

amnesty international

PAPUA NEW GUINEA

HUMAN RIGHTS VIOLATIONS ON BOUGAINVILLE, 1989-1990

NOVEMBER 1990

SUMMARY

AI INDEX: ASA 34/05/90

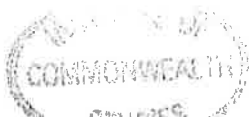
DISTR: SC/CO/GR

This report documents human rights violations which occurred in 1989 and 1990 on the island of Bougainville, a part of North Solomons Province, Papua New Guinea, where the government faced armed opposition from the Bougainville Revolutionary Army (BRA). Between early 1989 and March 1990, when government security forces were withdrawn from Bougainville, Amnesty International obtained detailed reports of torture and ill-treatment and of apparent extra-judicial executions by government forces. Most of the violations occurred within the legal framework of a State of Emergency declared by the government in June 1989 and extended by Parliament every two months until March 1990.

Well-documented cases include those of nineteen people who died in apparent extrajudicial executions, or after being tortured in police or military custody. In addition, more than 50 cases have been documented of people who were ill-treated or tortured by members of the security forces. The forms of ill-treatment included beatings at roadblocks, death threats, sexual harassment, and the deliberate torture of detainees. The victims were suspected members or sympathizers of the BRA and included political leaders, journalists, medical professionals, government workers and ordinary villagers. The cases described in this report are supported by evidence from medical records, autopsy reports, the testimony of eyewitnesses and victims, press accounts and government documents.

The human rights violations described here occurred in the context of a counter-insurgency operation against armed rebels who themselves resorted to acts of violence. In spite of difficulties with documentation, examples of abuses reportedly committed by the BRA, including torture and killing of detainees and non-combatants, are also described.

The report outlines constitutional and legal safeguards for human rights in Papua New Guinea. In this light, it looks critically at the initiatives undertaken by various government bodies and by the judiciary in response to the evidence of grave human rights violations. In spite of very substantial legal and constitutional provisions for the protection of human rights in Papua New Guinea, the judiciary was unable to carry out its function of enforcing these



provisions and government initiatives proved ineffective in preventing the occurrence of serious violations of human rights in the context of a political crisis. Few of the alleged perpetrators have been brought to justice and the vast majority of victims have been left without redress.

Amnesty International believes that all the allegations of torture, ill-treatment and unlawful killing detailed in this report are sufficiently grave to warrant immediate investigation by an impartial authority and it recommends that the results of such investigations be made public. The organization believes that durable mechanisms and guarantees that rights will be protected in times of political crisis, or under a State of Emergency, are urgently needed in order to ensure that similar violations do not occur in the future. It believes that, with relatively modest adjustments, the existing mechanisms and procedures for the protection and promotion of human rights in PNG could fill this need. The report makes a number of specific recommendations to this end.

This summarizes a 47-page document, Papua New Guinea: Human Rights Violations on Bougainville 1989-1990 AI Index: ASA 34/05/90, issued by Amnesty International in November 1990. Anyone wanting further details or to take action on this issue should consult the full document.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

6319 PAP 157

I COMMONW ST



1903593517

- 7 AUG 1992

TRY

224196

X 19 449630 2

UNIVERSITY OF LONDON



INSTITUTE
OF
COMMONWEALTH
STUDIES

1

PAPUA NEW GUINEA: HUMAN RIGHTS VIOLATIONS ON BOUGAINVILLE 1989-1990

1. INTRODUCTION

This report documents human rights violations which occurred in 1989 and 1990 on the island of Bougainville, a part of North Solomons Province, Papua New Guinea, where the government faced armed opposition from the Bougainville Revolutionary Army (BRA). In 1988 the BRA began a campaign seeking the secession of Bougainville and substantial financial compensation for land occupied by the Bougainville Copper Ltd (BCL) mine and for environmental damage it had caused. Between early 1989 and March 1990, when government security forces were withdrawn from Bougainville, Amnesty International obtained detailed reports of torture and ill-treatment and of apparent extra-judicial executions by government forces.

Most of the violations occurred within the legal framework of a State of Emergency declared by the government in June 1989 and extended by Parliament every two months until March 1990. The Emergency Act gave the security forces broad powers of arrest, detention and seizure and granted the Controller of the State of Emergency immunity from prosecution for "anything done or omitted to be done in good faith" under the purposes of the Act.

Well-documented cases include those of nineteen people who died in apparent extrajudicial executions, or after being tortured in police or military custody. In addition, more than 50 cases have been documented of people who were ill-treated or tortured by members of the security forces. The forms of ill-treatment included beatings at roadblocks, death threats, sexual abuse and the deliberate torture of detainees. The victims were suspected members or sympathizers of the BRA and included political leaders, journalists, medical professionals, government workers and ordinary villagers. The cases described are supported by evidence from medical records, autopsy reports, the testimony of eyewitnesses and victims, press accounts and government reports. Amnesty International received reports of a large number of extra-judicial executions and cases of torture and ill-treatment, but many of them lacked sufficient documentation and were regarded as unconfirmed.

The human rights violations described here occurred in the context of a counter-insurgency operation against armed rebels who themselves resorted to acts of violence. In spite of difficulties with documentation, examples of abuses reportedly committed by the BRA, including torture and killing of detainees and non-combatants are also described.

The report outlines the constitutional and legal safeguards for human rights in Papua New Guinea. In this light, it looks critically at the initiatives undertaken by the judiciary and various government bodies in response to the evidence of grave human rights violations. In spite of very substantial legal and constitutional provisions for the protection of human rights in Papua New Guinea, the judiciary was unable to carry out its function of enforcing these

provisions and government initiatives proved ineffective in preventing the occurrence of serious violations of human rights in the context of a political crisis.

The breakdown of mechanisms for enforcement of basic rights provisions occurred in two main areas. First, judicial and quasi-judicial institutions with principal responsibility for the enforcement of constitutionally-guaranteed rights failed to operate in practice. Second, the Government and Parliament failed to act decisively when confronted with serious allegations of human rights abuse. As a consequence, few of the alleged perpetrators have been brought to justice and the vast majority of victims have been left without redress.

1.1 Background: Geography, History and Politics

Papua New Guinea is situated to the north of Australia and to the east of Indonesia. It is made up of some 600 islands -- including New Britain, New Ireland, Manus and Bougainville -- and the eastern part of the large island of New Guinea, the western half of which is the Indonesian province of Irian Jaya. It has a population of about 3.5 million (1987) and covers a total area of nearly 180,000 square miles. There are three official languages -- English, Pidjin and Motu -- in addition to over seven hundred local languages. The island of Bougainville, which is the principal island of North Solomons Province, lies some 600 miles from the country's capital city, Port Moresby, but less than 50 miles from the westernmost islands of the neighbouring state of Solomon Islands. Bougainville is about 120 miles long and has a population of about 130,000 people who speak 19 different languages.

Papua New Guinea achieved its political independence in September 1975 after roughly 90 years of colonial rule by a variety of European powers and Japan. The island of New Guinea had been visited by Europeans as early as the 16th century, but colonial settlement did not begin until the middle of the 19th century. The northern part of eastern New Guinea and several islands to the north and east came under German control in 1884. Australia seized German New Guinea in 1914 and administered the territory under a League of Nations mandate until 1942. Following a three-year Japanese occupation (1942-1945), these areas reverted to Australian control as the United Nations Trust Territory of New Guinea. The remainder of present day Papua New Guinea had become a British protectorate in 1884 and was annexed in 1886. The area was first called British New Guinea and later the Territory of Papua. It was administered by Australia until 1949 when it was joined with the Trust Territory of New Guinea under a unified Australian administration.

Bougainville and the neighbouring island of Buka were visited by European explorers as early as the 17th century. They came to be regarded as part of the Solomons group which was a British possession, but in 1898 they were traded to Germany. Like the rest of the German colony of New Guinea, Bougainville and Buka were seized by Australia at the start of World War I and administered under a League of Nations mandate until the Japanese arrived in 1942. After the war Bougainville returned to Australian control. On 1 September 1975, two weeks before Papua New Guinea's independence, Bougainvillean leaders declared independence. They were ultimately persuaded not to secede and in July 1976 the newly formed North Solomons Province of independent Papua New Guinea was established.

The political system of independent Papua New Guinea is an adaptation of Westminster-style democracy. Executive power is exercised by a Prime Minister and a National Executive Council (Cabinet) who are responsible to a unicameral parliament known as the House of Assembly. The 109 members of parliament are elected for terms of up to five

years. Governments may be removed from office on a parliamentary vote of no confidence. The current government, led by Prime Minister Rabbee Namaliu, came to office in 1988 following the defeat of the government of Pias Wingti in a vote of no confidence in July 1988. In addition to the central government based in Port Moresby there are 19 provincial governments and roughly 160 local government councils. The provincial governments have a measure of autonomy but they may be dismissed by the central government for financial mismanagement and other reasons.

1.2 The Bougainville Revolutionary Army

The Bougainville Revolutionary Army (BRA), whose members were commonly referred to as "militants" or "Rambos", came to public notice after a series of attacks on installations of the Bougainville Copper Ltd (BCL) mine in November and December 1988. The military commander of the BRA was a former officer of the Papua New Guinea Defence Forces (PNGDF), Samuel Kauona. During the period of armed conflict with government forces, Kauona also acted as principal BRA spokesperson while the leader, Francis Ona, a former BCL surveyor, remained in hiding. Initially under his command were an estimated 50 "militants" armed with home-made and World War II vintage weapons, as well as explosives stolen from the BCL. As the conflict wore on, the BRA gained the sympathy of a proportion of the population and its numbers apparently grew substantially. In spite of a shortage of modern armaments, the BRA engaged and inflicted casualties on a combined force of several hundred army (PNGDF) and police Riot Squad troops for over a year. With the unilateral declaration of Bougainville's independence in May 1990, the BRA was declared the official armed force of a new "republic".

1.3 The Roots of the Conflict

The BRA had its origins in at least three decades of local resistance to the central government and the BCL mine. Resistance to the opening of the mine and organized demands for autonomy and secession on Bougainville began in the 1960's, though there was evidence of antipathy toward colonial authorities and plantation owners much earlier. The provincial government of Bougainville that had unilaterally declared the island's independence on 1 September 1975 was persuaded to return to the fold after certain concessions were granted by the central government. Yet many of the underlying issues remained unresolved and formed the background to the emergence of the BRA more than ten years later.

Among the unresolved issues in 1988 were: the perceived inequity in the distribution of benefits and revenues from the mine; a feeling of political powerlessness vis a vis the central government, historically expressed as demands for provincial autonomy or secession; and a consciousness of racial, cultural and social difference between Bougainvilleans and non-Bougainvilleans. These formed the basis of the BRA's principal demands which were: the permanent closure of the BCL mine; 10 billion Kina (US\$ 12 billion) in compensation for the land used and the environmental damage caused by the mine; and the secession of Bougainville from Papua New Guinea.

The BCL mine, which is 53% owned by Conzinc Rio Tinto Australia (CRA), had been a focal point of conflict between Bougainvilleans and the central government since the development of the mine began in the late 1960's. More recently it had become the source of important divisions among Bougainvilleans -- essentially between those who had benefited

from the mine and those who felt that they had not. Both of these conflicts shaped the Bougainville crisis of 1988-1990.

Until BRA attacks forced its closure in May 1989, the BCL mine was a cornerstone of the national economy. From 1972 when production began, to 1986 it was the source of roughly 16% annually of the central government's internally generated revenue and about 45% of the country's annual export earnings. Revenue from the mine amounted to some Kina 150 million in 1988 and formed the largest single contribution to the 1989 national budget. Amongst many Bougainvilleans there was a perception that, because of the economic importance of the mine, a succession of central governments -- including the Australian colonial government which had pushed ahead its development against strong local protest -- had been unwilling to address the concerns of Bougainvilleans with respect to the mine. These concerns included serious environmental damage, social and economic disruption caused by the sudden influx of capital and thousands of non-Bougainvillean workers and, perhaps most importantly, the question of compensation and benefits for landowners in the mine site area and for Bougainvilleans generally.

Beginning in the late 1960's, Bougainvilleans sought improvements in the terms and the level of compensation; these efforts met with a degree of success but considerable dissatisfaction remained. In May 1987 a Bougainvillean parliamentarian, Father John Momis, proposed the transfer of an increased percentage of BCL revenues to the province. The idea was received enthusiastically by dissatisfied landowners in Bougainville who then took the initiative and made a series of additional proposals. Alleging that the existing landowners organization -- the Panguna Landowners Organization (PLA) -- had mismanaged the distribution of benefits and had failed to represent the interests of the majority of residents who were not land title-holders, a more militant group emerged to challenge the older PLA leadership. One of the new leaders was Francis Ona.

The new landowners group eventually formed the core of the BRA, but for at least a year their efforts to improve the terms of compensation and later to see that the mine be closed down altogether, were essentially peaceful. In March 1988 militant landowners demonstrated without success for the cancellation of the mining agreement between BCL and the government. In April they issued a demand for Kina 10 billion in compensation, the transfer to the province of a 50% share of either BCL profits or central government revenues from the mine, and for the transfer of the BCL to Bougainvillean ownership within five years. In May they staged a sit-in and set up a roadblock which halted production at the mine for several hours. The central government announced in July that certain measures would be taken to address their grievances but, apparently not satisfied, the landowner representatives called for the mine to be closed within six months. In late 1988 a study on the environmental impact of the mine was released. The militant leadership believed the report was insufficiently critical of BCL and called it a "whitewash" and in October Francis Ona warned that the patience of the landowners was running out. In November, following the dispersion of a landowner roadblock by police, explosives were stolen and subsequently used in the first major violent attacks on BCL property.

The BRA's call for secession in late 1988 and the unilateral announcement of independence in May 1990 had precedents in the local resistance movements of the 1960's and the provincial autonomy movement in the mid-1970's. By 1974, as the country prepared for independence, the question of political and administrative decentralization had become a central subject of debate. Bougainvilleans were among its key proponents. The Constitutional Planning Committee, which drafted the new country's constitution, recommended the creation

of provincial governments with considerable legislative and administrative autonomy. These recommendations appeared to have gained broad acceptance but were unexpectedly dropped from the draft constitution during a legislative debate in July 1975. The decision caused a political storm in Bougainville where demands for autonomy had been especially persistent and where an interim provincial government had already been established in July 1974. On 1 September Bougainville's leaders declared independence. The interim provincial government was officially suspended in October and there were anti-government riots on Bougainville in January 1976. However, after intensive negotiations, Bougainville's leaders agreed not to secede, and later in 1976 the government of the newly named North Solomons Province was established.

While the concessions granted in 1975-76 satisfied Bougainville's political leaders, the perception remained that important political and economic decisions affecting Bougainvilleans continued to be made by the central government without sufficient attention to local interests and needs. Though not openly a political issue for several years, the appeal of autonomy remained powerful and it readily became a central component of the BRA program.

A consciousness of racial and cultural difference and a high level of racial antipathy between Bougainvilleans and outsiders was also an important dimension of the the BRA's emergence and of the conflict in Bougainville in 1988-1990. In spite of real linguistic and social divisions among Bougainvilleans, they are held to be more similar, culturally and physically, to the people of the neighbouring Solomon Islands than to other Papua New Guineans. Due to the distinctive colour of their skin, for example, they are often referred to by other Papua New Guineans as "black-skins" and they in turn often refer to non-Bougainvilleans as "red-skins". Support for the idea of secession increased dramatically in September 1972, after two prominent Bougainvilleans were reportedly murdered by "red-skins" in Goroka, on the mainland. The murders created a backlash of anti-"red-skin" feeling and contributed to a sense of unity amongst Bougainvilleans. A strong element of racism was evident in the attitude and behaviour of both government security forces and BRA members during the Bougainville crisis of 1988-1990.

1.4 The Bougainville Crisis: A Chronology -- 1988-1990

Explosives stolen from the BCL mine site on 22 November 1988 were used by BRA militants to destroy power pylons and other BCL installations in late November and December 1988, resulting in the temporary cessation of mining operations. There were further attacks on BCL property in January 1989 and a number of clashes between the police and militants, one of which resulted in the death of a suspected militant and the wounding of a police officer. The Cabinet responded by imposing a dusk to dawn curfew through much of Bougainville with effect from 23 January 1989 and, according to reports, police in the area were given a "shoot to kill" order. A unilateral ceasefire declared by the national government in February 1989 was ignored by Francis Ona and local community leaders, who reiterated their earlier demand that the mine be closed down.

There was an escalation of violence in March 1989 with BRA attacks on government offices as well as non-Bougainvillean plantation labourers and squatters on the island. At the request of the police, the Cabinet approved the deployment of an additional 100 Riot Squad police and three companies of regular PNGDF troops at the end of March. Thus reinforced, the security forces launched a military operation, code-named "Tampara", to flush BRA militants out from the hilly jungle around the minesite at Panguna.

In April the central government announced a new compensation package for Bougainville. The Bougainville Development Package offered landowners and the provincial government a percentage of the central government's BCL shares, an increased share of the royalties from the mine, and roughly Kina 200 million in social service projects for the province. In the same month security forces mounted a series of punitive raids on villages in areas of suspected BRA activity, as part of "Operation Tampara". There were reports that troops had used excessive force in conducting these raids, burning houses and properties and beating ordinary villagers.

There was no unanimity among landowners on the government offer and a substantial militant minority held out for the demands made in late 1988. BRA forces mounted new assaults on BCL installations and personnel leading to the mine's closure on 15 May 1989. A few days later Cabinet granted extra powers to security forces on the island -- including the power to arrest suspected militants without a warrant -- but decided against imposing a State of Emergency. Ted Diro, a former PNGDF Commander, was appointed Minister of State with special responsibility for the Bougainville crisis. At the end of May the government declared a 15 day truce in order to allow church representatives to make contact with Francis Ona to encourage him to negotiate with the government. Contact with Ona was reportedly made through Catholic Bishop Gregory Singkai, but hope of a negotiated settlement faded when Ona announced that a condition for negotiation was the prior withdrawal of all government security forces -- at the time about 500 troops -- from Bougainville.

Shortly after the collapse of the government's peace initiative, Cabinet announced the imposition of a State of Emergency in Bougainville to take effect from 26 June 1989. Police Commissioner Paul Tohian was appointed Controller of the State of Emergency directly responsible to Cabinet. The Deputy Controller, who acted as Joint Forces Commander on Bougainville, was Colonel Lima Dataona. The State of Emergency authorized these men to issue Emergency Orders limiting certain basic rights and freedoms normally guaranteed in the Constitution, including freedom of association, freedom of movement, and freedom from arbitrary search and seizure (see Appendix I). Parliament endorsed the State of Emergency on 14 July and subsequently agreed to its extension at two-monthly intervals until March 1990 when it recommended that it be lifted. Also in July 1989 Cabinet granted extra powers to the Controller -- including the power to limit or prohibit free assembly -- under the State of Emergency Act.

Toward the end of August 1989, after two months of intensive military operations, the Prime Minister offered Francis Ona and his key deputies a guarantee of safe passage in order to take part in the signing of a "Memorandum of Agreement" between the national government, the provincial government and some landowner representatives on 12 September. One day before the accord was to be signed, a Provincial Minister John Bika was killed by suspected BRA militants. John Bika had been the Chairman of the Provincial Select Committee for the Panguna Crisis which, shortly before his death, had produced a report recommending fuller autonomy for the province, but rejecting the option of secession. His killing led to the postponement of the signing of the accord and a further delay in the process of negotiation. Three days after John Bika's death, Minister of State Diro announced a reward of Kina 200,000 for the capture of Francis Ona and seven other suspected BRA leaders. Later in the month, he announced restrictions on press freedom which gave Controller Paul Tohian extensive powers to censor news coverage of the crisis.

On 13 October Colonel Lima Dataona was replaced as Deputy Controller and an additional 200 troops were deployed on the island. The dawn to dusk curfew which had been

relaxed was once again restored and security forces were authorized to use booby traps and land mines to defend BCL installations. On 23 October, the Prime Minister who had spoken often of the need for compromise and negotiation, called for the "neutralization" of rebel forces saying: "We've exhausted all avenues to try to bring the militants to the table to try to resolve this thing peacefully... We've authorized the security forces to use every means at their disposal to go in there and neutralize them so that we can restore peace and order in the community". Francis Ona, with a price of Kina 200,000 still on his head, failed to take part in the "traditional" peace ceremony organized by the government and the "moderate" landowners four days later.

During the debate on the extension of the State of Emergency in November 1989, several parliamentarians expressed concern about the mounting costs of the security operation and about evidence of serious abuses by the security forces. There were renewed calls for direct dialogue with the rebels and a threatened no-confidence motion over the government's handling of the crisis. On 3 November, Prime Minister Namaliu signalled the government's change of heart: "I have always believed in the value of a direct negotiation process. It is slow, it is painstaking, but the chances are the result will be lasting." At a meeting in Rabaul in November 1989, national and provincial government leaders and landowner representatives agreed to yet another peace initiative, with mediators from the Catholic church. Although the mediating team met BRA commander Sam Kauona several times in one week in December, the final response from Francis Ona was unchanged: no negotiations until all government troops had left the island.

The failure of successive government peace initiatives served to strengthen those who advocated an all-out military solution. On 12 January 1990, during the Parliamentary debate on the extension of the State of Emergency, the Prime Minister made the following appeal: "I ask and hope for the last time for the full support of this House to crush the terrorist element which is unable to listen to reason, to negotiation or to common sense... We are now undertaking the military option in place of our peace initiatives...". This marked the start of "Operation Footloose", the most intensive and destructive military campaign of the crisis.

Concerned about increasing criticism both at home and abroad for its handling of the crisis, and conscious that after several weeks of intensive fighting, the military campaign had not managed to defeat the BRA, the government ultimately accepted a proposal for a ceasefire, to be monitored by a team of international observers, and a withdrawal of all government forces, pending a negotiated political settlement. The truce, signed by BRA commander Samuel Kauona, and the Deputy Controller of the State of Emergency, Colonel Leo Nuia, came into effect on 2 March 1990 and by 12 March all government security forces had withdrawn from Bougainville, leaving the BRA in de facto control of the island. Shortly after the withdrawal of government troops, postal and most shipping and air links to Bougainville were stopped. An eleven-member international observer team which arrived on 12 March and remained for several days on the island, said that the BRA had substantially complied with the provisions of the ceasefire and that the situation was basically calm and orderly. Yet while the BRA leadership appeared committed to the maintenance of law and order, there were doubts about its ability to control its own members and criminal elements operating under BRA auspices.

Concerns about the security of delegates, a lack of agreement over the venue and, most importantly, fundamental differences over the question of secession, resulted in the repeated postponement of the promised government-BRA talks. While the BRA and the provincial government insisted that secession be included on the agenda, the national government

maintained that the issue was non-negotiable. In May the government imposed an economic blockade of the island which caused the population considerable hardship. The main objective of the blockade strategy was evidently political; to force an internal political crisis on Bougainville which would weaken the authority of the BRA and provide an opportunity for the national government to return to the island unopposed.

On 17 May a newly formed interim government of the "Republic of Bougainville" unilaterally declared Bougainville's independence. The cabinet included prominent members of the former provincial government such as Premier Kabui as well as church leaders like Bishop Gregory Singkai. The national government rejected the declaration of independence and subsequently cut all telecommunications links to the island; the economic blockade remained in effect.

In late July the two sides agreed to meet aboard a New Zealand naval vessel, the "Endeavour" and on 5 August, after a week of negotiations, the "Endeavour Accord" was signed. Under the accord the national government agreed to lift its blockade and to restore essential services to the island as soon as possible and without resort to force. It was also agreed that the sensitive issue of Bougainville's future political status would be discussed at a second round of negotiations, scheduled for 24 September 1990.

Government troops accompanied the first shipment of relief goods which arrived at Buka on 1 September 1990. The BRA alleged that their presence was a breach of the "Endeavour Accord" and resisted efforts to land and distribute the supplies. An angry dispute about the correct interpretation of the accord followed. In mid-September, the government landed PNGDF and police Riot Squad troops on Buka; it said that it had done so at the request of community leaders in Buka who had reportedly been subjected to BRA threats and harassment in the preceding months. In late September there were armed clashes between BRA and government forces which left at least 16 rebels and two soldiers dead. The disagreement over the accord and the armed clashes led to a postponement of the second round of talks. By October there were over 300 government troops stationed at Buka and Nissan islands, and there was increasing concern that troops might be redeployed on Bougainville.

1.5 Ill-treatment and Torture by Security Forces Outside Bougainville

Ill-treatment by government security forces personnel has not been limited to the island of Bougainville. The patterns of ill-treatment and abuse of authority reported in Bougainville have been evident in other parts of the country for many years. Members of police Riot Squads (Mobile Squads) have been singled out for their abusive behaviour, but regular duty police officers, prison warders and members of the PNGDF engaged in controlling civil unrest have also been accused of the ill-treatment and in some cases unlawful killing of civilians. The historical evidence of abusive behaviour by members of police Riot Squads is instructive because Riot Squad units were deployed to restore order in the first months of the Bougainville crisis. Many of the most worrying features of police Riot Squad behaviour in Bougainville appear to be part of well-established patterns.

The principal role of police Riot Squads has been in containing civil unrest. They were first used to counter rioting on Buka Island in North Solomons Province in 1962 and in 1969 a permanent Riot Squad depot was established to deal with civil unrest on Bougainville and the Gazelle Peninsula. In 1973 Riot Squads were deployed for the first time to intervene in tribal fighting in the highland areas of the country. The squads are designed to have

considerable autonomy from the normal chain of command within the Royal Papua New Guinea Constabulary (RPNGC) and this has led to serious problems of accountability and disciplinary control. In the thirty years since they were established, the squads have gained a reputation for poor community relations and indiscipline.

According to a study of police policy toward tribal fighting in Papua New Guinea, civilians in the area of Riot Squad operations claimed there was "...considerable evidence of violent misbehaviour by the mobile squads, including arson, malicious damage, murder, grievous bodily harm, rape, stealing and wrongful arrest." Police refuted most of these allegations but admitted some "misbehaviour" by members of Riot Squads. They attributed abusive behaviour to poor discipline by squad commanders and police "exasperation" in having to deal with "certain clans who persist with repeated and sustained fights." Police denials notwithstanding, the study concluded that police interventions in tribal fighting had been "...counterproductive. They have prolonged fights, increased fatalities and obstructed negotiations and settlements. Essentially the police have made matters worse."

In the course of a police Riot Squad operation in the highlands in late 1988, known as "Operation LOMET", several civilians were reportedly beaten, and at least one reportedly died in the custody of police. According to the member of parliament for Kainantu, in whose constituency the incident occurred, a man named **Inake Umia** of Tosoempa village, "disappeared" for several days after being detained by police on 22 October 1988. Members of the police Riot Squad denied any knowledge of the man when relatives and friends inquired about his whereabouts; some who inquired were reportedly threatened by police. On 30 October 1988, nine days after his arrest, Inake Umia's body was reportedly found in the Ramu River; a post-mortem report revealed a broken neck and two bullet holes in the head.

Regular duty police officers and prison wardens have been accused of abusive behaviour toward detainees, prisoners and demonstrators. In some cases, they have been accused of unlawful killing. To the credit of the country's judicial system and the government, many of the perpetrators of such violations have been charged with criminal offenses and found guilty.

A university student named **Joeman Mel** died and six others were hospitalized in June 1989 when police stormed an "illegal drinking club" at a university in Lae. The police used teargas, shot guns and rubber bullets. The Ombudsman was ordered to investigate allegations of police brutality. A police officer was later found guilty of manslaughter and is now serving a prison term.

Five detainees, who confessed to an armed robbery in June 1989, claimed during their trial in November 1989 that they had been beaten up, stripped naked and displayed around the city on a vehicle. Some said that they had suffered injuries to the head, arms and body as a result of the beatings. They also claimed that members of the police Riot Squad had forced them to eat wild taro leaves shortly after they were detained. On hearing the allegations, the presiding National Court Judge, Mr. Justice Los called each of the detainees to the witness stand to give sworn evidence.

Augustine Baimur, a law student at the University of PNG, and **Sila Giri** of Lae were among a group of young men reportedly beaten by police in Lae on 11 June 1989. According to press reports the men were kicked, punched and beaten with gun butts. Augustine Baimur was shot at close range with a rubber bullet. Both he and Sila Giri claimed that they were beaten again while in custody at the police station.

Three young men, detained for questioning in connection with a series of robberies in Kerema, were reportedly beaten by police while being paraded around town wearing humiliating placards on 14 February 1990. According to reports, the three men, whose hands were tied, were hit over the head with gun butts by police officers before a crowd of onlookers. Placards with slogans such as "Pigs for Sale", "Dogs", "Heroes" and "Criminals" were hung from their bodies. Mr Kae Kake, the father of one of the men, witnessed the public beating and said: My son's face was covered in blood, his hands were tied behind his back and it took me a while to realize he was my son... I have nothing against my son being jailed by a court of law, but the bashings by police prior to a court hearing is uncalled for." A medical doctor who visited the victims in jail later the same day said that all three had sustained injuries to the face and the chest. Relatives reportedly failed in their attempts to obtain legal assistance in Kerema, but wrote to the Police Commissioner with details of their complaint. Amnesty International is not aware of any disciplinary action having been taken against the suspected perpetrators.

Thirty people charged with breaking a 6 pm curfew in Lae in September 1989 were denied food for at least three days while in police custody and some were beaten. One woman claimed she had been sexually assaulted by police officers who arrested her at 5:30 pm for allegedly violating the curfew. Magistrate John Numapo ordered all 30 released saying that the denial of food to detainees was "a serious breach of their constitutional rights". Some of those detained said that when they had asked for food, the police had shouted back saying: "That is your worry, you broke the law and now you can starve." He noted that the lack of food for people in police custody had been prevalent for at least six months and called on the Police Commissioner, Paul Tohian, to remedy the situation.

Tom Amaiau, Member of Parliament for Kompaim-Ambum, claimed that he was threatened by a police officer on 20 November 1989 at a roadblock between Mount Hagen and Enga in Enga Province. He said the police officer pointed a gun at his face and threatened to assault him. The Prime Minister said that he would ask Police Minister Ijape to investigate the incident. To Amnesty International's knowledge, however, the results of this investigation have not been made public, and no disciplinary action has yet been taken against the officer involved.

2. LEGAL AND CONSTITUTIONAL REMEDIES

The Constitution of Papua New Guinea protects a broad range of fundamental individual rights and freedoms, including the right to life, liberty and security of person, freedom from torture or inhuman treatment, arbitrary search and entry and freedom of conscience, association and assembly. The guaranteed rights and freedoms are set out in the Preamble and further specified in the "Basic Rights" division of the Constitution. The enforcement of these basic rights is principally the responsibility of the superior courts -- the Supreme Court and the National Court -- and the Constitution gives them broad powers to effect this end. There are, in addition, a number of institutions which share indirectly in the task of enforcing basic rights provisions, and without which the courts could not fulfil their responsibility. The most important of these are: the Public Solicitor, the Public Prosecutor and the office of the Magistrate/Coroner.

In principle, this legal and institutional armoury provides substantial protection for basic human rights in Papua New Guinea. The events in Bougainville, however, revealed that in

the context of a serious political crisis, the mechanisms of enforcement did not function as expected. They failed to provide adequate protection against serious human rights violations and failed to bring promptly to justice those responsible. This section outlines briefly the constitutional and institutional human rights safeguards that exist in Papua New Guinea, and suggests some of the reasons they failed to work in the context of the Bougainville crisis.

2.1 Basic Rights and the Constitution

While the Constitution provides for the qualification or derogation of certain rights and freedoms it does so in terms which are intended to limit the powers of the state *vis a vis* individual citizens. For example, Section 38 provides for a general qualification of protected rights which permits laws to be enacted in the interests of public security, safety, welfare or defence, but it holds that such laws must be "reasonably justifiable in a democratic society having proper respect for the rights and dignity of mankind". This and other limitations allow for a degree of supervision by the courts of the state's observance of constitutional norms and provisions.

In principle, these constraints continue to have effect during a state of national emergency. A state of emergency may be declared by the Head of State acting with the National Executive Council (Cabinet), but it is subject to periodic review by Parliament. Some, but by no means all, rights and freedoms are derogable under Emergency Acts passed by Parliament during a state of national emergency. Among those which are non-derogable even under a state of emergency are: the right to life, freedom from inhuman treatment and freedom of conscience, thought and religion. The scope of Emergency Regulations which are promulgated by the National Executive Council, as opposed to Emergency Acts enacted by Parliament, is more tightly circumscribed. Such regulations may not limit the freedom of assembly, association, expression, privacy or information, in addition to all of the non-derogable rights and freedoms mentioned above.

The experience in Bougainville during the crisis demonstrated that in practice it may be difficult to give effect to such limitations or constraints. The "Emergency (Bougainville) (General Powers) Act 1989", for example, provided extensive powers of arrest, detention and seizure to the security forces. More importantly, it gave the Controller of the State of Emergency, and those acting under his orders, virtual immunity from prosecution for any otherwise unlawful act. Section 8 of the Act stipulated that "the Controller or any person authorized by him to assist him in carrying out his duties or exercising his powers under this Act...is not liable for anything done or omitted to be done in good faith under the purposes of this Act..."

2.2 The National Court and the Supreme Court

The Supreme Court and the National Court have considerable authority to enforce the basic rights provisions in the Constitution. According to some jurists, the drafters of the Constitution deliberately left the enforcement of human rights provisions to the discretion of the courts. The superior courts have the power of judicial review -- that is the authority to assess the constitutionality of governmental legislation and action -- and it is a power which they have used with some frequency. Sections 57 and 58 of the Constitution give the courts wide powers to enforce the basic rights provisions and award damages where the government has been found liable for a breach of rights.

Section 57 (Enforcement of Guaranteed Rights and Freedoms) substantially extends normal common law rules concerning standing (*locus standi*), that is the rules about who may initiate legal proceedings. In principle it expands the rules to include any person or institution of serious intent. Some Supreme Court judges have interpreted Section 57 broadly. For instance, in 1980 two Supreme Court Justices held, in a minority opinion, that any citizen could challenge the validity of government legislation. The majority opinion did not go quite so far but did accord such standing to the then leader of the opposition, (Sir) Michael Somare (Supreme Court Ref. No 4. 1980 [1981] PNGLR 265).

Some legal experts have argued that Section 57 could be interpreted more broadly still; to empower the superior courts themselves to initiate proceedings in cases of the infringement of basic rights. This view challenges the current consensus opinion within the judiciary which is that the principle of "judicial impartiality" prohibits judges from taking the initiative in such cases. However, the language of Section 57(1) appears to leave little doubt about the constitutional prerogative of the courts to initiate proceedings in human rights cases: "A right or a freedom referred to in this Division shall be protected by, and is enforceable in, the Supreme Court or the National Court...**either on its own initiative** or on application by any person who has an interest in its protection or enforcement, or... by a person acting in his behalf..." (emphasis added).

It should be noted that the principle of "judicial impartiality" does not customarily refer to the manner in which an investigation is initiated but rather to the way in which it is carried out and the rulings made. The right of the judiciary to initiate an investigation into a pattern of serious human rights violations may, in fact, be the best guarantee of the independence and impartiality of the proceedings. This is particularly true in a context of political violence where victims and witnesses of violations may be afraid to lodge complaints with the authorities, or are otherwise prevented from actively seeking redress. Far from indicating a lack of impartiality on the part of the judiciary, the initiation of an investigation in such circumstances would ensure that fear and threats of violence would **not impede the** normal course of justice. Indeed the failure to take such an initiative might arguably constitute an infringement of every citizen's basic right to "security of person and the protection of the law", as stipulated in the Preamble of the Constitution.

Section 58 (Compensation) gives the superior courts the power to award damages where basic rights have been infringed by the government or its agents. Jurists agree that the courts have, as a rule, interpreted this section liberally. In a 1982 case concerning the ill-treatment of two prisoners in the Bomana Corrective Institution, the Supreme Court awarded damages and found that "the conduct of the prison warders constituted cruel and inhuman punishment and treatment inconsistent with the inherent dignity of the human race within the meaning of s.36(1) and 37(17) of the Constitution" (Heni Pauta and Kenneth Susuve [1982] PNGLR). In another case concerning the alleged ill-treatment of a prisoner at Bomana Corrective Institution, the Supreme Court found that the complainant should be awarded "reasonable damages for infringement of his constitutional rights" (Tom Amaiu v The Commissioner of Corrective Institutions [1983] PNGLR 87).

As these decisions indicate, the superior courts have established precedents for the enforcement of basic rights and other constitutional provisions. In the first six years after the promulgation of the Constitution, the courts found government action unconstitutional in 40 cases; five of these pertained to actions of the police or prosecutors. The courts have, in general, enforced constitutional provisions without undue regard to political pressures or considerations. Indeed, in some cases, the decisions have caused problems for government

policy. Yet, during the Bougainville crisis, where there was overwhelming evidence of serious human rights violations, the courts appeared unable to fulfil their constitutional mandate. In September 1990, almost two years after the first reports of abuses, and seven months after government troops had been withdrawn from Bougainville, the courts had still not heard a single case. Several cases scheduled for hearings in late September were postponed because the government's legal representative failed to appear before the National Court on the appointed date.

2.3 The Courts and the Bougainville Crisis

The Bougainville crisis imposed serious constraints on the functioning of the court system which made the prompt enforcement of basic rights provisions of the Constitution difficult. Victims were, on the whole, unfamiliar with the procedure for bringing a complaint or were fearful of the consequences of doing so. Members of the legal profession on Bougainville lacked experience in human rights cases and like the victims themselves appeared fearful of challenging the police and military authorities, particularly during the State of Emergency. Lawyers from other parts of Papua New Guinea showed little inclination to assist. The team of lawyers sent to Bougainville from the Public Solicitor's Office spent less than one month there and failed to take action on any of the more than 100 complaints which they heard. On the grounds that it was inappropriate for the courts to act on their own initiative in such cases, Supreme Court and National Court judges waited in vain for complaints to be brought. When complaints were finally received in early 1990, concerns about the security of court officials in the context of the counter-insurgency operation, prevented any hearings from taking place. For nearly two years this matrix of fear, legal inexperience or indifference and lack of initiative rendered the judiciary inactive on human rights cases in Bougainville, thereby denying victims any protection or redress.

This failing was not wholly a result of indifference or lack of concern on the part of individual members of the judiciary. Indeed, there was evidence of frustration on the part of some superior court judges that more was not being done. In July 1989, Supreme Court Chief Justice, Sir Buri Kidu, issued a public statement reminding citizens of their constitutional right to seek redress and compensation for breaches of human rights and urging victims to bring their complaints before the courts either directly or through a lawyer. In December 1989, retiring National Court Judge, Mr Justice Tos Barnett said that if not remedied "official violence and extra-legal punishments would be legitimised in the minds of the security forces and of the public." Justice Barnett urged the Public Solicitor and members of the legal profession to make use of provisions in the Constitution which allow instances of human rights abuse to be heard by the courts: "You lawyers do not have to wait until you are approached by a client. If you feel that the system is in danger, as I do, the Constitution provides a door through which with a little professional creativity, you can walk and carry this terrible burden of "official violence" straight to senior members of the judiciary". It is noteworthy that neither Chief Justice Sir Buri Kidu nor Justice Barnett mentioned the constitutional provisions which empower the courts themselves to respond to evidence of human rights violations. As noted in the discussion of Section 57 above, the absence of complaints, from individuals or through lawyers ought not, in itself, to have stymied action by the court.

Members of the judiciary appear eventually to have recognized the extent of the authority, and the responsibility, of the courts to take action. The mechanisms which were suggested to give effect to this authority were a clear step forward but they fell short of what

was constitutionally possible as well as what was required to address the problem of systematic human rights abuse. At the end of 1989, for instance, the judges of the National Court and Supreme Court prepared and distributed human rights violation complaint forms to Magistrates Courts and police stations throughout the country. The idea of the forms was to stream-line the way in which allegations about human rights abuses could be brought before the court. By April 1990 the court had received fifteen formal complaints regarding one or more cases of alleged human rights violation on Bougainville. Eight of the complaints concerned alleged unlawful killings. The names of the deceased were: Kevin Kokiai Lalai (see section 4.10), Vincent Amora (see section 4.1), Maria Miringori and Joyce Bangi Manenu (see section 5.13), John Sedede Korelava (see section 4.5), Robert Bakau, Simon Nakina and Moses Boreure. The remainder were complaints alleging some form of ill-treatment or torture by members of the security forces. The names of the victims were: Vincent Bangi (see section 5.4), Dominic Iita (see section 5.1), Samuel Rupari, Samson Siarama, Samuel Eka, Morris Siarapi, William Kanai, Peter Oli, Peter Lingomo and Edward Latu. By September 1990, the number of complaints received by the court had increased to 67 but as of early October none of these cases had been heard.

A significant impediment to the hearing of the cases was the interruption of the normal circuit of the National Court -- which holds sessions in different regions of the country on a regular rotating basis -- because of the imposition of the State of Emergency, and later because of the withdrawal of all government security forces. Although the Constitution provides that basic human rights must be protected even during a state of emergency, the cancellation of the court circuit meant that, in practice, the only judicial body with the authority to hear human rights cases was not able to do so. According to information obtained by Amnesty International, in Bougainville it was the Controller of the State of Emergency, and not the Chief Justice of the Supreme Court or the Minister of Justice, who determined when the circuit would stop and re-start.

The inability of police and military authorities to guarantee the security of judges and other court officials was an important factor in the interruption of the circuit. After a number of complaints of human rights abuse had been received by the Supreme Court in early 1990, Chief Justice Sir Buri Kidu communicated with the Minister of Justice and with the Controller of the State of Emergency indicating his intention to send a National Court Judge to Bougainville to hear them. In his reply, dated 20 February 1990, the Controller of the State of Emergency said "...I suggest that he [the Judge] postpone his visit until the situation on the island improves and we can guarantee his and the parties safety." Not confident that the security of the Judge and his entourage could be guaranteed by the security forces, the Chief Justice postponed the plan indefinitely.

2.4 The Public Solicitor, the Public Prosecutor and the Magistrate

The Public Solicitor and the Public Prosecutor are constitutionally autonomous offices within the country's judicial system (Constitution: s.176 and s.177). They were intended to form part of a system of checks and balances with regard to executive power and their mandates permit them to play a role in the enforcement of the basic rights provisions of the Constitution. However, in the context of the present crisis, neither has acted assertively in response to evidence of human rights violations.

The function of the Public Solicitor, according to the Constitution, is "to provide legal aid, advice and assistance for persons in need of help by him..." In performing this function

the Public Solicitor is "not subject to direction or control by any person or authority". The normal role of the Public Solicitor is to provide legal aid to citizens of limited means who face serious charges, or in other words to act as a public defender. However, Papua New Guinea jurists are of the opinion that the Public Solicitor's Office (PSO) also has a mandate, indeed a responsibility, to bring cases of alleged human rights violations before the courts on behalf of aggrieved citizens.

In communications with Amnesty International and with the Chief Justice of the Supreme Court, the Public Solicitor's Office accepted, in principle, the office's responsibility for providing legal assistance and representation to victims of human rights abuse on Bougainville. For various reasons, however, the PSO did not bring any cases of alleged human rights violations before the courts during the Bougainville crisis. The PSO was apparently prepared to represent several victims of alleged human rights violations before the National Court in May 1990 and again late September 1990 but due to the security situation on Bougainville the scheduled hearings were postponed. Some representatives of the PSO claimed that a lack of resources prevented them from taking appropriate action. In the view of one National Court Judge, however, the problem of inadequate funding could be remedied by an Act of Parliament because the Constitution guarantees the PSO sufficient resources to carry out its functions.

In late February 1990 the Registrar of the Supreme Court wrote to the Public Solicitor concerning 13 people who had complained of human rights abuse on Bougainville, asking him to "confirm whether or not you are willing to act for these applicants if they do not have their own legal representatives". The Public Solicitor replied, on 6 March 1990, that he would be willing to assist the applicants but felt that it would not be practical to do so until some time in May at the earliest. One week later, following the withdrawal of government forces from Bougainville, he wrote to say: "Due to the present situation...I consider it not safe for my lawyers to go over to the North Solomons. Perhaps at a later stage when things are more settled." On 15 March, the Registrar wrote to say that the 13 cases in question "...will not be heard for the time being, as there are no police on Bougainville".

Five lawyers from the PSO were sent to Bougainville in July 1989 to provide legal assistance and to investigate complaints of ill-treatment by members of the security forces. The team began its work on 19 July and by 26 July it reported that it had heard 113 complaints. Two days later, however, the team was called back to Port Moresby. According to one member of the team their recall was not due to security considerations but to a shortage of funding. The lawyers prepared a report for the Minister for Justice, which apparently included a recommendation that a permanent PSO branch office be established in Bougainville, but neither the report nor its recommendations were made public.

The function of the Public Prosecutor is to "control the exercise and performance of the prosecution function (including appeals and the refusal to initiate and the discontinuance of prosecutions) before the Supreme Court and the National Court..." (Constitution: s.177). The office of the Public Prosecutor is not subject to direction or control, with the exception that the Head of State may issue directions "on any matter that might prejudice the security, defence or international relations of Papua New Guinea..." The national security provision notwithstanding, the Constitution would appear, then, to allow the Public Prosecutor to bring cases on behalf of citizens against the state or its agents (e.g. members of the security forces).

In practice, however, this has not occurred. Under ordinary circumstances, the Public Prosecutor becomes involved in a case in the following manner: the police submit information to a District Court and following committal proceedings, the committal papers are forwarded to the Public Prosecutor who then decides whether or not to prosecute before the National Court. It is difficult to see how, under this procedure, the Public Prosecutor could take the initiative in bringing a case against the state before the National Court or Supreme Court. Yet, even if the prosecution of agents of the state is not currently a normal function of the Public Prosecutor's office, there is room for an expansion of its role, and also the role of the Public Solicitor, within the Constitution. Section 177(6) provides that: "An Act of the Parliament may confer, or may provide for the conferring of, additional functions not inconsistent with the performance of the functions conferred by Subsections (1) and (2) on the Public Prosecutor or the Public Solicitor".

Magistrates have the power, in fact the responsibility under the Coroner's Act, to initiate a coroner's inquest into all cases of suspicious death. This provision ought to have provided a significant check on serious human rights violations of the sort that were reported on Bougainville -- particularly extrajudicial executions and torture resulting in death -- but like other legal and institutional safeguards it was not effectively implemented during the crisis. Medical authorities on Bougainville kept good records of such deaths and provided several post mortem reports to the Magistrate, but to Amnesty International's knowledge only one of these -- the death in custody of Clement Kavuna -- was the subject of a coroner's inquest. When asked by the Chief Justice of the Supreme Court why he had not conducted an inquest into one particularly suspicious death, the Coroner reportedly replied that he had failed to receive the necessary cooperation from the security services.

2.5 International Standards

The Constitution of Papua New Guinea refers specifically to international human rights standards as a source of interpretation of national law regarding basic rights and freedoms. For example, Section 39(3) stipulates that, for the purposes of determining whether a law or action is "reasonably justifiable in a democratic society having a proper regard for the rights and dignity of mankind", the courts may have regard to a broad range of international covenants or declarations, including the Universal Declaration of Human Rights "and any other declaration, recommendation or decision of the General assembly of the United Nations concerning rights and fundamental freedoms."

There are two declarations of the United Nations which are especially relevant to the issue of prompt enforcement of human rights provisions in circumstances where normal judicial procedures have, for various reasons, been rendered ineffective. The first is the United Nations "Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", adopted by the General Assembly on 9 December 1975 (Resolution 3452 (XXX)). Article 9 of the Declaration states clearly that, even in the absence of a formal complaint by a victim of torture, the "competent authorities of the State" have a responsibility to "promptly proceed to an impartial investigation". Article 10 stipulates that if an investigation establishes that an act of torture appears to have been committed "...criminal proceedings shall be instituted against the alleged offender or offenders in accordance with the national law."

Under ordinary circumstances, the competent authority to undertake an investigation might be the judiciary, but where judicial institutions have been unable to carry out their

proper function, the government is not absolved of its responsibility to ensure that justice is done. A government's responsibilities in this respect are outlined more clearly the United Nations "Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions", endorsed by the General Assembly on 15 December 1989 (Resolution 44/162). Article 11 of the "Principles..." states:

In cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, **because of the importance of the matter or because of the apparent existence of a pattern of abuse**, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure. (emphasis added)

One option available to governments in times of political crisis, then, is the establishment of a Commission of Inquiry. It must be stressed that such a commission need not be established where the judiciary, or other competent authority, is working properly and it ought not to be set up to duplicate or usurp the functions of those institutions. Moreover, there must be strict guarantees that it will be independent and impartial. Article 11 of the "Principles..." describes briefly the composition and working methods of such a commission:

Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles.

3. GOVERNMENT RESPONSE TO REPORTS OF HUMAN RIGHTS VIOLATIONS

3.1 Public Statements Concerning Human Rights

There were indications from some political leaders and security force commanders that human rights violations would not be tolerated. The Prime Minister, the Minister for Justice, the Minister for Defence and the Controller of the State of Emergency on occasion declared a commitment to the promotion and protection of human rights. In April 1989, on receiving reports of police brutality on Bougainville, the Minister for Justice said that they "clearly showed violations of human rights" and commented that "police are working under extreme pressure but at the same time they have no right to harm or injure anyone." In July 1989, the Prime Minister said that it was regrettable that members of the security forces had behaved in a "disgraceful and dishonourable manner". He said: "My directions, and that of the responsible Ministers, to the Commanders of the security forces has been totally clear -- no breaches of the law, or other illegal behaviour by members of the security forces is to be tolerated." In an operational order of June 1989, Controller of the State of Emergency Paul Tohian noted that there had been "... a lot of complaints levelled against police in the execution of their duties... Under no circumstances will any action be done outside of what they are instructed to do. Members will be held responsible for their actions which is a direct result of non-compliance to directed duties." And in his Third Report on the State of

Emergency, September 1989, Paul Tohian assured the Prime Minister that "...any act of indiscipline is viewed with extreme severity, and offenders are severely punished."

However, there were conflicting statements from high ranking public officials and security force officers which appeared to condone or attempt to justify unlawful and undisciplined behaviour on the part of the security forces, thereby rendering such positive statements less credible and less effective. Responding to reports of ill-treatment in July 1989, the Minister for Police, Mathias Ijape, admitted that some reports might have been true but sought to dismiss their significance. He was quoted as saying: "People who obstruct, hinder [the security forces]... assist the rebels and who disobey lawful orders and who do not cooperate are bound to be assaulted and harassed." According to the Emergency Regulations then in force on Bougainville the appropriate penalty for disobeying a lawful order was neither assault nor harassment but a "fine of up to Kina 200 or imprisonment for up to nine months."

In September 1989 Paul Tohian denied flatly all allegations of torture on the part of the security forces, saying that such allegations were "...made in an attempt to discredit the security forces, the operation and the national Government". He threatened legal action against those who levelled unproven allegations of this sort whether verbally, in writing or in the media. In view of this reported threat of legal action, Mr Tohian's statement that "a special unit has been established to monitor any and all allegations made against the security forces..." was far from reassuring. It suggested that its role was not so much to protect citizens from human rights abuse, as to defend the security forces from criticism or prosecution.

The attitude of Minister of State, Ted Diro, toward the protection of human rights in the context of a state of emergency was established before the Bougainville crisis began. During a parliamentary debate in November 1988 on alleged police Riot Squad brutality in the context of the "LOMET Operation" in the highlands of PNG, Mr Diro made the following remark:

Mr Speaker, making a contribution to the LOMET Operations, I draw on my experience as a military man and also... as Chairman of the Parliamentary Committee on the State of Emergency in Port Moresby in 1985. The result of the State of Emergency in Port Moresby at that time was well appreciated by each and every one of us. It was a success, [and] that is the same sort of exercise that is going on in the highlands. So if [it is] at the expense of one or two lives the answer is so what? We exist to protect the interest of the majority ..."

Government authorities also responded to fact-finding and reporting on human rights issues with unfounded statements and attacks on human rights organizations, including Amnesty International (see below). In January 1990, the Minister for Defence Benais Sabumei reportedly said "the Government stands ready to investigate any claims of abuse of authority by security forces" and announced that he would allow Amnesty International to investigate such claims. He told the press: "As a good Christian, I am concerned about human rights violations anywhere in the world." At about the same time, however, he publicly accused the Catholic Bishop of Bougainville -- who had recently publicized several cases of alleged extrajudicial execution by security forces -- of "condoning the actions of the outlawed terrorists..." and reportedly said: "I'm getting fed up with these Christian fellows who are pointing the finger at the Government and saying 'good on you' to the militants".

In Amnesty International's view, statements such as these by leading government or military authorities were not conducive to the protection and promotion of basic human rights, but rather contributed to a situation in which members of the security forces appeared to believe that they could commit violations of human rights with impunity, and in which ordinary citizens were increasingly fearful of speaking openly in defence of their constitutionally-guaranteed human rights.

3.2 Investigations and Inquiries

There appeared to be no systematic reporting or investigation of human rights violations on Bougainville by the government even after it became clear that such abuses were occurring on a regular basis. The government ordered inquiries into selected cases of alleged ill-treatment and torture which had become the subject of public attention or which involved important public figures. The cases of people not in the public eye, however, were effectively ignored and the victims were denied protection or redress.

Some inquiries reportedly led to disciplinary action against the alleged offenders, but the punishment of members of the security forces responsible for serious human rights violations was relatively light and infrequent; the detailed findings of inquiries were seldom made public. The attacks by members of a police Riot Squad on Premier Joseph Kabui and Provincial Minister Michael Laimo in July 1989 resulted in an internal police investigation of reported police brutality. Shortly thereafter, 20 police officers were reportedly punished and transferred out of the province. According to Minister for Police Mathias Ijape, some had lost a month's pay and others faced serious disciplinary charges which could lead to demotion or dismissal from the force. The Minister said he wished to "make it clear that policemen who step out of line have been dealt with severely". However, to Amnesty International's knowledge, none of the police officers in question were charged with a criminal offence. In another well-publicized case, that of Wilfred Seamus, a Bougainvillean who was badly beaten by soldiers in Port Moresby in February 1990, Government and military authorities gave assurances that an investigation would be conducted and that those responsible would be disciplined (see section 5.12). However, according to Amnesty International's information, the results of that investigation have not been made public and no criminal charges have yet been brought.

To Amnesty International's knowledge only one investigation into reported human rights abuse on Bougainville resulted in criminal charges being brought against the suspected perpetrators. A Lance-Corporal was reportedly charged with manslaughter in connection with the killing of Lucy Williams and her infant son, Patrick, in January 1990 (see section 5.13). In view of the seriousness of the charge, he was reportedly denied bail and was ordered to be remanded in custody. However, several days after the hearings began, he was reportedly still at large. Amnesty International does not know the final outcome of the case.

One of the very few systematic attempts to investigate violations on Bougainville involved the establishment of a Public Solicitor's Office post there in July 1989 on the initiative of the Minister for Justice. That inquiry was to investigate allegations of breach of duty by members of the security forces and to make recommendations as to whether criminal charges should be brought against those responsible. However, as noted earlier, the experiment was suspended after less than two weeks and the findings of the investigators were never made public. After the departure of the PSO team, the only avenue for registering a complaint about abuse by the

security forces was through the complaints office of the police, but for most victims or relatives of victims that was not a meaningful option.

The Permanent Parliamentary Committee on National Emergency, which bore responsibility for monitoring the operation of the State of Emergency on Bougainville, failed to investigate human rights violations on Bougainville until a very late stage. Throughout 1989 the Committee appeared to view its role not as a check on the actions of the executive or the security forces but rather as the legislative arm of the government's counter-insurgency effort. In a letter to the Acting Prime Minister dated 18 October 1989, the Chairman of the Committee, Sir Hugo Berghuser, urged the government to wage a full scale military assault on the rebels and said that the Committee would not travel to Bougainville during such operations, because its presence there "may create conflict between the Committee and the security forces".

In March 1990, more than a year after the first credible reports of human rights violations had been made public, the Committee tabled its first and only substantive report on the human rights situation in Bougainville. The report was based solely on medical reports obtained from Arawa General Hospital during a brief trip to the island in late February 1990 by two members of the Committee. Although it mentioned only a small proportion of documented cases, the report was critical of the unlawful behaviour by security forces. It noted that documentary evidence suggested that "many of the civilians or militants who died at the hands of the security forces may have been brutally assaulted to death or deliberately murdered in circumstances in which death could have been avoided... We are referring to deaths where, according to medical reports, the security forces were in control of the situations and yet decided to kill."

The Committee's conclusions and recommendations reflected a curious mixture of criticism and acceptance of the unlawful acts of members of the security forces. It recommended the establishment of a parliamentary select committee "to look into the abuse of human rights and abuse of authority by members of the security forces during the Emergency operations." At the same time, it proposed that the government "as a matter of urgency" enact an Internment Law which would allow the detention without charge or trial of suspected rebels. It argued that "many of the people killed by the security forces would still be alive today if our security forces had the back-up of internment laws. We say this because we believe our security forces were frustrated by locking up militants only to see them being released after 24 hours. With the back up of internment laws, suspects would have been locked up until in this case, after the lifting of the emergency".

3.3 Amnesty International and the Government of Papua New Guinea

Amnesty International expressed its concern about reported human rights violations on Bougainville on a number of occasions in 1989-1990 and made repeated efforts to engage the government in constructive dialogue about the future promotion and protection of human rights. The government acknowledges some of Amnesty International's communications but provided no substantive response to the concerns raised. The government persistently ignored or rejected Amnesty International's requests for talks until late October 1990 when government representatives agreed to meet the organization's Secretary General in New York.

In October 1989, Amnesty International sent a memorandum to the government which gave details of reported violations on Bougainville, including several cases of torture and

extrajudicial execution. In a covering letter to the Prime Minister, Amnesty International expressed its interest in meeting members of the government to discuss the establishment of durable mechanisms for the protection and promotion of human rights, and welcoming the government's commentary on the contents of the memorandum. Unfortunately, the government did not reply. Efforts to arrange a meeting between the Foreign Minister and Amnesty International's Secretary General to discuss the memorandum later in October 1989 were unsuccessful.

Amnesty International wrote to the government again on 1 December 1989 to express its increasing concern about reported violations of human rights on Bougainville, requesting the government's reaction to its October memorandum, and reiterating its interest in meeting government authorities to discuss human rights issues. The government did not reply. In the same month, it issued its first public document concerning the situation in Bougainville -- an "Urgent Action" appeal about the reported torture and extrajudicial execution of Vincent Amora (Onari). Shortly thereafter, the Minister for Justice mistakenly criticized Amnesty International for failing to take account of alleged abuses by the BRA and said: "If these organizations are to gain my respect I suggest they should show concern for loss of human rights whether by government sources or private organizations". On 20 December 1989, following a meeting with the Papua New Guinea High Commissioner in London, Amnesty International submitted a formal proposal for a visit to the country. Having failed to receive a reply from the government, it wrote in January 1990 to the Minister for Justice, once again expressing concern about human rights violations on Bougainville and reiterating its interest in visiting Papua New Guinea.

In February 1990, the Controller of the State of Emergency announced to the press that he had invited Amnesty International to visit Bougainville, but the organization received no such invitation from Mr Tohian or any other government or military authority. In March, Amnesty International wrote to inform the government that a delegation would be visiting Papua New Guinea in April and asking whether talks with government and military authorities might be arranged. It indicated that the delegation planned to visit Bougainville in order to investigate alleged violations by government forces and to "...obtain a closer understanding of the difficulties which the government has faced in consequence of the activities of the BRA, and a fuller appreciation of the extent of abuses committed by the BRA."

In spite of repeated efforts, both beforehand and while in Papua New Guinea, to arrange meetings with the Prime Minister and other Ministers, the delegation was unable to meet any member of the government during its ten-day visit to the country. Amnesty International concluded, with regret, that the government preferred not to talk to the organization. In spite of the lack of cooperation from the government, the delegation was able to learn a good deal about the human rights situation through meetings with lawyers, academics, journalists, parliamentarians and members of the judiciary, including the Chief Justice of the Supreme Court.

The delegation investigated both the alleged human rights violations by government forces on Bougainville and the extent of BRA abuses. Unfortunately, due to the unavailability of air or sea transportation to the island, the delegation's planned trip to Bougainville proved to be impossible. Amnesty International had very much hoped that, in view of the government's repeated allegations of serious abuses by the BRA, it would be able and willing to provide documentation of such abuses, but it did not do so.

While still in Papua New Guinea, the Amnesty International delegation wrote to the Prime Minister and other Cabinet Ministers, outlining the issues which it had hoped to raise in meetings with the government. Those letters explained Amnesty International's concerns, once again expressed an interest in learning more about BRA abuses, and made positive suggestions for the future protection of human rights in Papua New Guinea. In a reply dated 23 April, the office of the Minister for State Ted Diro, said that the Minister believed that the government was "very much in tune with our National Constitution and our innate abhorrence of inhuman treatment will assure the protection of and respect for our people's rights in any circumstances where adequate supervision is possible". Amnesty International did not receive any substantive reply to the issues and queries raised in its communications.

During a press conference in July 1990, the Minister for Justice, Bernard Narokobi, reportedly characterized Amnesty International as a criminal, illegal and immoral organization. According to press reports, he said that the organization had ignored opposition abuses and had not heeded the government's advice to visit Bougainville during its visit in April. Amnesty International wrote to the Minister for Justice on 19 July in an effort to clarify the apparent misunderstanding which had arisen regarding its reports on human rights violations in Papua New Guinea, and to reiterate its interest in holding talks to discuss measures for the future protection and promotion of human rights. At the end of October 1990 the Minister for Justice had not replied.

On 26 September Amnesty International sent the government a draft report on human rights violations on Bougainville. In a covering letter to the Prime Minister it said it would welcome the government's comments on the report and reiterated its interest in meeting government authorities. Amnesty International's efforts to arrange a meeting between its Secretary General and the Prime Minister in New York in early October were unsuccessful. On 25 October the Secretary General and an Amnesty International staff member met the government's ambassador to the United Nations and the former Administrative Secretary of North Solomons Province. The purpose of the meeting was to discuss the draft report. Amnesty International welcomed this opportunity to talk but regretted that the government had not prepared any detailed or substantive response to the draft report.

4. CASE STUDIES: EXTRAJUDICIAL EXECUTIONS AND DEATHS FOLLOWING TORTURE AND ILL-TREATMENT

4.1 Vincent Amora (previous reports said Vincent Onari)

Vincent Amora, 20, a maintenance worker at the BCL mine, and another man were detained on suspicion of being "militants" by members of the PNGDF on 24 November 1989. They were reportedly beaten before being taken to Army Camp 10 at Panguna. According to eyewitness reports Vincent Amora, who was semi-conscious as a result of the beating, was thrown out of a military vehicle onto the ground outside the Army camp, kicked and beaten with rifle butts and then shot in the head. His body was delivered in a body bag by military personnel in a government ambulance to the Arawa General Hospital. Vincent Amora's companion, who was interrogated separately by soldiers at Army Camp 10 and later released, reported that soldiers had said they had beaten and killed Vincent Amora as revenge for the recent killing of a soldier, allegedly by "militants".

A post mortem report prepared by the Medical Superintendent at Arawa General Hospital, and submitted to the Coroner on 11 January 1990, concluded: "Sir it is my opinion that this person was tortured to death then shot."

According to the report the victim "looked to have been badly beaten to death. The face was grossly swollen and distorted...by obvious fractures of both upper and lower jaws. Both eyes were bloodshot and enclosed completely within grossly swollen eyelids." The report said there were multiple lacerations on the face, cheeks, eyebrows and ears. "The scalp was wet with blood and covered by a white matter which I realized to be brain substance. The brain tissue was all over the hair. There were multiple lacerations of the scalp which felt very soggy or doughy due to multiple fractures of the skull. The entire body bore multiple bruises and lacerations. The limbs, shoulders, flanks, chest, and back all were heavily bruised." The report also said that Vincent Amora had been shot in the head with a "high velocity bullet from close range," which "shattered the cervical spinal cord and column reducing it into a rubble."

Amnesty International wrote to government and judicial authorities concerning the torture and killing of Vincent Amora and learned that a formal complaint alleging his unlawful killing was submitted to the Supreme Court at the beginning of 1990. However, to Amnesty International's knowledge, by the end of October 1990 the case had not yet been heard.

4.2 Ambrose Leo

The body of Ambrose Leo of Guava village arrived at Arawa General Hospital on 18 July 1989 with a note attached to it which read: "This is the first billion of your ten billion". This was an evident reference to the BRA's demand for Kina 10 billion in compensation for land and environmental damage. A post mortem report, which was forwarded to the Coroner on 8 August 1989, concluded that Ambrose Leo had been beaten, kicked and stabbed in the ear before being shot at close range. This evidence strongly suggested that Ambrose Leo had been tortured and deliberately killed in the custody of security forces.

According to the post-mortem report, the body had a cut over the left eyebrow and a chip fracture to the bone, caused by a blow with a hard object. There were two penetrating wounds about 1.5 to 2 cm in width made by a sharp object in and around the left ear; one of the wounds reached the bone beneath. There was a third penetrating wound, of about the same size and made with the same object, above the angle of the left jaw. The report said all of these wounds may have been inflicted before death. There were also two wounds on the right leg with "definite depressions which resembled boot marks". Finally, there were two bullet wounds which showed that Ambrose Leo had been shot at close range from different angles and at different times. The first bullet entered the right chest cavity and exited through the back, causing massive internal bleeding. The second entered just above the hairline near the left ear and exited through the right side of the face. Ambrose Leo was still alive after the first shot; the cause of death was brain damage due to the second bullet wound.

4.3 Peter Tarupiu and John Tuka

Peter Tarupiu, a university student, died on or about 16 August 1989, after being beaten by members of the security forces. His parents, who witnessed the scene, said soldiers beat Peter Tarupiu repeatedly with their rifle butts and a length of wood. An autopsy performed at

the Arawa General Hospital showed that he had multiple bruises to his face, neck and chest and was bleeding from both ears. He had a puncture wound on the right side of his neck. One of his cervical vertebrae was crushed and his spinal column was completely severed. According to the autopsy report, the cause of death was damage to the vertebrae of the neck and spinal column "which is consistent with heavy blow to the posterior aspect of the neck."

Amnesty International does not know the precise circumstances of John Tuka's death. His body arrived at Arawa General Hospital in mid-August together with that of Peter Tarupiu. The autopsy of John Tuka revealed that he had a large opening in his left cheek which exposed dislocated fragments of his cervical spine. His tongue and part of his nose were crushed and the right half of the cheek was deviated to the right side of the head and was hanging loose. The cause of death was said to be a gun shot fired at close range.

4.4 Peter Kaura and Joseph Tarnuto

The 6 April 1989 killing of Peter Kaura and the attempted killing of Joseph Tarnuto, while both were in the custody of security forces, has been described by an eyewitness, James Rodney Baku. James Baku, Joseph Tarnuto and Peter Kaura were among a group of seven men detained by members of a police Riot Squad and the PNGDF near the Orami Community School. What follows is Mr. Baku's account of the reaction of his captors on hearing that two soldiers had been killed by the rebels:

"When the soldiers heard about this they started to beat us. They beat me with the gun butt, slapped me in the mouth, kicked my belly, my head and all over my body with shoes. We fell to the ground but the soldiers continued to beat and kick us... One soldier who was in front of us stood up and walked towards Peter. The soldier pointed the gun at Peter and shot him. The bullet went through his two shoulders and came out through his neck. The bullet took one of Peter's eyes out... The same soldier walked around the house aiming at Joseph... Joseph got up and tried to run away and the soldier ran after him and three times tried to shoot him but missed him. The chase went on and we could no longer see them but heard the gun went off twice. The soldier came back but Joseph never returned."

Later that day the remaining five detainees, and one more picked up by the roadside, were taken to the Arawa Police Station where they remained for five or six days before being released without charge.

4.5 John Sedede Korelava

John Sedede Korelava, aged 30, a farmer from Koromira, died of complications in Arawa General Hospital on 22 April 1989, eighteen days after having his leg amputated following an alleged beating by police. He was admitted to hospital on 21 March 1989 with a badly bruised and swollen left leg which he said had been the result of a beating by members of the police Riot Squad. According to reports, he was confronted by members of a police Riot Squad when he went to see the effects of a fire set by militants at Aropa plantation. The police, apparently thinking he was a militant, beat him causing serious injury to his leg. Eleven days later the leg had to be amputated. Medical authorities said that the immediate cause of death was "pulmonary oedema", caused by "pulmonary emboli" and the bruising to

the leg. They said other significant conditions contributing to his death were the amputation and diabetes.

4.6 Clement Kavuna

Clement Kavuna, 21, of Pakia village, died on 15 March 1989, of injuries sustained while he was in police custody. In an inquest at Kieta District Court on May 1989, two witnesses testified that police officers kicked Clement Kavuna in the testicles and the chest, then pushed him from the police vehicle in which he was travelling. The witnesses, Jonathan Kili, 16, and Philip Kauvari, 17, claimed that they had also been beaten by members of the police Riot Squad while detained at Arawa Police Station in March. The police said that Clement Kavuna had jumped from the moving vehicle.

The Senior Magistrate found the police guilty of negligence in executing their duties and advised relatives to seek compensation from the police for Mr. Kavuna's death. He found that there was insufficient evidence to prove allegations of deliberate police brutality. The three police officers involved were members of the Riot Squad based in Mt. Hagen. Members of this unit were ordered out of Bougainville in July 1989 after several serious reports of police brutality.

4.7 Aloysius Minitong

Aloysius Minitong, a farmer in his mid-forties, and a critic of environmental destruction in the area of the BCL mine, died in police custody on 28 December 1989 after having been detained for three weeks without charge. He had reportedly been subjected to serious ill-treatment by members of the security forces following his arrest on 7 December on suspicion of being a BRA member. According to Amnesty International's information, the precise cause of death had not been determined several months later as doctors were awaiting the results of pathological tests. One medical professional said that pneumonia was the probable cause of death.

According to reports, Aloysius Minitong, was held briefly at Boku Police Station, where he reportedly received injuries as a result of beatings by members of the PNGDF. After being transferred to Army Camp 10 at Panguna, he was said to have been beaten and kicked until he lost consciousness. He was taken to Arawa General Hospital on the same day where he received treatment for minor lacerations to the forehead, right eyebrow, lips, right hand and left foot. According to a hospital official, he was "subsequently withdrawn from the hospital by the PNGDF without medical clearance and against medical advice." From the hospital, he was taken to the Joint Forces Headquarters in Arawa where he received further beatings and then to the Arawa Police Station. Though seriously ill, he received no medical attention there and was made to sleep without bedding on a concrete floor.

Amnesty International wrote to government, judicial and medical authorities concerning the ill-treatment and death in custody of Aloysius Minitong. Medical authorities confirmed that he had been ill-treated and that he had died in his cell but said there was no evidence that he had been deliberately killed. Amnesty International received no substantive response from government authorities concerning this case, and is not aware of any investigation having been undertaken into the circumstances of Aloysius Minitong's death.

4.8 Mathew Kanea

Mathew Kanea of Piruana died of multiple gunshot wounds to the head and abdomen on 30 January 1990. He was last seen in military custody. Mathew Kanea was detained by security forces on 22 January 1990 and taken to Kobuan Army Camp, where he was reportedly held for at least one week. An eyewitness saw him on 29 January in the custody of security forces driving on the road toward Panguna. His dead body was delivered to the hospital morgue at 3 pm the following day, 30 January. His death certificate indicates "missing brain" and "intestinal rupture", resulting from multiple gunshots, as the cause of death.

4.9 Samson Materiva

Samson Materiva, a minibus driver, was shot and killed on 23 January 1990; he was last seen in the custody of military personnel. According to relatives he was arrested at about 2 pm while waiting at the Aropa bus stand, and taken to the military camp at Aropa for questioning. Later that day, he was shot in the chest and killed; his body was brought to Arawa hospital in a plastic bag at about 4 pm on 24 January. Relatives and eyewitnesses said that he had had his nose broken by soldiers at a roadblock near Aropa on 19 January 1990. They believed that the soldiers suspected him of being a militant because of his "dreadlocks", a hairstyle worn by some BRA members but also popular among young Bougainvillean men. Others said that he might have been shot as "payback" (in reprisal) for a raid by militants on Kuveria prison in which four prison warders were killed. Military authorities reportedly claimed that Samson Materiva had been shot while trying to run away from a roadblock at Aropa.

4.10 Kevin Kokiai Lalai

Kevin Lalai, 25, an employee of SHRM, the catering firm which serviced the BCL mine, was reportedly beaten then shot while in military custody on 25th January 1990. Relatives and co-workers said that he was badly beaten by PNGDF soldiers at his workplace in Loloho before being taken away in a military vehicle. An eyewitness saw him on the back of a military truck in Kieta at about 4 pm, seated between two armed soldiers. According to residents of Toboroi village, he was later shot in the chest near Toboroi plantation on the road to Aropa. His body was delivered to the Arawa General Hospital at 6:45 pm.

Military authorities alleged that he had been supplying food from the SHRM to the BRA, but colleagues said that he had "absolutely no access" to SHRM food supplies. The military also claimed that he was shot after jumping from a military vehicle. A colleague of the victim questioned the claim that he had jumped from the vehicle but said: "If he did try to run, it was not because he was a militant but because he was scared of what the soldiers would do to him in their camp. He did not want to be tortured."

A post-mortem report concluded that Kevin Lalai had died of severe haemorrhaging from multiple bullet wounds. It indicated that three bullets had entered his abdomen from the front,

a fact which suggested that he had not been shot while running away. The report also said he had blood oozing from both nostrils and mouth, facial bruises and two broken incisor teeth.

Kevin Lalai had been detained and severely beaten by security forces on two previous occasions, once in early December 1989 and again in mid-January 1990. On 2 December 1989, several soldiers and police officers assaulted him and strafed his vehicle. A medical report noted the following injuries: multiple facial bruises, a laceration to the right ear requiring stitches, evidence of lashing or finger scratching on the neck, laceration to the left elbow and a swollen painful upper arm. According to eyewitnesses, on 17 January 1990 Kevin Lalai and several other men in Vito village were severely beaten, detained and questioned by soldiers and prison (CIS) warders who suspected the villagers of involvement in the BRA attack on Kuveria jail the previous night.

4.11 Pastor Raumo Benito, Sira Devatavi, Lazarus Geman, Joe Siravia, Allan Mateavi, Moiva Sivanai, Mr. Kurangik

United Church Pastor Raumo Benito and six members of his congregation from Teanana village in north Bougainville were beaten and all but one of them shot dead by PNGDF soldiers on 14 February 1990. The survivor provided an eyewitness account but subsequently went into hiding out of fear of retaliation by the military. Pastor Benito and the others were reportedly detained by soldiers on suspicion of being BRA militants or sympathizers.

According to reports, the six men had been loading household goods onto a truck at Teanana village to transport them to another village, when they were stopped by security forces who accused them of being militants. Pastor Benito and another man went to their assistance, and they were also accused of being militants. The security forces then began to shout and beat all of the men with gun butts. They were driven to Tinputz where one soldier reportedly said they should be killed. Another soldier objected, saying it had not yet been proven they were militants. From Tinputz they were taken by helicopter to PNGDF headquarters in Arawa. According to reports they were taken to Arawa General Hospital to be treated for their injuries, but after a short time, the soldiers withdrew them and drove them to Aropa by truck. According to the eyewitness, they were beaten again in the truck and overheard the soldiers discussing where they should be killed.

Near a bridge just past the Aropa airport, they were reportedly ordered out of the truck, beaten again, told to strip naked, ordered to walk to an isolated spot off the road and then shot. The man who escaped was discovered the next day, naked, by residents of a nearby village. The bodies of those killed were not recovered. There were reports, which Amnesty International could not confirm, that they had been dropped at sea by Iroquois helicopters which were seen operating in the area.

5. CASE STUDIES: ILL-TREATMENT AND TORTURE

5.1 Dominic Itta, Steven Miringtoro, Steven Moidan, Epraim Tauparai

Dominic Itta, a provincial government worker, and three friends --Steven Miringtoro, Steven Moidan and Epraim Tauparai -- were stopped at gunpoint by about 50 police and

army personnel while travelling from Dongeta village to Kieta by truck on 10 April 1989. According to Dominic Itta's signed testimony, he and his friends were ordered out of the truck and beaten with gun butts and sticks. Their hands were tied behind their backs and their possessions were confiscated. The four men underwent questioning first at the Aropa Army Camp and then at the Arawa Police Station. In both places they sustained kicks, punches and beatings with rifle butts and wooden mallets. According to Dominic Itta's testimony:

"By the time we reached the prosecution room all of us were bleeding from the head, mouth and nose. I myself was bleeding from the nose and mouth which I received from a kick which resulted in a deep cut in the inside part of my right cheek. During this beating, the police were shouting and swearing at us, calling us black bastards, bigheads and pigs." At about 3 pm the same day, Dominic Itta and his three friends were released without charge.

A medical report showed that 10 days after the assault, Itta had "a lot of healed up bruises on both knees and elbows. A dried up swollen right face with haematoma below the left end of the right eye. Also a healed up tooth bite in the right mouth." It also said he was suffering "a lot of pain mainly on the right back chest radiating up the right shoulder. He could hardly lift his right hand above the head."

Dominic Itta was one of several Bougainvilleans who submitted a formal complaint before the Supreme Court in early 1990 for breach of his constitutional rights. To Amnesty International's knowledge, however, as of October 1990 his case had not been heard.

5.2 Bernard Devata and Steven Ona

Bernard Devata and his cousin Steven Ona were arrested during a police raid on Kobuan village in the evening of 8 April 1989. According to witnesses, the two men went with the police without resistance, but were punched and beaten with rifle butts a short distance from the village. Bernard Devata's jaw was fractured, reportedly as a result of a beating by police officers; Steven Ona also sustained an injury to the jaw. Bernard Devata was treated by doctors at the North Solomons Medical Centre who found that his injuries were "consistent with the history of a heavy blow to the left hand side of the face."

In a letter of complaint to the police and copied to the Prime Minister and several Cabinet Ministers, a relative of Bernard Devata said: "I also would like to draw your attention that while the general behaviour of your troops is acceptable to the community, you have some undisciplined elements in your troops who need to be made to come into line. There has been reports of police harassment at Panguna on women coming to the market, beating of people going to work from villages along the Port Mine access road and the reported incident involving Pok Pok villagers at Makaki Point... my brother was also punched at Kobuan (BCL Camp) on his way to work on Friday prior to the above (8 April) incident... What hurts me most is that the police are taking their frustrations out only on Bougainvilleans, and to me this stinks." To Amnesty International's knowledge, neither the police nor government authorities responded to Bernard Devata's relative's letter.

5.3 William Mungtu and Family

In an incident near Orami village on 9 April 1989, according to eyewitness testimony, a family of four including a two-year-old child, was surrounded by a unit of 15 to 20 soldiers,

detained for several hours and subjected to verbal and physical abuse. The leader of the unit reportedly accused William Mungtu of supplying the rebels and, together with other soldiers, repeatedly threatened his life, while beating and kicking him. When Mr. Mungtu denied the allegation, the soldier reportedly said:

"You...[obscurity], black bastard. Don't tell lies. Otherwise I'll blow your little skull with this rifle... You are lucky you came here with your family. Otherwise you would be a dead person now. We are sick and tired of you black bastards." Another soldier reportedly said: "Your people have killed two of our soldiers. You have made us crazy and mad. We will shoot anyone whom we will find walking around in the bush." After being taken to the Arawa Police Station for questioning, William Mungtu and his family were released without charge.

5.4 Vincent Bangi

Mr. Vincent Bangi, a probation officer with the Department of Justice, was reportedly assaulted by police when he drove into Anganai Village on official business on the morning of 18 April 1989, and said he saw others similarly beaten by groups of policemen. According to his own written testimony, dated 24 April, which was submitted to various government bodies including the Ministry of Justice, he was hit on the right side of the head by one policeman and punched on the left side by another. A third policeman kicked him in the lower back causing him to fall to the ground. At the time, he saw two others, Jo Tsinoung and Zacharis, who he said were beaten by groups of three or four policemen. According to his testimony, at least ten other men, whose names he listed, were beaten by police in Anganai Village that morning. Vincent Bangi was released without charge after questioning at the Arawa Police Station. He asked that formal charges be laid against the police for assault and grievous bodily harm.

Vincent Bangi was among those who filed a formal complaint before the Supreme Court in early 1990 for breach of his constitutional rights. To Amnesty International's knowledge, however, his case had not been heard as of October 1990.

5.5 Trevor Kauva

Trevor Kauva, a resident of Toniva, complained that he was threatened with death and beaten by four PNGDF soldiers who suspected that he was a BRA member. According to his signed testimony, dated 10 October 1989, five soldiers arrived at his house at about 8 am on Sunday morning, 8 October. They took him in a Toyota car to an isolated spot and began to question him about his whereabouts on the previous Friday.

In his testimony, he stated: "They started hitting me on the face. There were five of them. Only four of them belted me with rifle butts. They knocked me to the ground face down and pointed the gun at me threatening to shoot if I didn't stand up... One of them got a pair of scissors and trimmed my hair from front to back and forced me to eat my hair... I asked them why they were beating me up. Their answer was I should know why..."

Trevor Kauva was later driven to another spot near the Joint Forces Headquarters in Arawa and interrogated further. On the way they stopped at a store where a bystander asked Trevor why he had been detained; the bystander was then detained and tied up. When the

questioning resumed, the soldiers told Trevor that he was being ill-treated because he was a "sinner". When he refused to answer questions which he thought were irrelevant, the soldiers "tried to push the can drink into my mouth." The commanding officer of the unit went briefly into the nearby office and, according to the testimony, when he returned he "pointed his gun at me and told me that I was a dead man."

Trevor Kauva was released and treated at Arawa Hospital the same day; medical records showed that he had swelling and abrasions on various parts of his head and complained of headache and dizziness. He reported the incident the following day to Colonel Lima Dataona, the Deputy Controller of the State of Emergency. Amnesty International is not aware of any disciplinary or legal action having been taken against the suspected perpetrators.

5.6 Frank Kani

Frank Kani, 35, a father of six, was reportedly detained, beaten and threatened with death by two soldiers on 9 October 1989 after he disembarked from a public bus with food supplies bought in Arawa. The soldiers believed that he was a BRA member. Frank Kani, who was travelling with his seven year old son, was kicked and beaten with rifle butts on the head, back and legs. Father and son were taken to Panguna where Kani was kicked repeatedly in the legs and poked with rifle barrels until he admitted he was a "Rambo", a BRA member. His son, seeing his father bleeding and being beaten, was crying and was eventually taken to the police station where he was kept until his father's interrogation was completed.

According to his testimony Frank Kani was blindfolded and taken to the third floor of a nearby building at about 6:30 pm. He was made to sit on the floor with his legs against the brick wall. His hands were bound behind his back, and the interrogation continued. When he denied the accusations of the soldiers, his legs were kicked hard against the wall. His captors reportedly said: "You are nothing but filth. We will kill you, put you in a bag and dump your body in the bush." One of the soldiers told him to repeat several derogatory phrases about "black skins" (i.e. Bougainvilleans) which compared them to pigs and dogs.

The interrogation continued for several hours, until midnight. He rejoined his son the following morning at the police station. The family was later moved to a relocation camp, known as a "care centre", in Arawa. A medical examination report said that as a result of his treatment in custody, Frank Kani's legs were swollen, his left hand and abdomen bled from cuts caused by jabs with a rifle barrel, and his face was swollen and painful. Amnesty International is not aware of any disciplinary or legal action having been taken against the suspected perpetrators.

5.7 George Teona

George Teona, 21, a resident of Bairima village, was detained by two soldiers as he stood waiting for a bus at about 8 am on 18 October 1989. According to reports, the soldiers bound George Teona's hands, accused him of being a BRA member and whipped him with a length of plastic hose. According to George Teona, one of the soldiers said: "You must say you are a "Rambo". If you don't say it, we will hit you." They then put him in their vehicle and drove to the airport at Aropa, where the interrogation continued.

The soldiers reportedly used a hammer, an iron pipe and a length of hose to beat him. From the airport he was reportedly taken to Joint Forces headquarters where another soldier questioned him about links to the BRA. He was reportedly released without charge the following day. A medical report dated 19 October revealed the following injuries: a puncture wound on the left side of the forehead, an open wound on the right side of the scalp, bruises across the back, two cuts on the right knee and bruises on the left knee. The report also said that George Teona was limping badly as a result of his knee injury.

5.8 Tony Tanuhero

Tony Tanuhero, 27 and married, was reportedly seriously beaten and threatened with death while in the custody of security forces on or about 13 September 1989. He was detained by several police officers at the fermentary where he was staying, at about 4:30 pm. The police officers drove him to Loloho, where they bound his hands behind his back, made him sit on the ground against a wall, and began to question him. In the course of questioning, he reportedly received blows to the face, limbs and abdomen; his nose bled and his face became swollen.

Next he was driven to Panguna, lying on the floor of the vehicle with his hands still bound. One of his captors reportedly said: "You black people think you are smart. We will make sure you feel it. We will kill all of you and we will rape all of your womenfolk." Tony Tanuhero was taken to the Arawa General Hospital at about 12 noon. He had multiple facial bruises and a fractured left mosilla. To Amnesty International's knowledge, Tony Tanuhero did not file a formal complaint about his treatment and no disciplinary or legal action was taken against his captors.

5.9 Joseph Kuanai, Peter Simili, Jacob Punaha, Paul Hoorah, Francis Toumo, John Manako, Henry Lotima, T. Rakarapo

A group of eight unarmed men from Toitoi and Hukohah villages, three of them in their seventies, were shot at by PNGDF soldiers while attempting to repair their truck beside the Panguna road on 21 October 1989. They were subsequently detained as suspected BRA members and one of them was beaten in custody. One of the men, Joseph Kuanai, a man in his seventies and chief of Toitoi village, was wounded in the attack and later hospitalized in the Panguna Medical Center where he was in a critical condition. The men were all active in a parish charity group and other community organizations.

According to the signed testimony of one of the men, soldiers began to fire their automatic weapons without warning at about 8:30 am. The shooting continued for several minutes until Francis Tuomo, the driver of the truck, rushed out onto the road with his hands up and shouted: "Oh brothers, whoever you are, come out from where you are hiding. Do not shoot us. We mean no harm. We are unarmed... We are only trying to fix our truck...you have already shot some of my men!" He was followed by the other men and eventually the shooting stopped. When asked later why they had given no warning, like "Hands up and identify yourselves" before firing, the soldiers reportedly said that they "were not cowboys".

The soldiers came out of the bush and ordered the men to drive to Army Camp 10 at Panguna. When they arrived at the camp, there were soldiers waiting for them, "...ready to

beat the hell out of us." Francis Toumo was punched in the face by a soldier wearing a mask. Another soldier intervened and said that the men should not be beaten because they were not BRA members. After further questioning, they were eventually released without charge.

Paul Tohian, the Controller of the State of Emergency, later praised the soldiers for their "alertness and common sense" in the assault. He appealed to the public not to behave suspiciously and to cooperate with the security forces when approached.

5.10 Edmond Benny, Clement Haroko, Eric Sihan, Jerry Moki, Jacob Pauru, Ismaei Parurei and his son Nasua.

Edmond Benny and Clement Haroko were reportedly knocked unconscious by blows to the head while in military custody. They were among seven men detained and beaten by PNGDF soldiers on 3 December 1989.

According to Edmond Benny, the group was travelling by private truck to Arawa after attending a church service in Maisua village. They passed a military roadblock without incident but when they reached a second roadblock near Army Camp 10 at Panguna, soldiers told them to get out of the truck and ordered them to put their hands on their heads. They were accused of making rude gestures at the soldiers manning the previous roadblock, an allegation they denied. They were escorted to Army Camp 10 at about 3:30 pm where they were met by more than 30 soldiers who clapped their hands and shouted: "Here are the militants. Very nice militants. Very good, very good." Some of the soldiers pulled the men from their truck and began to kick and beat them with rifle butts. Edmond Benny and Clement Haroko were reportedly knocked unconscious by blows from rifles swung at their heads. Others suffered bruises and cuts. After the beating, the men were hosed down with water; Mr. Benny and Mr. Haroko were revived.

An army lieutenant from a different district later arrived and said he knew the men well and could confirm that they were not militants. The men were treated at the camp's First Aid post and then driven to Arawa General Hospital, four of them in an Army ambulance. In the hospital, the leader of the soldiers who had beaten them apologized, reportedly saying "small errors can cost lives."

5.11 Nihai Moseka

Nihai Moseka, a 27 year old man, and his friend were reportedly beaten and subjected to sexual abuse by members of the security forces on 25 January 1990. According to Nihai Moseka, he and his friend were detained by security forces near Kutin on Buka Island on suspicion of being BRA members. Under questioning, Nihai Moseka was forced to say that he knew the location of a cache of arms; the soldiers told him to locate it.

When he failed to do so, his captors reportedly subjected Nihai Moseka to a series of humiliating sexual acts. These included ordering him at gunpoint to sodomize his friend, who was bound, lying face down in the back of a military truck. When Moseka pretended to do so, the soldiers began to beat him on the head with rifle butts. He reportedly suffered a broken nose and was unable to move his jaw due to severe pain.

5.12 Wilfred Seamus

Wilfred Seamus, 25, a Bougainvillean living in Port Moresby, was severely beaten and stabbed by PNGDF soldiers on 26 February 1990. Seamus was reportedly abducted by four men, two of them in military uniform, while talking with his girlfriend's family at about 4:30 pm at their house in Port Moresby. His hands were tied and he was forced into the back seat of a waiting car, which drove to the Taurama Army Barracks.

Near the barracks, he was blindfolded and then told to get out of the car and sit down on the ground. According to Seamus, the soldiers then began to kick him all over his body. "I was helpless with both of my hands tied to the back. They continued kicking me in my face and the joints and I thought I was going to die. I felt sharp blades going into my arm muscles and I screamed and cried for help." Eventually, an off-duty soldier who overheard his cries intervened to stop the beating. Wilfred Seamus said: "If it wasn't for him, I think I would be a dead man today." It was only after relatives sought the assistance of the army chaplain, however, that Wilfred Seamus was released from military custody and taken to Port Moresby General Hospital. He reportedly had the following injuries: deep stab wounds in the right and left bicep muscles, upper lip split open in two places, bruises around the eyes, swollen hands and wrists, sore and swollen joints.

Ministry of Defence officials confirmed that the beating had taken place and said that a full investigation had been ordered into this and other attacks on "black people" in Port Moresby by members of the security forces. The Chairman of the Parliamentary Committee on National Emergency, Sir Hugo Berghuser, spoke to the Ministers of Defence, Police and State and was assured that disciplinary action would be taken against the soldiers responsible. He said: "I am concerned that the abuse of human rights is widespread under the emergency in Bougainville, and the incident in Port Moresby is an example of how the security forces may be abusing their power in handling civilians in Bougainville." Amnesty International is not aware of any disciplinary or legal action having been taken against those responsible.

At least two other Bougainvilleans were reportedly beaten by PNGDF personnel in Port Moresby in February 1990. **Milton Kaetovuhu**, a Bougainvillean who lived and worked in Port Moresby, was followed by soldiers when he went to visit his member of parliament, Michael Ogio, at his home in mid-February. According to reports, he was beaten up by the soldiers on the verandah of the house; Michael Ogio was not at home. Another Bougainvillean was reportedly beaten by soldiers when he tried to visit the home of Defence Minister Benais Sabumei.

5.13 Raids on Villages

The harassment and intimidation of people living in areas of suspected rebel activity by members of the security forces, was reported in more than 40 villages on Bougainville. The actions of the security forces included beatings, sexual abuse, house burning and the indiscriminate use of firearms sometimes resulting in the death of non-combatants. Amnesty International has reviewed the testimony of affected villagers and eyewitnesses and believes that, notwithstanding the government forces' claimed intention of flushing out suspected rebels, and the government's stated pledge to provide compensation to affected villagers, the security forces used random and excessive lethal force in several military operations against villagers. Some examples follow.

In the early morning of 18 April 1989, members of a police Riot Squad reportedly raided the village of Donsiro, ordering people out of their homes and then burning them down. According to eyewitness accounts, residents were beaten and threatened with death by the soldiers. One sworn testimony stated: "... these Riot Squads beat up the men, slap them, boot them and hit them with the gun butt. Police use pieces of wood, timber, banana shoots to beat up the men. The mothers too were beaten up with gun butt and booted regardless of the babies in their arms"

One of those beaten at Anganai village in April 1989 was **James Koibo** MBE, a former senior civil servant in North Solomons Province. He claimed that he was kicked, hit in the back with a rifle butt and slapped across the face. He said: "Police have used boots, butts of rifles, sticks, knives, fists and chains to beat us." Those held for questioning at Arawa Police Station, he said, were "hit by a person in civilian clothes believed to be a policeman." In August 1989 the house of North Solomons Province Premier Kabui's brother, **Martin Miriori**, in Kawerongnau was reportedly burned. According to reports, Colonel Lima Dataona, Deputy Controller of the State of Emergency, ordered an immediate inquiry. Amnesty International has not received information about the results of that inquiry.

A report prepared in November 1989 by the North Solomons Province Emergency Evacuation Committee said that 1600 houses had been burned down in special operations by security forces in Kieta district, principally in the Kongara and Panguna areas and along the Port Mine access road. The destruction resulted in the evacuation of an estimated 3,500 villagers to 18 "care centres" run jointly by the government, Bougainville Copper Limited and the national Red Cross Society.

In November 1989 the national government announced its intention to assist evacuees in returning to their villages and to provide compensation for properties damaged or destroyed in government operations. In January 1990, it was reported that a special government team was investigating the extent of the damage with a view to arranging for the reconstruction of destroyed houses and the rehabilitation of affected villagers. However, intensive military operations which continued until March 1990, when government forces withdrew from the island, made reconstruction and rehabilitation virtually impossible. In April 1990, the national government's Director of Emergency Services, estimated that hundreds and possibly thousands of evacuees remained in the "care centres" and were effectively homeless.

In addition to beatings and destruction of property, some non-combatants were killed through indiscriminate gunfire in villages where the population was considered politically suspect. **Maria Miringori Bangi**, a mother of nine, and her daughter, **Joyce Bangi Manenu**, 15, were shot and killed by security forces near Panguna at about 11 am on 27 August 1989. Maria Bangi's husband, Vincent Bangi, a probation officer, had been assaulted by police on 18 April 1989 when he entered Anganai Village on official court business (see section 5.4). Military authorities said the women were walking with three men and had been mistaken for BRA members. The Controller of the State of Emergency, Paul Tohian, said the women had been caught in crossfire after militants ambushed security forces. Eyewitnesses, however, said the victims had been walking along a bush track in the Kongara area with two other women, none of them armed, when they were shot. Relatives said the women were returning to pick up belongings which had been left in the bush for safekeeping. Post-mortem reports said that both had died of multiple bullet wounds to the head and abdomen. Medical authorities said that there was no evidence that the women had been sexually assaulted as some had alleged.

Lucy Williams, 21, and her 3 month old son, **Patrick**, were killed in their house at about 7:30 pm on 6 January 1990, when soldiers sprayed their village, Paum, with automatic weapon fire without provocation. The soldiers had stopped two villagers on a road nearby, questioned them about their links to the BRA, and then ordered them to lead the way to Paum. Apparently believing they were being led into an ambush, one of the soldiers sprayed bullets into the bush, hitting the nipa hut of Lucy Williams. High ranking military and civilian authorities later visited the village to apologize and promised to investigate the case.

The suspect, a Lance-Corporal, appeared in Kieta District Court on 11 January 1990 to face charges of manslaughter. The magistrate ordered that he be remanded in custody without bail. However, witnesses said that he had subsequently been seen walking about town on several occasions. A law student, who saw the suspect in Kieta on 12, 13 and 15 January wrote to the provincial Premier on 17 January, saying: "I see police behaving as though there are two laws, one for Bougainvilleans and the other for the security forces and people from other provinces. I see the behaviour of the police towards Bougainvilleans as not fair when they assault and lock up suspected militants in the cells. This soldier has killed people so why has he been allowed to go free?"

Some civilian deaths occurred in the Kongara area in the context of the government's military operation, code-named "Operation Footloose", which began in January 1990. According to one report, at least 27 villagers, including elderly people and children, were killed between mid-January and mid-February as a result of heavy mortar fire and aerial bombing into areas of suspected rebel activity. There were reports that security forces had used chemical weapons, including white phosphorous, in these attacks, but Amnesty International was unable to verify these reports.

Amnesty International also received a number of reports of sexual abuse and rape by members of the security forces in the context of raids on villages. During a raid on Biruna village on 18 April 1989, a young woman of 16, a student at Keuru School, was reportedly stripped naked by Riot Squad members and held up in public view. On the night of 24 April, three members of the Riot Squad reportedly forced their way into the home of **Barbara Kinima**, a married woman who was forced to undress and was raped at gunpoint by two of the three soldiers. The rape was reported by the Bougainville Justice and Peace Commission of the Catholic Church but the allegations were denied by the police.

5.14 Threats and Assaults on Political Leaders

The Premier of North Solomons Province, **Joseph Kabui**, and the Provincial Minister for Primary Industry, **Michael Laimo**, were badly beaten by several members of a police Riot Squad in separate incidents in July 1989. Premier Kabui was attacked after he stopped his car at a small shop on his return from church with his elderly mother and several small children. After being punched and kicked, he was reportedly forced to lick the blood of a slain policeman from the side of a police vehicle. Michael Laimo was beaten later the same day by members of the same Riot Squad unit. During this incident, he was jabbed in the eye with the barrel of an automatic weapon. The eye was seriously damaged and required an operation. The squad whose members were responsible for these assaults was subsequently withdrawn from Bougainville and reportedly faced possible dismissal and civil court action.

Peter Tsiamalili, the most senior civil servant in North Solomons Province, was reportedly beaten by members of the security forces at a roadblock between Arawa and Kieta

on 7 February 1990. Few details were revealed, but a military spokesperson said that after the incident, Peter Tsiamalili "...sported bruises on his face and complained that he had been bashed by soldiers." Peter Tsiamalili held the position of Administrative Secretary of the province and also served as Assistant Controller (Civil Affairs) during the State of Emergency. The assault prompted renewed calls for the withdrawal of troops from Bougainville. The Parliamentary Committee on National Emergency which had refused to visit the island for four months for security reasons, flew to Bougainville by helicopter the following day.

5.15 Threats and Assaults on Journalists

A reporter for the Arawa Bulletin, **Moresi Tua**, was reportedly assaulted by members of a Riot Squad on the evening of 5 May 1989 for what police claimed was a curfew violation. He claims to have been kicked, punched and stamped on several times before reaching the police station. In prison he shared a cell with nine others, one of whom appeared to have been badly beaten and had bruises on his face and blood streaming down his forehead.

Staff members of the Times of Papua New Guinea, a national circulation weekly which provided detailed accounts of human rights violations on Bougainville, received threats from military authorities, but were not physically harmed. A group of eight soldiers came twice in one day to the newspaper's office in mid-March 1990, looking for the author of an article which they said had portrayed PNGDF soldiers as killers of innocent civilians. After that, the reporter in question received anonymous phone calls at the office, which threatened rape and physical violence. The phone-calls were reported to military authorities and eventually stopped.

Another journalist with the Times of Papua New Guinea was reportedly summoned to the office of the then Minister of State, Ted Diro, following the paper's publication of a story on the killing of Pastor Benito and several others in February 1990 (see section 4.11). She was asked to provide the name of the sole survivor of the incident, who had provided eyewitness testimony, but refused to reveal the name because she believed that this would put the survivor's life in danger. The Minister reportedly intimated that the journalist might be charged with sedition if she refused to provide the name, but no charges were laid. The same journalist was reportedly also the subject of an approach to the newspaper from the Ministry of Justice. According to sources at the Times of Papua New Guinea, a Ministry spokesperson asked the editor not to run stories by the journalist in question, claiming that she had "close links to the BRA".

6. OPPOSITION ABUSES

The violations of human rights by government forces documented in this report occurred in the context of counter-insurgency operations against armed rebels, the BRA, who themselves committed acts of violence, including the murder and possibly torture of detainees and non-combatants. Amnesty International condemns unreservedly the torture and killing of prisoners by anyone. BRA forces continued to commit such abuses after government troops had been withdrawn from the island and the BRA had de facto authority there.

Amnesty International takes no position on the question of Bougainville's political status. However, it believes that where a political organization has *de facto* authority over a population and possesses a near monopoly on the use of force, it bears responsibilities similar to those of governments for protecting the basic human rights of those under its authority, in accordance with international principles and standards of human rights. For this reason, Amnesty International is concerned by the reports of ill-treatment, torture and murder allegedly committed by BRA members since March 1990.

The reports of BRA abuses have been difficult to verify because there are virtually no medical certificates, autopsy reports, signed testimonies, eyewitness accounts or photographs through which to do so. Moreover, the stoppage of normal postal and shipping links and the government's imposition of a communications blockade in May 1990, made it difficult to learn further details of these abuses. Some reports of BRA abuses "confirmed" by government sources were later revealed to be incorrect. In early August 1990 the government said that a local businessman, **James Rutana**, and seven other prominent Bougainvilleans had been tortured and killed at the BCL minesite by BRA members. One week later, however, James Ratuna was found to be alive and well; on hearing the reports of his own death Ratuna asked for and received permission to board the New Zealand naval vessel where government-BRA negotiations were underway.

6.1 BRA Abuses During Conflict

BRA forces committed acts of violence against both property and people, beginning in late 1988. Apart from normal combat operations against government forces, BRA violence was directed principally against BCL installations and personnel and to lesser extent, the civilian government infrastructure, equipment and personnel. BRA forces exploded BCL power pylons, heavy equipment, aircraft, and burned government offices and vehicles. BRA forces were also responsible for violent attacks on non-combatants, some of which resulted in civilian deaths and reportedly for acts of ill-treatment, torture and murder of people who were effectively in their custody.

BRA militants were said to be responsible for a considerable number of armed robberies, raids on stores, warehouses and plantations. However, some abuses attributed to the BRA may in fact have been committed by gangs of "rascals" (criminals or bandits) who became increasingly active during the crisis in Bougainville but who have no clear political dimension or link with the BRA.

Among the victims of BRA attacks were civilians, government officials and politicians believed by the BRA to be interfering with their political objectives. **John Bika**, 39 years old, a Provincial Minister and member for the constituency covering Panguna and Kieta, was killed by alleged militants in September 1989, one day before an agreement on compensation for landowners, which he had helped to negotiate, was to be signed. He was attacked by seven men at his home at midnight and was shot in the head and stomach in an execution-style killing. The BRA accused him of spreading government propaganda which would weaken the BRA. His killing led to a setback in negotiations between the landowners and the government.

Other victims were suspected informers. **James Iroro** a local government leader and one other man were reportedly killed by militants in the first week of December 1989. James

Iroro was alleged to have provided the names of two men to the security forces as probable militants. He was killed after the two men were captured and reportedly beaten by security forces. Two other suspected informers, whose names are not known, were reportedly killed by the BRA on 26 September 1989.

BRA forces attacked several Australian nationals, most of them employees of BCL, or indirectly involved in the counter-insurgency effort. The first Australian to be shot was **Mike Bell**, a former Assistant District Commissioner on Bougainville -- when Papua New Guinea was administered by Australia -- employed as an advisor by BCL's parent company CRA. He was seriously wounded but survived. In July 1989, two Australian helicopter pilots and one engineer, were shot at by militants as they drove home from the airport. They were employees of a private helicopter company which had a contract with the government of Papua New Guinea to assist in military operations in Bougainville. The three were not hurt.

Some BRA attacks on non-combatants appeared to be motivated by the principle of "payback" (retribution). These "payback" assaults often meant deaths of non-combatants and civilians including children. Three civilians were reportedly shot to death and hacked with a bush knife or axe during a militant raid on a residential compound at Kobuan on 10 July 1989. An army doctor was reportedly shot in the back, but survived, and at least 3 houses were burned down. The compound was being used to house members of the police Riot Squad and private contractors working with BCL. Those killed were non-Bougainvilleans.

On 5 October 1989, six civilians including an elderly woman and her grand-child were killed in what was believed to be a militant attack on a squatter settlement of non-Bougainvilleans, at Section 16 Bush Camp, on the outskirts of Arawa. These too were described locally as "payback" killings.

A force of about 100 BRA members was said to be responsible for a night-time raid on the Kuveria Jail complex, on the night of 16/17 January 1990, which left 6 dead, about 15 injured, and more than 20 houses burned to the ground. Killed in the raid were a prison (CIS) inspector, three prison warders, the daughter of a warder and a female relative. According to one report, the raid was in retaliation for the killing of a mother and her child by a soldier on 6 January 1990 (Lucy and Patrick Williams, see section 5.13), and for the killing of a militant with a bush knife at the Panguna Police Station on 15 January 1990. The BRA freed all Bougainvillean prisoners from the jail and also captured weapons and ammunition.

There was some evidence that the BRA used "hit lists" and death threats against opponents. **Fidelis Semoso**, a Bougainvillean, who allegedly worked for PNG military intelligence, reportedly received a death threat written by a high-ranking BRA leader in November 1989. It reportedly said:

"We are giving you time to change. If you continue going against Bougainvilleans, we know the white car you are travelling in. You are the latest target. Even Buka and Malasang village where you come from is the home of BRA. Better think of our race the Blacks and fight on our side".

Members of the BRA were also alleged to have tortured some members of the security forces who were in their custody but there was little solid evidence. Private **Mano Taguna**, 23, of Southern Highlands province, was one of four PNGDF soldiers who died on about 12

February 1990 at the hands of the BRA. According to one report, he had been tortured before he died. There were no further details and Amnesty International could not confirm the report.

6.2 BRA Abuses After the Withdrawal of Government Forces

After the withdrawal of government forces in early March 1990, there were indications of indiscipline and internal divisions within the BRA forces. The earliest evidence that some BRA members were abusing their de facto authority came on 20 March 1990, about one week after government troops had left, when BRA leader, Francis Ona, urged members of the organization in a radio broadcast to behave with greater discipline. He reportedly said: "Those you fought to protect, now regard you as worse than the [government] security forces". The government's economic blockade of the island, which reportedly led to severe shortages of food, medicine and other essential goods, exacerbated divisions within the movement and caused a certain alienation on the part of ordinary Bougainvilleans, particularly those from the northern and southern parts of the island.

Medical staff and patients at the Arawa General Hospital were reportedly subjected to threats, intimidation and acts of physical violence by BRA members. In March 1990, BRA members entered the hospital in search of a man whom they had stabbed in the arm. According to reports, they pushed a gun inside his mouth and said they wanted to take him outside and kill him. Senior hospital staff intervened and received an assurance from BRA leaders that the man would not be harmed and would be permitted to leave the island on the first available boat. However, when a doctor accompanied the man to the wharf to depart two weeks later, he and his driver were reportedly threatened at gunpoint by BRA soldiers. According to one report, a BRA commander jumped out of a jeep with an automatic weapon and said to the doctor: "I'm going to shoot you now. I'll smash you with this rifle!". Another BRA member reportedly held a pistol to the head of the driver and said: "I'll blow your brains out".

In the aftermath of the troop withdrawal, there were reports of BRA retaliation against those thought to have worked closely with the security forces and the government. Among the victims were a number of senior civil servants. Administrative Secretary, **Peter Tsiamalili**, who headed the civil service on Bougainville and was also Assistant Controller (Civil Affairs) of the State of Emergency, was reportedly taken into "protective custody" by the BRA on about 13 March 1990. His precise whereabouts remained unknown for several weeks and there were unconfirmed reports that he was undergoing "re-education" in BRA hands. Amnesty International later learned that he had left the island in early April 1990. Peter Tsiamalili had previously been threatened by the BRA and ill-treated by government security forces. In April 1989, the BRA reportedly threatened to kill him if he did not declare his support for Bougainville's independence and the withdrawal of all security forces from the island. Then in February 1990, he was reportedly beaten up by security forces at a roadblock.

Reports of killing by the BRA were difficult to confirm; one doctor at the Arawa General Hospital noted that "the BRA do not bring in the dead bodies". An ex-soldier, **Robert Lavane** was reportedly shot dead by militants on 3 April 1990, but Amnesty International could not obtain details about the circumstances of his death. Three non-Bougainvillean plantation workers were reportedly shot dead by militants on 29 March 1990, and another non-Bougainvillean was said to be in very serious condition in hospital after being shot,

allegedly by militants, on 25 March 1990. There were reports of at least nine further killings between June and August 1990. According to reports **Joel Naisy** was killed by BRA members on 8 June but Amnesty International could not obtain further details. Of the eight prominent Bougainvilleans which the government said had been executed in July 1990 in a "ritualistic killing" by the BRA, at least four were later reported to be alive, thereby raising doubts about the accuracy of the government's information.

Reports of BRA torture and ill-treatment of suspected informers after the withdrawal of government troops have been common, but few have been fully documented. Among the available reports are the following. **Misac Autahe**, of Panakei Village, was reportedly detained by militants some time in March 1990. He later claimed that he had been tortured; friends said that he had bad burns on his shoulder, but no further details were available. **Philip Mapah** of Siroi Village, a former BCL employee, was reportedly detained by the BRA and tortured. He claimed that they had placed a red hot axe on his breast and then removed it, pulling his skin off with it.

A number of women, who were alleged to have consorted with the government security forces, were accused of being traitors and informers and were detained. One woman, known only as **Linnete**, was held at a BRA camp in Siwai, between Panakei and Siraruko Village, tied and blindfolded. Amnesty International could not obtain further details of her treatment or current situation. Other women were said to have been tied up and left outside for several nights in the cold.

The BRA claimed to enforce a 63-point code of conduct. Principle No. 7 of this code urged members to show respect for elders, church leaders, families and individuals and Principle No 27 stipulated that there should be no "unnecessary killings" or robberies without the knowledge of the leader, Francis Ona. There was some evidence that the leadership attempted to enforce this code and that it took action when BRA members committed human rights abuses. There were reports in March 1990, for example, that Sam Kauona had ordered the disbanding of BRA camps in the Siwai area where torture was reported to have been used. Apart from this code, however, the BRA does not appear to have a well-developed system for the promotion and protection of human rights on Bougainville.

7. CONCLUSIONS AND RECOMMENDATIONS

7.1 Summary

Between early 1989 and March 1990, when government security forces were withdrawn from Bougainville, at least 19 people died in apparent extrajudicial executions, or after being tortured in police or military custody. In addition, more than 50 people were ill-treated or tortured by members of the security forces. The forms of ill-treatment included beatings at roadblocks, death threats, sexual abuse and the deliberate torture of detainees. The victims were suspected members of sympathizers of the BRA and included political leaders, journalists, medical professionals, government workers and ordinary villagers. Most of the violations occurred within the legal framework of a State of Emergency which gave the security forces broad powers of arrest, detention and seizure.

Members of the Bougainville Revolutionary Army (BRA), resorted to acts of violence, including the torture and killing of non-combatants and detainees, during the period of combat

allegedly by militants, on 25 March 1990. There were reports of at least nine further killings between June and August 1990. According to reports **Joel Naisy** was killed by BRA members on 8 June but Amnesty International could not obtain further details. Of the eight prominent Bougainvilleans which the government said had been executed in July 1990 in a "ritualistic killing" by the BRA, at least four were later reported to be alive, thereby raising doubts about the accuracy of the government's information.

Reports of BRA torture and ill-treatment of suspected informers after the withdrawal of government troops have been common, but few have been fully documented. Among the available reports are the following. **Misac Autahe**, of Panakei Village, was reportedly detained by militants some time in March 1990. He later claimed that he had been tortured; friends said that he had bad burns on his shoulder, but no further details were available. **Philip Mapah** of Siroi Village, a former BCL employee, was reportedly detained by the BRA and tortured. He claimed that they had placed a red hot axe on his breast and then removed it, pulling his skin off with it.

A number of women, who were alleged to have consorted with the government security forces, were accused of being traitors and informers and were detained. One woman, known only as **Linnete**, was held at a BRA camp in Siwai, between Panakei and Siraruko Village, tied and blindfolded. Amnesty International could not obtain further details of her treatment or current situation. Other women were said to have been tied up and left outside for several nights in the cold.

The BRA claimed to enforce a 63-point code of conduct. Principle No. 7 of this code urged members to show respect for elders, church leaders, families and individuals and Principle No 27 stipulated that there should be no "unnecessary killings" or robberies without the knowledge of the leader, Francis Ona. There was some evidence that the leadership attempted to enforce this code and that it took action when BRA members committed human rights abuses. There were reports in March 1990, for example, that Sam Kauona had ordered the disbanding of BRA camps in the Siwai area where torture was reported to have been used. Apart from this code, however, the BRA does not appear to have a well-developed system for the promotion and protection of human rights on Bougainville.

7. CONCLUSIONS AND RECOMMENDATIONS

7.1 Summary

Between early 1989 and March 1990, when government security forces were withdrawn from Bougainville, at least 19 people died in apparent extrajudicial executions, or after being tortured in police or military custody. In addition, more than 50 people were ill-treated or tortured by members of the security forces. The forms of ill-treatment included beatings at roadblocks, death threats, sexual abuse and the deliberate torture of detainees. The victims were suspected members of sympathizers of the BRA and included political leaders, journalists, medical professionals, government workers and ordinary villagers. Most of the violations occurred within the legal framework of a State of Emergency which gave the security forces broad powers of arrest, detention and seizure.

Members of the Bougainville Revolutionary Army (BRA), resorted to acts of violence, including the torture and killing of non-combatants and detainees, during the period of combat

with government forces and after government troops withdrew in March 1990. Amnesty International condemns unreservedly the torture and killing of prisoners by anyone.

The substantial institutional, legal and constitutional provisions for the protection of human rights in Papua New Guinea proved vulnerable in the context of a serious political crisis. The breakdown of mechanisms for enforcement of basic rights provisions occurred in two main areas. First, judicial and quasi-judicial institutions with principal responsibility for the enforcement of constitutionally-guaranteed rights failed to operate in practice. Second, the Government and Parliament failed to act decisively when confronted with serious allegations of human rights abuse. As a consequence few if any of the alleged perpetrators have been brought to justice and the vast majority of victims have been left without redress.

7.2 Patterns of Ill-treatment and Torture

- The ill-treatment and torture of detainees was widespread. It reflected a serious degree of lawlessness or indiscipline within both the police and military forces, and a limited appreciation of basic principles of human rights.
- Members of the security forces manhandled and abused suspects rather than following normal arrest procedures.
- Ill-treatment often took the form of beatings by gangs of police or soldiers, who punched and kicked detainees who had been bound or otherwise rendered defenceless.
- More serious forms of ill-treatment and torture involved beatings with rifle butts, lengths of metal, wood or rubber hose, and slashing with knives or bayonets.
- Sexual harassment and abuse of detainees, both men and women, was reported.
- Members of the security forces harassed and abused people involved in peaceful efforts to resolve the crisis.
- There was a strong element of racism evident in the targeting of suspects and in the tone and content of interrogations.
- Vengeance and retaliation -- referred to locally as "payback" -- was an important factor in police and military action and behaviour.
- Security forces sometimes used random and excessive lethal force in raids in areas of suspected BRA activity, resulting in injuries and deaths of non-combatant civilians.
- Ill-treatment and by government security forces has not been limited to the island of Bougainville. The patterns of ill-treatment and abuse of authority reported in Bougainville are evident in other parts of the country.

with government forces and after government troops withdrew in March 1990. Amnesty International condemns unreservedly the torture and killing of prisoners by anyone.

The substantial institutional, legal and constitutional provisions for the protection of human rights in Papua New Guinea proved vulnerable in the context of a serious political crisis. The breakdown of mechanisms for enforcement of basic rights provisions occurred in two main areas. First, judicial and quasi-judicial institutions with principal responsibility for the enforcement of constitutionally-guaranteed rights failed to operate in practice. Second, the Government and Parliament failed to act decisively when confronted with serious allegations of human rights abuse. As a consequence few if any of the alleged perpetrators have been brought to justice and the vast majority of victims have been left without redress.

7.2 Patterns of Ill-treatment and Torture

- The ill-treatment and torture of detainees was widespread. It reflected a serious degree of lawlessness or indiscipline within both the police and military forces, and a limited appreciation of basic principles of human rights.
- Members of the security forces manhandled and abused suspects rather than following normal arrest procedures.
- Ill-treatment often took the form of beatings by gangs of police or soldiers, who punched and kicked detainees who had been bound or otherwise rendered defenceless.
- More serious forms of ill-treatment and torture involved beatings with rifle butts, lengths of metal, wood or rubber hose, and slashing with knives or bayonets.
- Sexual harassment and abuse of detainees, both men and women, was reported.
- Members of the security forces harassed and abused people involved in peaceful efforts to resolve the crisis.
- There was a strong element of racism evident in the targeting of suspects and in the tone and content of interrogations.
- Vengeance and retaliation -- referred to locally as "payback" -- was an important factor in police and military action and behaviour.
- Security forces sometimes used random and excessive lethal force in raids in areas of suspected BRA activity, resulting in injuries and deaths of non-combatant civilians.
- Ill-treatment and by government security forces has not been limited to the island of Bougainville. The patterns of ill-treatment and abuse of authority reported in Bougainville are evident in other parts of the country.

7.3 Patterns of Extrajudicial Execution and Deaths Following Torture and Ill-Treatment

- some BRA suspects were deliberately shot and killed while in the custody of security forces.
- some people died in police or military custody after, or as an apparent result of, torture.
- Death threats against detainees were commonly made by members of the security forces.

7.4 Recommendations

Amnesty International believes that all of the allegations of torture, ill-treatment and unlawful killing detailed in this report are sufficiently grave to warrant immediate investigation by an impartial authority and it recommends that the results of such investigations be made public. The organization believes that durable mechanisms and guarantees that rights will be protected in times of political crisis, or under a State of Emergency, are urgently needed in order to ensure that similar violations do not occur in the future. It believes that, with relatively modest adjustments, the existing mechanisms and procedures for the protection and promotion of human rights in PNG could fill this need.

It offers the following specific recommendations:

1. Where there is prima facie evidence that a member of the security forces has committed human rights violations, he or she should be brought to justice before a court of law, to ensure that members of the security forces are held accountable in law for their actions. In Amnesty International's experience, the failure to bring alleged perpetrators to justice can create the impression that the government or the judiciary condones the violation of human rights and can thereby lead to an institutionalization of that pattern of behaviour.
2. Equally important is the demonstration of an unequivocal commitment to the protection and promotion of human rights by leading members of the government and the security forces. In this regard, Amnesty International has welcomed the statements of some government authorities and certain members of the security forces. However, it notes with concern statements made by some members of the Cabinet and of the security forces which have appeared to condone or attempt to justify the alleged violations. Amnesty International believes that such statements were not and are not conducive to the protection and promotion of human rights.
3. The effective implementation of the Public Solicitor's Office mandate with respect to human rights violations requires that the office have a greater degree of autonomy from the government, and in particular the Ministry of Justice, than has hitherto been the case. Insofar as lack of funds has prevented the Public Solicitor's Office from bringing cases of human rights violations before the courts, this may be remedied under the terms of the Constitution. The precedent for such an expansion of autonomy and financial independence has been set by Papua New Guinea's Law Reform Commission.

4. As a matter of priority a branch of the Public Solicitors Office should be established in any area where a State of Emergency has been declared or where political conditions are such that violations of human rights might be expected to occur. That office should be given the authority to receive complaints about human rights violations and to bring these complaints promptly before the courts. The PSO might also be given the task of increasing public awareness of the rights which are guaranteed by law, and explaining the procedures available for seeking redress or compensation.
5. The smooth and uninterrupted functioning of the judiciary, and particularly of the National Court, is an essential requisite for the protection and promotion of human rights in PNG. Every possible effort must be made to ensure that, under a State of Emergency or in a political crisis, the National Court continues to function.
6. The same guarantees should be provided to ensure the proper functioning of the Magistrate's Courts in times of emergency and political turmoil. The requirement that coroner's inquests be conducted into every suspicious death must be adhered to. Every effort must be made to ensure that the Coroner/Magistrate obtains the full cooperation and protection of the security forces in order to carry out this task. The existence of a State of Emergency should not be accepted as a reason for failure to provide such guarantees.
7. If the government is unable to guarantee the smooth functioning of the judiciary in times of political crisis or under a State of Emergency, with the result that the enforcement of basic human rights is impeded, it should consider the creation of a Commission of Inquiry as outlined in the United Nations "Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions" (Resolution 44/162, December 1989).
8. The Permanent Parliamentary Committee on National Emergency should be required to monitor and to report publicly on human rights violations occurring in the context of any State of Emergency.
9. The use of internment laws, for detention without charge or trial, in order to deal with future insurgency situations should be avoided in view of the very serious human rights consequences which such legislation has had elsewhere in the world. The recommendation of the Parliamentary Committee on the National Emergency to introduce such an "Internment Law" should be treated with great caution.
10. If it is not already, human rights education should be made a mandatory component of the training of all security force personnel, both the police and the military (PNGDF). A review of the training methods and norms of conduct of the security forces should be conducted to ensure that they are fully consistent with the human rights provisions embodied in the Constitution and relevant international standards such as the International Covenant on Civil and Political Rights (ICCPR) and the International Code of Conduct for Law-Enforcement Officials. Resources should also be devoted to the education of the general public concerning human rights standards and mechanisms.



The body of **Vincent Amora (Onari)** in a coffin. His head and face are bandaged to cover multiple facial and head wounds. Bougainville, January 1990.



Samson Materiva is identified by his sister (left) at the Arawa General Hospital Morgue, Bougainville, January 1990.