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"Kriminalität in Papua-Neuguinea ist ein Symptom einer Gesellschaft mit internen Konflikten und Widersprüchen. Kriminalität kann nicht als Phänomen an sich gesehen werden, sondern muß auf seinen wirtschaftlichen, sozialen und politischen Kontext bezogen werden." Richter Brian Brunton 1986

Dossier Nr. 26

Dokumentation zum "Gesetz zur Inneren Sicherheit"

a) The internal Security Act

**b) Individual and Community Rights Advocacy Forum:
People of Papua New Guinea: Your Government is
robbing this nation of its freedom and democracy**

Datum: Januar 1994



What is the Internal Security Act

(from: *The Times of Papua New Guinea*, 20.5.1993)

Parliament passed the Internal Security Act in the last session of its meeting. No time was given to debate the Bill before it was rushed through by the government using its majority. The implication of this new Act has not been made known to the public. *The Times* believes the people of this country have a right to know how this law would affect them.

BEING an Act make provision for maintaining the internal security of Papua New Guinea by providing measures to combat terrorism and terrorist activities, and for related purposes.

Made by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with the advice of the Minister.

PART I - PRELIMINARY

1. Compliance with Constitutional Requirements

This Act, to the extent that it regulates or restricts a right or freedom referred to in a Subdivision III.3.C of the *Constitution*, namely -

(a) freedom from arbitrary search and entry conferred by section 44 of the *Constitution*; and

(b) freedom of conscience, thought and religion conferred by 45 of the *Constitution*; and

(c) freedom of expression conferred by Section 46 of the *Constitution*; and

(d) freedom of assembly and association conferred by Section 47 of the *Constitution*; and

(e) freedom of employment conferred by Section 48 of the *Constitution*; and

(f) right to privacy conferred by Section 49 of the *Constitution*; and

(g) right to freedom of information conferred by Section 51 of the *Constitution*; and

(h) right to freedom of movement conferred by Section 52 of the *Constitution*, is a law that is made for the purpose of giving effect to the public interest in public safety and public order and public welfare.

2. Interpretation

In this Act, unless the contrary intention appears -

"arms" includes -

(a) a firearm within the meaning of the *Firearms Act* (Chapter 310) and ammunition or such firearm; and

(b) a bomb within the meaning of the *Firearms Act* (Chapter 310); and

(c) a machine gun within the meaning of the *Firearms Act* (Chapter 310) and ammunition for such machine gun; and

(d) an offensive weapon within the meaning of *Summary Offences Act* (Chapter 264); and

(e) an explosive within the meaning of the *Explosives Act* (Adopted) (Chapter 309);

"conveyance" means a vehicle, vessel, aircraft or any other conveyance capable of being used to convey persons;

"examination officer" means an examination officer appointed under Section 22;

"exclusion order" means an exclusion order made under Section 8;

"exemption permit" means an exemption permit issued under Section 18;

"organisation" means any two or more persons or any association, party, group, club or grouping of persons, by whatever name known, whether or not incorporated or registered under any law;

"premises" includes any place and in particular includes -

(a) any vehicle, vessel or aircraft; and

(b) any tent or movable structure;

"prohibited area" means an area declared to be a prohibited area under Section 15;

"property" includes property wherever situated and whether real or personal, heritable or movable and things in action and other intangible or incorporeal property;

"proscribed organisation" means an organisation declared to be a proscribed organisation under Section 4;

"public place" includes -

(a) a place to which free access is permitted to members of the public with the express or implied consent of the owner or occupier of the place; and

(b) a place to which members of the public are admitted on payment of money while members of the public are present or are permitted to have access to the place; and

(c) a road, street, bridge, footway, footpath, court, alley, passage or thoroughfare to which members of the public are allowed, notwithstanding that the same may be, or be formed on, private property; and

(d) an aerodrome, whether enclosed or otherwise; and

(e) a conveyance carrying fare paying passengers; and

(f) any school building or land or premises used in connection with any school;

"restricted area" means an area declared to be a restricted area under Section 20;

"terrorism" means the use of violence for political ends or any use of violence for the purpose of putting the public or any section of the public in fear.

PART II - PREVENTION OF TERRORISM

3. Prevention of Terrorism

A person who -

(a) manufactures, imports, stockpiles, buys, sells, leases, gives or uses arms or equipment for the purposes of; or

(b) practices, encourages, supports or advocates; or

(c) is knowingly concerned in the arrangements for securing the entry into the country, or into any part of the country, of a person whom he knows or has reasonable grounds for believing is likely to engage in; or

(d) knowingly harbors a person whom he knows or has reasonable grounds for believing is or has been engaged in, terrorism, is guilty of an offence. Penalty: A fine not exceeding K100,000 or imprisonment for a term not exceeding 14 years, or both.

PART III - PROSCRIBED ORGANISATIONS

4. Declaration of Proscribed Organisations

(1) Where the Head of State, acting on advice, is of the opinion that an organisation -

(a) is engaged in, or is likely or about to be engaged in; or

(b) is promoting or encouraging, or is likely or about to promote or encourage, terrorism, the Head of State, acting on advice, may declare the organisation to be

a proscribed organisation.

(2) A declaration under Subsection (1) shall be -

(a) published in the National Gazette; and

(b) published in a newspaper circulating throughout the country; and

(c) Broadcast on the National Broadcasting Commission broadcast service; and

(d) further publicised by notices posted in prominent places in the country in general and in any part of the country in which the proscribed organisation is known to exist.

(3) A declaration under Subsection (1) shall not take effect until the expiry of a period of seven days after the first occasion of publication in each manner under Subsection (2).

(4) As soon as practicable after the making of a declaration under Subsection (1), the Prime Minister shall send to the Speaker for tabling in the Parliament at its next sitting, a copy of the declaration and a statement of the reasons for it and the declaration is subject to revocation by decision of the Parliament.

5. Appeal against Declaration of Proscribed Organisation

(1) A person aggrieved by a declaration of a proscribed organisation under Section 4 may, within 28 days of the declaration, forward a written notice of appeal against the decision, stating the reasons for the appeal, to the Minister.

(2) The Minister shall forthwith submit the appeal to the National Executive Council, and the Head of State, acting on advice, shall -

(a) consider and determine the appeal; and

(b) in accordance with the determination, confirm or revoke the declaration.

(3) The Minister shall advise the appellant of the result of the determination of the appeal.

(4) Where a declaration of a proscribed organisation is revoked under Subsection (2) (b), all charges and convictions arising out of offences relating to that declaration (other than offences relating to contempt of court) shall be null and void.

6. Membership, Support and Meetings of Proscribed Organisation

(1) Subject to Subsection (2), a person who -

(a) belongs or professes to belong to a proscribed organisation; or

(b) aids, assists or supports (whether financially or otherwise) a proscribed organisation; or

(c) solicits or invites aid, assistance or support (whether financial or otherwise) for a proscribed organisation; or

(d) arranges or assists in the arrangement or management of, or addresses, any meeting of three or more persons (whether or not it is a meeting to which the public are admitted) knowing that the meeting is -

(i) to support; or

(ii) to further the activities of; or

(iii) to be addressed by a person belonging to or professing to belong to, a proscribed organisation, is guilty of an offence.

Penalty: On summary conviction: a fine not exceeding K10,000 or imprisonment for a term not exceeding seven years, or both.

(2) it is a defence to a charge of an offence under Subsection (1) (a) if the person charged shows -

(a) that he became a member of the proscribed organisation by force or undue influence applied on him; or

(b) that, at the time when he became a member of the proscribed organisation, he was not aware that it was concerned with terrorism.

(3) for the purposes of Subsection (1) (b), an appeal under Section 5 against a declaration of a proscribed organisation, does not constitute aiding, assisting or supporting the proscribed organisation.

(4) A certificate signed by the Commissioner of Police certifying that a person is, in the opinion of the Commissioner of Police, a member of a proscribed organisation, shall be prima facie evidence of that fact.

7. Display of Support in Public

A person who, in a public place -

(a) wears any item of dress; or

(b) wears, carries or displays any article, of such a kind or in such a way or in such circumstances as to arouse reasonable apprehension that he is a member or supporter of a proscribed organisation, is guilty of an offence.

Penalty: A fine not exceeding K1,000 or imprisonment for a term not exceeding 3 years, or both.

PART IV - EXCLUSION ORDERS

8. Exclusion Order

(1) Where -

(a) a person has been convicted of an offence against this Act; or

(b) the National Executive Council is of the opinion that a person is likely to commit an offence against this Act, the National Executive Council may make an exclusion order against that person -

(c) excluding him from any specified part of the country; or

(d) where he is a non-citizen - excluding him from the country or from any specified part of the country.

(2) An exclusion order shall -

(a) specify -

(i) the name of the person against whom it is made; and

(ii) that he is excluded from the country or part of the country, as the case may be; and

(iii) where he is excluded from part of the country, the part of the country from which he is excluded; and

(iv) the reasons for the making of the exclusion order; and

(v) the rights afforded to him under Section 9; and

(vi) the manner in which these rights may be exercised; and

(b) where the person against whom it is made is in the country, be served on him personally, or where it is not possible to serve it on him personally, be delivered to his last known address or place of residence as soon as possible; and

(c) where it is not served personally on the person against whom it is made, be published in a newspaper circulating throughout the country.

(3) As soon as practicable after the making of an exclusion order under Subsection (1), the Prime Minister shall send to the Speaker for tabling in the Parliament at its next sitting, a copy of the exclusion order and a statement of the reasons for it and the exclusion order is subject to revocation by decision of the Parliament by an absolute majority.

9. Appeal against Exclusion Order

(1) A person against whom an exclusion order is made may, within 48 hours of the service of the order in accordance with Section 8 (2), forward a written notice of

appeal against the exclusion order, stating the reasons for the appeal, to the Minister.

(2) The Minister shall forthwith submit the appeal to the National Executive Council who shall consider and determine the appeal.

(3) In considering and determining an appeal under this section the National Executive Council shall not be bound by the technical rules of evidence but shall at all times have regard for the principles of natural justice.

(4) The Minister shall advise the appellant of the result of the determination of the appeal.

10. Duration of Exclusion Order

(1) An exclusion order may be revoked at any time by a further order by the National Executive Council or be revoked at any time by the Parliament.

(2) An exclusion order shall, unless sooner revoked, expire at the end of the period of three years commencing on and from the day on which it was made.

(3) The fact that an exclusion order against a person has been revoked or has expired shall not prevent the making of a further exclusion order against that person.

11. Effect of Exclusion Order

The effect of an exclusion order is that the presence of the person against whom it is made -

(a) in the country; or

(b) where it is made in respect only of part of the country - in that part of the country, during the duration of the exclusion order, is illegal.

12. Powers of Removal

Where -

(a) an exclusion order has been made against a person and has been served in accordance with Section 8 (2); and

(b) either -

(i) no appeal under Section 9 has been made against the exclusion order; or

(ii) an appeal against the exclusion order has been refused, the Minister may -

(c) where it is an exclusion order in respect of the country - have the person removed from the country; or

(d) where it is an exclusion order in respect of part only of the country - have the person removed from that part of the country.

13. Removal Directions

(1) The Minister may order that a person, against whom an exclusion order has been made under Section 8 (1) (d), be detained in custody

until arrangements have been made for his removal from the country.

(2) A person, against whom an exclusion order under Section 8 (1) (d) has been made, may -

(a) if he has not removed himself from the country within the period (if any) specified in the order; or

(b) if he is being detained pending removal, be placed on board a suitable conveyance by an officer, and may be detained in that conveyance until it leaves the country.

(3) A person, against whom an exclusion order under Section 8 (1) (d) has been made, may be removed to any country which is under obligation to receive him or to any country to which he consents to be removed if the Government of that country receives him.

(4) A person in charge of a conveyance going to a country to which a person is to be removed under this section shall receive that person on board and on proper payment being made convey him to that country and give him accommodation and maintenance during the passage.

(5) The cost of the passage, accommodation and maintenance provided in accordance with Subsection (4) shall be paid by the person removed and the Minister may apply money or property of the person removed in payment of the whole or part of that cost or, if the Minister thinks fit, the whole or part of the cost shall be borne by the State.

14. Offences in Respect of Exclusion Orders

A person who -

(a) being a person against whom an exclusion order has been made, fails to comply with the exclusion order; or

(b) is knowingly concerned in the arrangements for securing the entry into

(i) the country, of a person whom

he knows or has reasonable grounds for believing is excluded by an exclusion order from the country; or

(ii) in part of the country, a person whom he knows or has reasonable grounds for believing is excluded by an exclusion order from that part of the country, is guilty of an offence.

Penalty: A fine not exceeding K10,000 or imprisonment for a term not exceeding seven years, or both.

PART V. - PROHIBITED AREAS

15. Declaration of Prohibited Area

(1) Where the Head of State, acting on advice, is of the opinion that there is likely to be terrorism in any area of the country, the head of State, acting on advice, may declare that area to be a prohibited area for such period, not exceeding three months, as is specified in the declaration.

(2) A declaration under Subsection (1) shall be -

(a) published in the National Gazette; and

(b) published in a newspaper circulating throughout the country; and

(c) broadcast on the National Broadcasting Commission broadcast service; and

(d) further publicised by notices posted in prominent places in the country in general and in particular in and in the vicinity of the prohibited area.

(3) A declaration under Subsection (1) may exempt from the provisions of the declaration any person normally resident within the prohibited area.

(4) A declaration under Subsection (1) shall not take effect until the expiry of a period of 24 hours after the first occasion of publication in each manner required under Subsection (2).

(5) As soon as practicable after a declaration under Subsection (1) has been made, the Prime Minister shall send to the Speaker for tabling in the Parliament at its next sitting a copy of the declara-

tion, and a statement of the reasons for it and the declaration is subject to revocation by decision of the Parliament.

(6) On the expiry of a declaration under Subsection (1), the Head of State, acting on advice, may make a further declaration or series of declarations relating to the same area and the provisions of Subsections (2), (3) and (5) shall apply to such further declaration or declarations.

16. Effect of Declaration of Prohibited Area

Where an area has been declared under Section 15 to be a prohibited area, no person, unless exempted under Section 17, shall be present within the prohibited area during the period the declaration remains in force.

17. Persons Exempted from Declaration

A declaration under Section 15 shall not apply to -

(a) the Head of State; or

(b) a member of the Police Force while on duty or going to or returning from duty; or

(c) a uniformed officer or uniformed member of the Defence Force while on duty or going to or returning from duty; or

(d) an examination officer while on duty or going to or returning from duty; or

(e) a uniformed officer or uniformed member of the Fire Service while on duty or going to or returning from duty; or

(f) a medical practitioner, nurse or ambulance driver dealing with or attending to an urgent medical case; or

(g) a person to whom an exemption permit has been issued under Section 18 and who is in compliance with any conditions of the exemption under Section 15 (3).

18. Exemption Permits

(1) A person who considers that he has a valid reason for being

granted an exemption from the provisions of a declaration of a prohibited area, may apply in the prescribed manner to the Commissioner of Police for an exemption permit.

(2) On receipt of an application under Subsection (1), the Commissioner of Police shall consider the application and may issue an exemption permit in the prescribed form to the applicant.

(3) An exemption permit may contain restrictions as to times, parts of the prohibited area and periods within which it is valid.

19. Offences in relation to a Prohibited Area

A person who, not being a person exempted under Section 17, enters or is present in a prohibited area contrary to the terms of a declaration under Section 15 in relation to that prohibited area, is guilty of an offence.

Penalty: A fine not exceeding K1,000 or imprisonment for a term not exceeding three years, or both.

PART VI. - RESTRICTED AREAS

20. Declaration of Restricted Area

(1) Where the Head of State, acting on advice, is of the opinion that there is likely to be terrorism in any area of the country, but that the circumstances do not warrant the declaration of that area as a prohibited area, the Head of State, acting on advice, may declare that area to be a restricted area for such period, not exceeding three months, as is specified in the declaration.

(2) A declaration under Subsection (1) shall -

(a) specify the restrictions imposed on presence in, entry to and egress from the restricted area of any person; and

(b) be published in the National Gazette; and

(c) be published in a newspaper circulating throughout the country; and

(d) be broadcast on the National Broadcasting Commission broadcast service; and

(e) be further publicised by notices posted in prominent places in the country in general and in particular in and in the vicinity of the restricted area.

(3) A declaration under Subsection (1) shall not take effect until the expiry of a period of 24 hours after the first occasion of publication in each manner required under Subsection (2).

(4) As soon as practicable after a declaration under Subsection (1) has been made, the Prime Minister shall forward to the Speaker for presentation to the Parliament at its next sitting a copy of the declaration and a statement of the reasons for it and the declaration is subject to revocation by decision of the Parliament.

(5) On the expiry of a declaration under Subsection (1), the Head of State, acting on advice, may make a further declaration or series of declarations relating to the same area and the provisions of Subsection (2) and (4) shall apply to such further declaration or declarations.

21. Offences in relation to a Restricted Area

A person who -
(a) is present in; or
(b) enters;
(c) leaves,

a restricted area in contravention of the terms of a declaration under Section 20, is guilty of an offence.

Penalty: A fine not exceeding K10,000 or imprisonment for a period not exceeding 5 years, or both.

PART VII. - MISCELLANEOUS

22. Examination Officers

(1) The Head of State, acting on advice, may, by notice in the National Gazette, appoint a person or a class of persons to be an examination officer or examination officers for the purposes of the Act.

(2) An examination officer may -

(a) within a prohibited area or a restricted area or in relation to a person who is about to travel to or who has travelled from a prohibited area or restricted area, outside a prohibited area or a restricted area -

(i) examine a person in order to ascertain whether that person -

(A) is or was authorised to be present in, enter or leave that prohibited area or restricted area; or

(B) is subject to an exclusion order in relation to the country or to that part of the country in which the prohibited area or restricted area is situated; or

(C) is concerned with or involved with a proscribed organisation, or involved with the commission, preparation or instigation of terrorism; and

(ii) arrest and detain a person pending examination under Subparagraph (i) and

(iii) arrest and detain a person pending a decision on an exclusion order; and

(b) within a prohibited area or a restricted area, or in relation to a conveyance which is about to travel to or has travelled from a prohibited area or restricted area, outside a prohibited area or a restricted area -

(i) board and search a conveyance or premises; and

(ii) detain a conveyance or any article suspected of being -

(A) used or likely to be used for terrorism; or

(B) used or likely to be used by or in connection with a proscribed organisation; or

(C) necessary in connection with a decision to make an exclusion order against a person; and

(D) likely to be required as evidence in any court proceeding.

(3) Where an examination officer detains a

conveyance or article under Subsection (2)

(b) (ii), he shall -

(a) at the time of detaining the conveyance or article issue a receipt to the person, if any, in charge of it; and

(b) as soon as practicable thereafter, issue a receipt to the owner, if known, of it.

(4) A person, who hinders or obstructs an examination officer in the exercise of his powers under this Act, is guilty of an offence.

Penalty: A fine not exceeding K1,000 or imprisonment for a term not exceeding 1 year or both.

23. Forfeiture

Where a court convicts a person of an offence against Section 3 or 6, the court may, in addition to imposing the penalty set out in that section, order the forfeiture to the State of any money, conveyance, vehicle, ship, aircraft or property, real or personal, which the court considers had been used or was intended to be used -

(a) in the case of a conviction under Section 3 - for the purpose of terrorism; or

(b) in the case of a conviction under Section 6 - by or on behalf of or for the benefit or assistance of the proscribed organisation.

24. Forfeiture Goods

Any money, conveyance, vehicle, ship, aircraft or property, real or personal, ordered by a court to be forfeit under this Act become the property of the State and shall be dealt with or disposed of in accordance with the directions of the Minister.

25. Powers of Arrest and Detention

(1) A -

(a) police officer;

or

(b) in the case of an offence against Part VII, an examination officer, may arrest, without warrant, a person whom he reasonably suspects of having committed an offence

against this Act.

(2) A person arrested under this Act shall be brought before a court within 120 hours of the time of this arrest, save that in exceptional circumstances, the period of 120 hours may be extended by a further period of 120 hours.

(3) The powers of arrest under this Act are in addition to the powers of arrest and detention under any other law.

26. Regulations

The Head of State, acting on advice, may make Regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular, but without prejudice to the foregoing generality -

(a) for countering and dealing with terrorism; and

(b) for prescribing penalties of fines not exceeding K1,000 and terms of imprisonment not exceeding 3 years or both, for offences against the Regulations.

INDIVIDUAL AND COMMUNITY RIGHTS ADVOCACY FORUM INC.

PEOPLE OF PAPUA NEW GUINEA

YOUR GOVERNMENT IS ROBBING THIS NATION

OF ITS

FREEDOM AND DEMOCRACY

Internal Security Act

The Internal Security Act gives the power to politicians to ban completely organisations they do not like and to ban people they do not like from travelling in "restricted areas". The government could ban trade unions, NGO's social groups, or political parties, and could stop lawyers, humanitarian relief agencies, human rights groups, and NGOs from entering restricted areas. The Government can do this by labelling persons or groups "terrorist".

The Government banned journalists, the International Committee of the Red Cross, humanitarian and church groups from travelling to Bougainville. It has shown that it cannot be trusted with this type of "security" issue.

Decisions to ban organisations are made by the National Executive Council, and appeals are to the National Executive Council. Decisions to exclude a person from part of the country are made by the NEC, and appeals are determined by the NEC. The Government is taking away the People's Judicial Power and giving it to the Executive, by limiting the rights of appeal to the National Executive Council. The Judicial Power of the People, under our Constitution, is vested in the National Judiciary. These are institutions we can trust. Put simply, we cannot trust the NEC with judicial power.

The real purpose of this law is political, to intimidate social groups, that is political parties, NGOs, and trade unions who oppose the brand of big- business-led development supported by nearly all politicians. This is the type of law that is used in other countries, such as the old "communist" countries, South Africa, Indonesia, and Malaysia to shut-up the political opposition. The Internal Security Act is a tool by which the Government can destroy those who oppose it politically.

The politicians are being pressed to do something about Papua New Guinea's social problems by foreign interests. Foreign investment, and the Asian Development Bank have put pressure on the Government "to do something about law & order ". The government has to be seen to be doing something, so they are passing oppressive laws, in an effort to convince investors they are doing something, and to distract attention away from the fact that state institutions are inefficient, and have lost community respect. During the 1992 election campaign, Sir Julius Chan was asked at the University of Papua New Guinea, when Papua New Guinean Governments were going to stand up to foreign aid agencies such as the World Bank, IMF and Asian Development Bank. His only reply to this was that "We have no choice".

These new laws and proposed amendments to our Constitution reflect the Governments so-called "Look North Policy". What exists in the Asian countries of the North in general, are harsh and repressive regimes which

suppress anti-government sentiment through the use of National Security Laws. During the World Conference on Human Rights in Vienna which was held in June this year, representatives of Asian Non-Government Organisations, with the support of the World Council of Churches, presented a summary of all the National Security Laws which exist in the Asian countries and their effect on the lives of the people.

In each case, the Governments in each of these countries had used National Security Laws to suppress the activities of organisations and individuals who they deemed to be a threat to the Government's power. While these governments use such terms as "Terrorists", "Marxists" or "Communists" to label such people or organisations, many people in Asia who have either been imprisoned, tortured or executed under National Security Laws have in fact been ordinary people who oppose the government of the day on a wide range of issues. Many of these people are Students, Unionists, Church activists, Human Rights Advocates, Lawyers, Opposition Members, Artists, Judges, Environmentalists, Community Workers, Teachers, Academics, Journalists and the list goes on. Many of them were known for their non-violent and legitimate legal, social and political activities.

If there is anything to be learnt from the North, it is that any person or organisation can be shut-up and their activities stopped by the Government through the use of harsh and repressive National Security Laws.

We argue that like in the Asian Countries of the North, such laws do not address the social, economic and political problems of the masses; nor do they serve to benefit them. They are designed to strengthen and maintain the power of the ruling elite and their only effect is to take away the people's basic rights and liberties and subject them to gross violations of their human rights and dignity.

This law cannot protect elites and Members of Parliament from criminal attacks, as some politicians claim. If politicians are involved in corruption, supporting their own clans in tribal fighting, supplying guns and ammunition to their clansmen then they are part of the conditions that promote attacks on themselves. This law cannot solve Papua New Guinea's social problems. The banning of individuals and groups who oppose the Government will not solve the problems of unemployment, social unrest, crime, state violence and domestic violence, which are the main worries of the people. These problems are made worse by the government's own development policies which help foreign investors, at the expense of the Papua New Guinean People; they are made worse by the government's trickle-down theory of development, by which the people get only the left-overs after big-business and the elites have taken the profits; they are made worse by politicians unjustly enriching themselves.

The Internal Security Act will not "solve crime". The Act cannot be supported on the basis that it gives the police and security agencies the support to "solve crime". "Solving crime" is a matter of police detection and community support. The police have lost the confidence of the community because they are violent, they illegally raid villages, they burn houses, they shoot people, they bash people up, they are inefficient at detecting crime, and because they do not respect the ordinary people of this country. The police, as an institution, need to be cleaned up, and made directly responsible to the community. The Internal Security Act cannot help the police be more humane, or more efficient. That is a matter of police management. If the police are violent or inefficient, sack them, do not

take the people's freedoms away.

There is no need for this legislation. Serious disturbances can be dealt with under existing laws, including the provisions in the Constitution for "States of Emergency", which is closely controlled by Parliament.

Freedom of Movement, Internal Passports : ID cards.

The Government does not have the ability to manage an efficient internal passport system. Archbishop Kurongko is wrong when he says that Identification Cards will help reduce crime, and make women and children feel safer. Rural youth will be victimised by an internal passport system. The police will harass youth by demanding their I.D. cards. Women are already the targets of police (road-side sellers, drivers). They will be victimised. An I. D. card system will greatly inconvenience most Papua New Guineans, because the Police will keep demanding the card. What happens if you leave the card at home ? What happens if you lose the card ? Can the Archbishop think of a program which the Government runs efficiently now ?

We don't want "communism" and "apartheid" here. If you want to know how an internal passport system works, ask a Black South African. The proposal to bring in ID cards is a proposal to introduce a system of internal passports. Laws like this were used in apartheid, racist South Africa, and Stalin's communist countries, and in military dictatorships such as Indonesia.

We do not want a "police state". These laws will make Papua New Guinea a police state. For the reasons we have stated above, police powers should be decreased. If the police get power to enforce the internal passport (ID card) laws, there will be more misery and oppression in Papua New Guinea.

Freedom of Movement is a fundamental right in a democracy. Democracy and freedom mean you can move around, make business, find work, visit friends and relatives, without having to ask permission from the government. Efficient business and commerce depends upon the free movement of people, labour, goods and capital. These are not "unnecessary reasons" as David Unagi calls them, but the essence of freedom, democracy and private enterprise.

People move to towns because there are better services in the towns. The towns do not have tribal fighting, the towns have water-supply, the towns have health services, the towns have schools, the towns have electricity, the towns have shops and entertainment. The "real motives" (as David Unagi puts it) of the people who come to town are for a better life, because the government has failed to deliver the goods in the rural areas. If Papua New Guineans have "vast untapped land back home", why does not David Unagi go home ? The truth is that in some areas of Papua New Guinea there are land shortages because garden land has been given over to cash crops, or because the population has expanded, because there is tribal fighting, and because the government has failed to bring real development to the people.

The elites want urban land. Part of the reason for restricting freedom of movement, and driving out settlers, is because the elites are trying to get hold of urban land to make real estate deals, sub-divisions and profits, at

the expense of the poor people.

There is no evidence that migrants cause crime. There is no authoritative research to show that it is migrants that "cause crime". Stories and anecdotes are not good enough. We are talking about depriving people of their basic rights, if you cannot produce authoritative and respectable evidence : shut up.

There are no easy solutions to Papua New Guinea's social problems. The idea that internal passports (ID cards) will solve urban social problems is not supported by research or experience in this country or in other countries. Internal passports did not solve the social problems in South Africa or in the old Soviet Union. Politicians who say that crime will decrease if there are internal passports (ID cards), are fooling the people.

Alternatives to Internal Passports : more rural development. The government should stimulate the rural economy by subsidising water-supply, electricity, and domestic housing in rural areas. The government should subsidise economic development in rural areas, and give special allowances to public servants who work in rural areas. There should be special tax incentives (rebates on import duties and income tax) for those involved in creating jobs in rural areas. There should be special subsidies to help urban settlers return to their villages voluntarily, so that they can establish their houses, and commercial activities.

Alternatives to Internal Passports : give urban land back to traditional landowners. Unused state land in urban areas should be given back to traditional land owners. The traditional landowners should get the state lease-rent from all privately leased government land in the towns, because they are the true owners. The state (and provincial governments) should pay rent to the traditional land owners for any urban land it occupies for future use, but does not use now. These rents should be paid out in the budgets of the departments and authorities who occupy the land, but are not using it. These proposals will economically stimulate traditional landowners to look after their own land, and stimulate the State to make sure it does not waste the urban land it holds, or allow trespassers to squat on state land.

Reversing the Onus of Proof.

At present before a person is convicted of a criminal offence the State or the police have to prove the guilt of the person, "beyond reasonable doubt". This is a constitutional right. The right exists to protect innocent people from being convicted by a mistake, or because they do not have access to lawyers. The right is necessary because when a person is convicted of a serious offence the punishment is heavy : imprisonment, or the death penalty. The government wants to amend the Constitution to make it easier for it to get convictions in cases of murder, rape, robbery, and arson.

Innocent people may be unjustly imprisoned or executed. There is a good chance that innocent people may be punished for crimes they did not do. The legal profession in this country is young, and not very experienced. The Public Solicitor is kept short of funds and resources. Judges have to determine the guilt or innocence of a person without the help of juries or assessors. We all make mistakes; judges and lawyers make mistakes.

The criminal law is used for political purposes. Already in some provinces

there is a trend of falsely accusing people of crimes to pay-back. False evidence is then given to the court in order to secure the person's imprisonment. This process has less risk to the accusers than if they killed their victim. Judges have a hard time working out who is telling lies, particularly if the evidence is given in tok-ples, and then translated into tok pisin, and then into English. If the accused have to prove their innocence, after the State has established the basic facts of the crime (prima facie case), the chances of the accused being convicted will be increased. This trend in use of criminal prosecution for political purposes can be used to eliminate opposition politicians. Mr Namaliu Mr. Pora, and Mr. Diro all complained that they were victimised when they were prosecuted for criminal offences, and later found to be innocent. They had to spend very large sums of money hiring lawyers to prove their innocence. The burden of facing a criminal charge is such that it can wipe out a politician's career, or destroy them financially, even though the politician is later found to be innocent. In other countries, the criminal law is used to assassinate politicians. The execution of Mr. Bhutto, the former Prime Minister of Pakistan is an example. We have the death penalty in Papua New Guinea, and the government wants to reverse the onus of proof. Judicial assassination could occur in Papua New Guinea, if this legislation goes through Parliament.

No good reason. There is no evidence that any alteration in the onus of proof required on a trial has anything to do with the incidence of crime. Crime and the onus of proof are not connected socially or logically. Crime occurs out in the villages and the suburbs. The onus of proof is a rule operated by the National Court.

Most accused plead guilty. Even with the most serious crimes, most accused persons plead guilty. The onus of proof is only used on a trial. Altering the onus of proof is not likely to have a serious impact on the rate of convictions.

Beyond reasonable doubt : part of the fight against colonialism

The struggle against colonialism was a struggle against injustice, and a racist legal system which oppressed native peoples. Although the rule requiring the State to prove its case beyond reasonable doubt originated in struggles for freedom and democracy in the United Kingdom and the United States, they were also part of the anti-colonial struggle of the emerging Third World nations. Freedom, democracy, and the Rule of Law was an essential part of the de-colonisation process. The rule requiring the State to prove its case beyond reasonable doubt came from the need to protect accused from harsh and oppressive criminal law. It is widely recognised as being the best way of ensuring that justice is done. It is better that a guilty person goes free, than an innocent person is wrongly convicted. These are not empty phrases, but arise from the experience of countries who have had to struggle for their freedom; this struggle for freedom was part of the anti-colonial movement. To do away with these protections is to go back to the arbitrariness of colonialism.

You cannot mix different processes of dispute resolution and do justice. The argument is made that traditionally Papua New Guineans did not use technical rules of evidence to settle disputes. Therefore we can do away with constitutional safeguards. This argument is wrong. The rules of evidence arose in countries when it became necessary to protect individuals

from harsh and oppressive criminal laws involving the death penalty, imprisonment, and transportation. Traditional dispute resolution is different to the processes of the National Court. Traditional dispute resolution is based upon respect, settling the trouble, talking the parties out, and restoring the relationships. It is a win-win model. The National Court uses an adversarial system, in which one party wins and one loses. It is a zero-sum model. In a murder case either the accused is acquitted or the accused is jailed or hung. The two processes are quite different. They have different processes and different results.

"Beyond reasonable doubt" does justice. It is also argued that to change the rule which requires proof beyond reasonable doubt is "unPapua New Guinean", because the rule is "foreign". This argument ignores the history of the rule and its association with the struggle for freedom, democracy, and the struggle against colonialism. It is an argument which is emotional, Mccarthyism, and it is wrong. It is a counter-argument that is designed to discredit opponents, rather than address the issues. The rule is part of democracy, the tradition of freedom, that has been adopted into many societies because it works, and has real benefit in the search for justice.

Reversing the onus attacks grassroots. The government proposes to alter the onus of proof for select crimes only : murder, rape, robbery, arson. These are largely the crimes of the poor and grassroots. It does not want to alter the onus on misappropriation, fraud, theft, false-pretences, etc. : the white-collar crimes of the elites. The new law would be discriminatory against particular classes and strata in Papua New Guinea.

Reversing the onus will discredit the judicial system, and Papua New Guinea.

The rule that accused persons may only be convicted of criminal offences if the case against them is established beyond reasonable doubt, is respected throughout those legal systems to which Papua New Guinea belongs. The idea that a court can sentence a person to imprisonment using a lower standard breaches fundamental principles, and would put Papua New Guinea's courts and judges outside of respectable international standards. Internationally, our court system would be seen to be discredited. Other politicians and lawyers would talk disparagingly about our system and our judges.

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