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£PAPUA NEW GUINEA @Human Rights Commission Mooted

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Legislation for the establishment of a National Human Rights Commission is currently being considered by the Government of Papua New Guinea (PNG) in consultation with national non-governmental organisations.

Amnesty International hopes that these discussions may signal the start of a genuine effort by the PNG Government to address serious and long-standing human rights concerns in the country, and in particular on the island of Bougainville. However it believes that, if such a body is to be effective in investigating past violations and preventing future abuse, its mandate, composition and methods of work must meet certain minimum standards. Experience from other countries indicates that, if such standards are not met, a National Human Rights Commission may simply serve to disguise government inaction, and to divert much needed resources from the task of overcoming human rights violations.

This paper describes briefly the national and international context within which the recent discussions over the formation of a National Human Rights Commission are taking place, and outlines Amnesty International's recommendations to the PNG Government. These recommendations are based on a general set of standards spelled out in the Amnesty International document, *Amnesty International: Proposed Standards for National Human Rights Commissions*, (IOR 40/01/93) published in January 1993.¹

Human Rights in a Climate of Impunity

Since the civil conflict began on the island of Bougainville in 1988, Amnesty International has documented serious violations by government security forces and government-backed "resistance forces"

¹ That document includes, as an appendix, the United Nations *Principles relating to the status of national institutions*, Annex to Resolution 1992/54 on National institutions for the promotion and protection of human rights.

including extrajudicial executions, "disappearances", torture and rape.² The organization has also documented cases of police ill-treatment and harassment in other parts of PNG, and has expressed concern about the introduction of an Internal Security Act on 5 May 1993 and the restoration of the death penalty in August 1991.³

The incidence of violations reported from Bougainville has declined since the beginning of 1994. However, few incidents of alleged violations have been properly investigated and few of those believed to be responsible have been brought to justice. This history of impunity gives rise to concern that the pattern of human rights violations may re-emerge in Bougainville, and that it may become further entrenched in the rest of the country.

Amnesty International has not been alone in expressing concern about the human rights situation on Bougainville, or about the government's failure to address the problem of impunity. On 8 March 1994, the United Nations (UN) Commission on Human Rights adopted a resolution which stated that "the Government of Papua New Guinea has not provided information to the Commission about actions it has taken during the past year".⁴ The resolution also stressed "the need for the Government of Papua New Guinea to prosecute those responsible for human rights violations on the island of Bougainville".

The Commission's resolution called on the PNG Government to invite the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the UN Special Rapporteur on torture to visit Bougainville to conduct independent investigations. To Amnesty International's knowledge, as of early October 1994, the PNG Government had yet to issue the invitations.

All Talk, No Action

As its inaction with respect to the UN resolution suggests, the government's response to reports of human rights violations – whether on Bougainville or elsewhere – has left much to be desired. Government authorities have frequently expressed support, in principle, for human rights investigations, and some have proposed the formation of special institutions – including a National Human Rights Commission – to carry out that task.⁵ Yet, to date, the authorities have taken little concrete action to investigate violations and to hold those responsible to account.

In March 1994, for example, the then Prime Minister, Paias Wingti, announced plans to establish a Human Rights Commission and a Police Complaints Unit to deal with allegations of violations by government agents. Mr Wingti said that alleged violations, such as those contained in Amnesty

² For further information see Amnesty International documents: *Papua New Guinea: "Under the barrel of a gun": Bougainville 1991 to 1993*, November 1993 (ASA 34/05/93); and *Papua New Guinea: Human Rights Violations on Bougainville, 1989-1990*, November 1990 (ASA 34/05/90).

³ For further information see Amnesty International documents: *Papua New Guinea: Government Urged to Reconsider Security Act*, 22 June 1993 (ASA 34/WU 01/93); and *Papua New Guinea: Death Sentence Reintroduced for Violent Crimes*, 4 September 1991 (ASA 34/WU 01/91).

⁴ The resolution was *Human rights violations in the Papua New Guinea island of Bougainville*, Commission on Human Rights, Fiftieth session, Agenda item 12 (E/CN.4/1994/L.93/Rev.1).

⁵ Some of these statements are cited in Amnesty International's report *Papua New Guinea. "Under the barrel of a gun": Bougainville 1991 to 1993*, November 1993 (ASA 34/01/93).

International's 1993 report, would be referred to the complaints unit. He also indicated that the Attorney-General's Department had assigned an officer to spend up to three days every month on Bougainville working with the security forces to ensure that did not commit human rights violations. However, to Amnesty International's knowledge, up until the parliamentary election of a new Prime Minister in August 1994, the Wingti government had failed to put any of these plans into effect. Furthermore, the government did not produce any evidence of investigations into individual cases of human rights violations.

The new government of Sir Julius Chan has continued the tradition of making promising statements about protecting human rights. Speaking before the UN General Assembly on 26 September 1994 PNG's Deputy Prime Minister, Chris Haiveta, reaffirmed the government's commitment to establishing a Human Rights Commission, and said that the PNG Government saw "no difficulty" in providing a report on alleged human rights violations in Bougainville to the UN Commission on Human Rights.

Yet there is concern that the attitude of the current government toward human rights investigations will not differ significantly from that of its predecessor. Recent official assurances appear to have come in response to increasing international pressure, and suggest that the government may be principally concerned with improving its image rather than addressing the root causes of human rights violations. In his speech before the General Assembly, for example, Mr Haiveta claimed that outsiders had already been allowed to visit Bougainville and to report on what they saw. However, as noted above, to Amnesty International's knowledge the government has yet to invite the UN Special Rapporteurs to conduct investigations on Bougainville.

Amnesty International considers that expressions of commitment to human rights are not in themselves sufficient. The real measure of such commitment lies with a government's readiness to take prompt and effective action when confronted with reports of violations, and to outline what measures are taken to prevent further violations.

Establishing an Effective Human Rights Commission

The formation of a Human Rights Commission can never be regarded as a substitute for prompt and effective inquiries under judicial supervision into each violation. Nevertheless, the current discussion on the formation of a Human Rights Commission in PNG does provide an important opportunity for the government to give concrete expression to its stated commitment to the protection of human rights, by establishing an effective institution for monitoring and investigating violations.

Amnesty International therefore offers the following suggestions which it hopes will be taken into consideration by those involved in the discussion. Based on its observations of human rights commissions in other countries, the organization believes that, to be effective in bringing an end to serious human rights violations, the proposed National Human Rights Commission must at a minimum have the authority to:

- initiate prompt and thorough investigations into all reports of human rights violations by government or government-backed forces, including the government-backed "resistance forces";

- ensure that victims of violations are not hindered in making complaints and providing testimony;
- ensure that all suspected perpetrators are immediately disarmed and removed from active service pending the outcome of the investigations;
- make public the findings of its investigations;
- ensure that those believed to be responsible for committing human rights violations are promptly brought to justice before a civilian court;
- establish a workable system for the allocation of compensation to the victims of human rights violations or, where appropriate, to their immediate relatives.

In addition, the Commission's composition, mandate and methods of work should meet the following basic standards:

- the members of the Commission should be recognized for their impartiality, independence and expertise;
- investigations should be carried out in a manner consistent with UN standards of independence, impartiality, and technical expertise (see *Principles relating to the status of national institutions* in *Amnesty International: Proposed Standards for National Human Rights Commissions*, January 1993).
- the results of investigations should be referred to the appropriate judicial bodies to ensure that those believed responsible are brought to justice.

The proper functioning of the proposed Commission will require the full cooperation and support of the PNG authorities. In particular this will require the government to ensure that the Commission:

- receives sufficient resources to allow for thorough and prompt investigations throughout the country;
- is allowed unhindered access to areas of the country such as Bougainville to conduct on the spot investigations.

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