



27 May 2010

The Hon Stephen Smith MP
Minister for Foreign Affairs
Parliament House
Canberra ACT 2600

By email

Dear Minister

Review of the PNG-Australia Development Cooperation Treaty

We refer to the Review of the PNG-Australia Development Cooperation Treaty, released on 24 May 2010, and to your announcement that the Government will consider and respond to the Review in the coming months.

In our view, the Government's response should commit to the promotion and protection of human rights as a primary goal and instrument of Australia's development cooperation with Papua New Guinea.

Human Rights and Aid Effectiveness

The recent report of the Joint Standing Committee on Foreign Affairs, Defence and Trade regarding 'Human Rights in the Asia-Pacific' recommended that AusAID 'adopt a human rights-based approach to the planning and implementation of development projects'.¹ This recommendation was underpinned by evidence that development and human rights are interdependent and mutually reinforcing,² and that a human rights-based approach can enhance program effectiveness and efficiency.³ The prioritisation of human rights as a key aim and instrument of Australia's development cooperation with PNG would be consistent with your commitment to strengthen the effectiveness of Australia's aid program. It would also constitute a concrete advancement of the Australian Government's April 2010 commitment to 'improve the protection and promotion of human rights within our region and around the world'⁴ and to act as a 'principled advocate of human rights for all'.⁵

Human Rights and Development in Papua New Guinea

The Joint Standing Committee on Foreign Affairs, Defence and Trade identified the Asia-Pacific as a 'diverse and complex region with a mosaic of human rights challenges'.⁶ It found that there is a 'clear need to enhance mechanisms to protect human rights and to redress human rights violations'⁷ and that Australia has a 'significant role to play' in the region.⁸

The human rights challenges in PNG are particularly significant and acute. The preliminary findings of the UN Special Rapporteur on Torture, Professor Manfred Nowak, following his recent country mission to PNG in May 2010, include that there is:

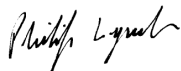
- a high level of crime and violence;
- entrenched gender discrimination, with 'women in Papua New Guinea holding a very low status in society, placing them at a very high risk of abuse both in the domestic and in the public sphere';
- evidence of systematic torture and ill-treatment in places of detention, including detention in 'overcrowded, filthy cells, without proper ventilation, natural light or access to food and water';
- evidence of excessive use of force by law enforcement and correctional authorities, and further evidence of 'a high level of corruption and unprofessionalism' among these authorities;
- 'insufficient or totally non-existent' access to 'medical care in detention facilities'; and
- a weak commitment to the rule of law and a culture of impunity, stemming from a 'lack of effective complaints mechanisms, independent investigation and monitoring and similar safeguards'.⁹

Having regard to these findings, the Special Rapporteur recommended that 'the international donor community considers the protection of human rights in the criminal justice system, and in particular the prevention of torture, as the highest priority.'

The Government's response to the PNG-Australia Development Cooperation Treaty Review is a significant opportunity for Australia to enhance aid effectiveness, demonstrate leadership on human rights in the Asia-Pacific, and contribute to the realisation of human rights in PNG in practical and effective ways.

The Human Rights Law Resource Centre calls on the Australian Government to take advantage of this opportunity by explicitly committing to the promotion and protection of human rights as a primary goal and instrument of Australia's development cooperation with PNG.

Yours sincerely



Executive Director

Copy to: Sandra Vegting, Department of Foreign Affairs
Chris Tinning, AusAID

¹ Joint Standing Committee on Foreign Affairs, Defence and Trade, *Human Rights in the Asia-Pacific: Challenges and Opportunities* (2010) [Recommendation 2] (Joint Committee Report).

² Joint Committee Report, 130.

³ See, eg, Marta Foresti, David Booth and Tammie O'Neill (Overseas Development Institute), *Aid Effectiveness and Human Rights: Strengthening the Implementation of the Paris Declaration* (2006).

⁴ Australian Government, *Australia's Human Rights Framework* (April 2010) 2, 7.

⁵ See Department of Foreign Affairs and Trade, *Australia: United Nations Security Council Candidate 2013-14*.

⁶ Joint Committee Report, 5.

⁷ Joint Committee Report, vii.

⁸ Joint Committee Report, 147.

⁹ UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, *Preliminary Findings on Mission to Papua New Guinea* (25 May 2010).