Religion and NGOs was established towards the end of 2007 with a total of five staff. Another thirteen new positions were created designated for Women’s Officers for the thirteen Districts. The Division was formerly located in the Department for Community

Development of the Autonomous Bougainville Government. In April 2007, the Bougainville Executive Council approved the establishment of the Ministry for Religion and NGOs where the Division is currently housed.

Since then, the Division has primarily focused on the re-establishment and strengthening of the Bougainville Council of Women network, an umbrella network established in 2006. The Division's key responsibility is in fourfold, and they are:

- to effectively monitor the in delivery of goods and services,
- to unite and strengthen women's organizations,
- to act as a representative body for the women of Bougainville, and
- to encourage women to participate in economic and business activities.

Strengthening of the women's network and development of the women's policy are priority tasks. With assistance from UNDP, a stakeholder consultation was conducted to facilitate the development of a Women's Policy.

The Division has initiated skills training programmes for small business women; village and home improvement, as well as leadership training for women.

In 2007 a 'training of trainers' workshop was conducted on *Promoting Better Safe and healthy Living in Bougainville*, funded by AUSAID. Primary health care, HIV/AIDS information dissemination, safe motherhood and nutrition were also covered in the workshop.

3.1 Role of Women's Organisations in Peace-building and Reconstruction

Apart from undertaking monitoring visits, Leitana Nehan Women's Development Agency staged a meeting of Bougainville women to gauge their views on weapons disposal (Stage III of the peace process), the imminent withdrawal of the Peace Monitoring Group (PMG), and women's participation in the peace process, including constitutional reform. Over 200 women participated in this meeting to advance women's role in decision making. They came from across all districts in Bougainville, including the no-go zone. Leitana Nehan Women's Development Agency also participated in two District Women's Council meetings. These were; the Peace Monitoring Group and UN Observer Mission to discuss strategies to fast track weapons disposal.

The disposal of all weapons was necessary before the election for autonomy could take place. These issues were related directly to the objectives of Phase II whereby the removal of guns from armed groups was essential to reduce societal violence. Leitana Nehan participated in the North Bougainville Women's Leaders meeting held in June 2003 with the United Nations Ambassador and an advisor from the New Zealand police. The purpose of the meeting was to discuss security measures leading up to the elections, weapons disposal and the training of more women for the Bougainville Transitional Police Force.

In addition, the Fiji Women's Crisis Centre conducted a training course on basic counseling skills for 42 participants (24 women and 18 men) in Buka in August 2003. The newly acquired skills helped the participants to deal with the increasing demands for counseling of the victims of violence including rape on entire island of Bougainville. The teams in the field were reporting back that women were now more willing to speak out against violence, report violent incidents and stand up for their rights confidently when faced with violence.

In the second half of 2003, the Bougainville Transitional Team invited Leitana Nehan to work with women's groups across Bougainville to put forward a position on weapons disposal. This was in preparation for the joint meeting of the PNG government, the Bougainville People's Congress and the United Nations Observer Mission to negotiate final terms and conditions for autonomy before an election date was set.

In September 2003, Leitana Nehan organised and ran a special training course for institutional leaders in the area of conflict transformation. Participants included nurses, police personnel, teachers, school principals and magistrates. Community feedback following the training indicated that the police had made a commitment to improving the way that they dealt with cases of violence in relation to women's rights and children's rights (rape, incest, domestic violence, sexual harassment). They were also more willing or less afraid to take cases to court.

Apart from Leitana Nehan, organisations such as the Bougainville Interchurch Women's Forum, the Bougainville Women for Peace and Freedom, the Catholic Women's Association Community-based Integrated Development Agency, Peace Foundation Melanesia, and The Bougainville Trauma Institute are providing a range of relevant services in areas such as critical literacy, reproductive health, small business management, counseling and community development.

Article 4 Acceleration of Equality between Men and Women

4.0 Affirmative action

Article 180 of the Constitution states that for the purpose of determining whether or not any Bougainville law or matter or thing is reasonably justifiable in a democratic society that has a proper regard for the rights and dignity of mankind, a Court may have regard to international instruments such as the Charter of the United Nations; and the Universal Declaration of Human Rights and any other declaration, recommendation or decision of the General Assembly of the United Nations concerning Human Rights and fundamental freedom.

The European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols thereto, and any other international conventions, agreements or declarations concerning human rights and fundamental freedoms; as well as judgments, reports and opinions of the International Court of Justice, the European Commission on Human Rights, the European Court of Human Rights and other international courts and tribunals dealing with human rights and fundamental freedoms will also be taken into account. In addition to these,

consideration can be accorded to previous laws, practices and judicial decisions and opinions in Bougainville and elsewhere in Papua New Guinea; and laws, practices and judicial decisions and opinions in other countries; and declarations of the International Commission of Jurists and other similar organizations.

The Constitution may establish a *specialist human rights enforcement body* with powers to protect and enforce human rights; encourage respect for human rights and reconciliation among parties involved in abuses or infringement of human rights (including all parties involved in the Bougainville conflict), as well as *educating persons and bodies on all matters pertaining to human rights*.

The role of customary law and methods in dealing with human rights abuses is also recognized in Article 186 of the Constitution: *In any provision of this Part relating to human rights abuses, the customary methods of dealing with such abuses should be utilized wherever possible and all Courts and the body referred to in Section 185 (human rights enforcement body) shall take account of any customary settlement of any alleged human rights enforcement matter before it.*

The Constitution has incorporated special affirmative action measures to ensure women's representation, determining that among the *constituencies for the first Bougainville general election are ... for the election of a woman member and of a former combatant member for each Region (North, Central and South), the constituencies whose boundaries formed the boundaries of the open electorates for the 2002 general election to the National Parliament.*

A decline in law and order was evident in the middle of 2003 with police unable to uphold the law or protect women from violence. Leitana Nehan met with local police to address this issue and lobbied leaders and the government to rebuild the Court House so that law-breakers could be duly prosecuted before a magistrate, a move to reinstate the judicial system, which had been totally disrupted during the conflict. The NGO reported an escalation of violence against women and called for laws and action by the police and the judiciary to reduce problems associated with alcohol abuse in society.

Violence against women was increasing despite the many awareness workshops to reduce violence in post conflict Bougainville. These interactions with the police, the PNG government and bilateral aid agencies indicated how Leitana Nehan was willing to move outside its NGO role as project manager to deal with issues that were directly related to its core business of standing up for women's rights and the elimination of violence against women.

Article 7 Women in Political and Public Life

The Constitution legalized the establishment of the Bougainville Legislature to be known as the House of Representatives consisting of *the President of the Autonomous Region of Bougainville; and for 33 directly elected members, and thereafter not more than 38 nor less than 28 members, each representing a single member constituency.* The Constitution also

provided the legal and administrative framework for holding the first general election in June 2005 using a ‘First-Past-the-Post’ voting system as stipulated in Section 109(a) of the Constitution. All subsequent elections of the President and members of the House of Representatives are to be held under a preferential voting system as set out in section 109(b).

7.0 2005 Elections

When the Bougainville Constitutional Commission consulted with the people of Bougainville with regard to political party registration being provided for in the Constitution, there was an overwhelming view of opposition to the establishment of political parties. One of the main reasons behind this view was that the Bougainville conflict had already caused much disunity and that people did not want political parties causing further disharmony during the first general election. However, in recognition of international practice, a political party registration system was built into the Constitution.

Section 237 of the Constitution provides for the registration of political parties for the first election but does not require political party membership to participate in the election process. The political parties registered for the 2005 elections were the Bougainville Independence Movement Party, Bougainville Labour Party, Bougainville People’s Congress Party, and New Bougainville Party.

Prior to the 2005 elections, training on voter education and leadership was conducted by UNIFEM and women from Bougainville participated in regional training on transformative leadership and citizenship together with a regional congress on women’s political participation. While 25 women contested the three allocated seats, of a total of thirty-nine seats, none contested constituency seats, for which they were also entitled to stand. According to the Papua New Guinea Electoral Commission there were one hundred and eight candidates for the North region, six of whom were women, Central Bougainville with eight seats had sixty-four candidates, eight of whom were women and South Bougainville had eleven seats contested by ninety-three candidates, eleven of whom were women. Women were represented among polling officials and scrutineers.

As noted by the Commonwealth and Pacific islands Observer Group, some people suggested that allocating three seats specifically for women may have had an unintended effect of marginalising them within the process, and the Observers were of the view that women should be encouraged in future to contest general constituency seats and recommended that the reasons for the low numbers of women candidates contesting constituency seats be examined, with a view to encouraging a larger number of women to contest future elections.⁹⁶

With three out of forty seats, Bougainvillean women have 7.5% representation, well above the national and most Pacific regional averages for women’s representation. This was a

⁹⁶ GENERAL ELECTION FOR THE AUTONOMOUS BOUGAINVILLE GOVERNMENT, May-June 2005, REPORT OF THE COMMONWEALTH-PACIFIC ISLANDS FORUM EXPERT TEAM.

commendable achievement for Bougainville with such support for women facilitating a transition from cultural traditions which deterred women's participation in public political spheres, and a modern democratic system.

7.1 Women in executive positions in government

Bougainville elected one of its women representative as the deputy speaker of the new Bougainville Autonomous Government on 15 June 2005. The women's representative for Central Bougainville was appointed Minister for Women, Religion and Traditional Authority.

7.2 Women in NGOs

Under Article 35, the Bougainville Constitution upholds partnerships with Churches, Local NGOs and other Organizations: *The Autonomous Bougainville Government should acknowledge the harmonious partnership developed in the past with the three main churches in Bougainville in the development and provision of services and should strive to ensure partnership with both them and other churches and local non-government organizations and other organizations in the future development and provision of services to all people in Bougainville.*

Bougainville women were actively involved in human rights work and peace advocacy campaign long before the peace process was initiated and undertook activities both at home and abroad, attending major international conferences including the Fourth World Conference on Women and participation at the Human Rights Commission. The Bougainville Women for Peace and Freedom (BWPF) developed a human rights programme in the formerly blockaded areas of Bougainville. This programme was in response to community grief, trauma and the perceived need of acknowledging people's suffering in the hope of redressing this continuing lack in their communities.

7.3 Bougainville Women's Summit

Another key area featuring women in the public arena was undertaken by women as civil society actors. Many women's groups organized the Bougainville/Papua New Guinea Women's Summit in August 2001, which was financed by the government of New Zealand. The Summit intended to consolidate and increase networks of women's organizations and to develop ways in which women could add to the socio-economic and political development of Bougainville/Papua New Guinea.

Bougainville Women's Summit in 2001 had a vision to create the policy instruments whereby they and their organisations would be invited into the new Government and its planning committees that were at that stage developing strategies and policy directions in such areas as politics, the environment, the economy and education. The 2001 summit strongly advocated that education was the key to women's development and that society must respect women's rights; dignity and cultural diversity and ensure that women were equal and able to participate in decision-making.

The Summit also created guidelines for the Bougainville/Papua New Guinea Government's responsibilities for women's issues. As a result of the Summit, there was an agreement to establish a women's body under the Bougainville/Papua New Guinea Autonomous Government.

Recommendations and Action Plan

- *Disposal of Weapons*: the continued presence of weapons in communities leads to intimidation, conflict, violence and death. Women have been marginalized from discussions and negotiations about the disposal of weapons and have been told it is "not their concern". Many felt fearful and unable to speak freely about this issue. It was recommended that women's involvement in weapon disposal negotiations at all levels was essential and must be required and that women must speak out and get involved in weapon disposal discussions despite their fears.
- *Law and Order*: It was noted that the law and order situation had to be addressed on every level. And that improving law and order began with strengthening relationships within and between communities. The police system had to be properly resourced and supported by communities in order to be effective and the use of alcohol and other drugs was a major contributing factor to law and order problems including rape and domestic violence. Among the recommendations were that district-based police operations and Law and Order Committees had to be established, along with building the capacity of the judiciary system including the effective and just management of village courts; mothers must speak out against the production and sale of home brew in their communities and districts as well as requesting that their sons return home.
- *Constitutional Reform*: Grassroots people do not understand the proposed constitution or the reform process. With literacy being a major obstacle to effective civic engagement in political processes, women and children's rights are not sufficiently safeguarded in the proposed constitution; CEDAW and the CRC must be incorporated. Women want parliamentarians that truly represent the voice of grassroots women. Women recommended that they be given 10 seats in the new government; and that the proposed Constitution be amended to strengthen women and children's rights and ensure status is restored in accordance with custom and human rights conventions ratified by the PNG Government.

Article 8 International Representation and Participation

8.0 Under the Constitution of the Autonomous Bougainville Government, there are no barriers impeding women representing the Government as an observer to meetings of regional organizations; *delegations to regional meetings and organizations of clear special interest to Bougainville; or in the participation or direct engagement of the Autonomous Bougainville Government in the negotiation of international agreements of particular relevance to*

Bougainville; or in the participation or engagement by Bougainville in international cultural exchanges and in trade, investment, tourism promotion and sport at international level.

Article 9 Nationality

9.0 As detailed in the Constitution, a Bougainvillean citizen is one *who is a member (whether by birth or by adoption according to custom by the clan lineage) of a Bougainvillean clan lineage (matrilineal or patrilineal) owning customary land in Bougainville; or who is married (whether by law or custom) to a person to whom Paragraph (a) applies; or a child one of whose parents is a Bougainvillean by virtue of Paragraph (a), is a Bougainvillean.*

Article 10 Education

10.0 Education Objectives are set out in Article 32 of the Constitution with the Government striving to achieve *universal primary, secondary, and adult education; and the provision, from elementary and primary level, of the widest possible range of technical education (relevant to the needs of Bougainville from time to time); and appropriate levels of tertiary education, of the highest possible standard, and directed to enable all students to participate fully in the lives of the Bougainville communities to which they belong, and in pursuing those objectives, the Autonomous Bougainville Government should work in partnership with other bodies involved in the provision of education services in Bougainville.*

10.1 Education Plan

The Bougainville Education Plan; *Sustainability and Self Reliance 2007-16*, guided by the National Directive Principles as established in the Constitution, is consistent with the Jomtien Goals of Education For All, the PNG Medium Term Development Strategy (2005-10), and the Autonomous Bougainville Government Strategic Plan (2006-10). The Plan sets out the vision and goals of the ABG towards development and delivery of education over the next decade.

Bougainville has twelve Districts and 33 Constituencies, with the general direction of education policy determined and formulated by the Bougainville Education Board which coordinates and ensures equity in resource allocation. The Plan's objective in Primary, Post Primary and Vocational Education is to improve gender equity to at least 50-50.

The Plan recommends a sustainable and affordable school fee subsidy policy, with fees being set according to parent's capabilities, payable in non-cash payments with schools encouraged to provide self-reliance projects to generate additional income to offset fees. All of these measures will undoubtedly contribute towards increasing female enrollment and retention. One of the key indicators to assess the Plan's performance in Secondary School access is the number of girls selected to Grade 9 and 11.

10.2 Formal Education

Currently, there is a total of 25,445 children enrolled in primary and community schools in Bougainville, with 13,258 males and 12,457 females. In nine High Schools there is an overall total enrollment of 3506, with near male/female parity, the latter number being 1712, while that for males is 1794. Vocational schools on the other hand have an overwhelming preponderance of males who total 453 out of the 535 currently enrolled, with females only accounting for 82 enrollments.

The seven high schools and a large number of elementary schools and village vernacular ‘Tok Ples Skuls’ are once again functioning. Arawa High School has been upgraded to take students up to 11th and 12th grades. Many people, often young and old alike, whose childhood was essentially “lost” to the war, returned to school to catch up with their education. Programmes of teacher education are underway with bilateral support. The Arawa College of Distance Education (CODE) was reopened.

The Gender Equity in Education Policy 2003, provides a framework of principles and practices to improve the lives of all children and promotes gender equity between girls and boys. As stated in the Bougainville Education Plan, implementation of this policy has been slow-moving with little or no resources being allocated to support it.

With education being the biggest concern, is the increasing cost of educating children. Except for 2006, the cost of education has been increasing every year. Although the national government contributes by paying for teacher’s salaries, parents have to struggle to meet the fees required from elementary right up to University levels. Thus the ABG’s 2006 school fees assistance scheme from Year 11 upwards was a welcome relief to most parents.

10.3 Informal education

According to the Bougainville Education Plan, access to informal education and training programmes is even more difficult for women who are illiterate, with the female illiteracy rate estimated at around 60%.

10.4 Teaching staff

A key strategy for the Education Plan is to provide leadership training during the entire decade for elementary women teachers, as well as ensuring that allowances, housing and transport assistance, which will undoubtedly provide incentives for female teachers to take up postings in disadvantaged areas. In the Primary Education sector, the Plan calls for gender equity on boards of management as well as leadership–training opportunities for female head teachers.

Article 12 Health

12.0 Under Article 33 of the Constitution the Autonomous Bougainville Government shall *take all practical measures to promote primary health care; to pursue universal health care of the highest standard; to ensure the provision of basic medical services to the population; as well as encouraging people to grow and store adequate food; and promoting proper nutrition.* According to Article 34 concerning HIV/AIDS, the Autonomous Bougainville Government shall *make the fight against HIV/AIDS and its threat to the clans and to the future of Bougainville a major priority.*

The blockade of Bougainville/Papua New Guinea by the PNG Defence Force in the early 1990s had a disproportionate impact on women. Due to the blockade on the island, many people died of easily preventable diseases such as malaria. The unpaid burden of caring for the sick and dying fell on women. The destruction and closure of hospitals and health clinics, and limited medical supplies as well as anti-malarial drugs, led to significant problems in maternal child health.

Women's experiences during the conflict had a profound impact on their physical well-being, self-esteem and social status. Health services were severely disrupted by the years of conflict with many of the original 149 health facilities destroyed and many health workers displaced. Since the end of hostilities, there was a period of rapid progress in restoring health facilities: two hospitals, 31 health centres or sub-centres and 78 aid posts were operational by mid-2000.

12.1 Reproductive Health

The Provincial HIV/AIDS Committee has reduced its activities to advocacy and social mobilization. While Buka District Hospital performs some HIV/AIDS testing, WHO has been unable to obtain data regarding prevention programs among high risk population, or incidence rate among drug users and sex workers. The Region is yet to ensure massive political and social mobilization to address gender inequalities, sexual norms and their role in increasing HIV risk and vulnerability.

12.2 Health Information

Whilst health services are rebuilding, according to WHO (2008) they are still hindered by slow contracting/decision making regarding health structures, release of funds to employ new health staff, inconsistent flow of medicines and other resources. Consequently, Government health services fail to reach all sectors of the community. The rugged terrain, particularly of mainland Bougainville, and the isolation of some of the smaller islands, aggravates the problem of people being able to access basic health services.

As an autonomous region within PNG, Bougainville has developed a Strategic Action Plan 2006-10 focusing on health facilities, safe motherhood, immunization and community programs. The National Health Plan supports education programmes that will target health conditions and healthy behaviours.

12.3 Violence Against Women

Bougainville/Papua New Guinean Women's Forum on Weapons Disposal issued a report in March 2003 on the abuse of home brew and how such abuse is impeding weapons disposal process. Intoxicated men have damaged the property of aid agencies, stolen vehicles, and put the lives of innocent people in danger. In November 2003 women from Bougainville held a protest march in the capital Buka to demand tougher laws to tackle crime on the island. The Leitana Nehan Women's Development Agency pushed for the enforcement of laws against sexual crimes such as incest, rape and sexual harassment.

They established offices to be used for administration and the Women's and Children's Referral Desks whose purpose is to consolidate all the counseling services provided by NGO and government agencies. It provides an avenue for victims of violence to get help in a neutral, safe and friendly setting and where needed contact the police to come and take the victim's statement and the doctor examine the victim. They provide a twenty-four hour service. Counselors help with other women's issues as well, such as maintenance claims by deserted or single mothers. There is also a weekly radio programme with a particular emphasis on sexual violence and child abuse.

Article 13 Economic and Social Life

13.0 The eastern and northern sides of Bougainville with its high elevation account for much of the large cocoa and coconut plantations while the south and west floodplain is typified by numerous small family size cocoa and coconut holdings. Activities of the small tourism sector are widespread with larger operations in the hands of northerners.

While not attempting to define development, the Bougainville Constitution attributes 13 sections to its outcomes (Sections 22 – 35). For example section 22 *General Social and Economic Objectives* states that: the Autonomous Bougainville Government shall endeavour to fulfill the fundamental rights of all people in Bougainville to social justice and economic development and shall, in particular, ensure that:- (a) all governmental efforts are directed at ensuring the maximum social, cultural and spiritual well-being of all people in Bougainville; and (b) all people in Bougainville enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing and food and security.

However an economy that is based predominantly on the production of primary products such as cocoa and copra cannot support or sustain the development challenges of autonomy. At the same time the ABG is targeting the fisheries and forestry sectors as potential revenue earners for the region.

13.1 Women in the Economy

There were more than two thousand war widows in Bougainville/Papua New Guinea and the rate of female-headed household has greatly increased during the conflict. Men and women were forced out from their homes and gardens, which deprived them completely of their economic means.

Article 14 Rural women

14.0 According to Article 44 of the Constitution, *the Autonomous Bougainville Government shall, as soon as is practicable, develop a land policy for Bougainville and in this regard shall as far as is practicable, recognise the roles of traditional chiefs, other traditional leaders and owners of customary land in relation to customary land matters; and as far as is practicable, incorporate customary practices and norms into the development and implementation of land law in Bougainville and ... provide for the protection of the customary powers of heads of matrilineal and patrilineal societies and of customary owners in relation to customary.*

(THERE IS NO ARTICLE 15 & 16)

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