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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Commonwealth Human Rights Initiative, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[3 June 2019]

* Issued as received, in the language(s) of submission only.

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Overview

At the 41st Session of the UN Human Rights Council (HRC), the Commonwealth Human Rights Initiative wishes to bring to the notice of the Council the human rights challenges in small island states in the Pacific, specifically in Fiji, Papua New Guinea and Vanuatu. Inadequacy of resources and accessibility issues have created obstacles in the way of effective engagement of these States with the HRC and its mechanisms. Therefore, we wish to bring human rights issues in these States into focus for effective promotion and protection of human rights throughout the world as envisaged by the Council.

Issues concerning lack of freedom of expression and media, access to information, discrimination and violence against women and girls, among other issues, have been raised in all the three States in question. Infringement on the civic space is an important concern. The civil society in these countries already faces difficulties in engaging with the international fora, and restrictions placed by governments has further clamped down its space. This statement highlights these issues and urges the HRC member states to support these States and other Small Island Developing States (SIDS) in the implementation and fulfilment of their international and regional obligations.

Civic space and freedom of expression

Restrictions on freedom of expression and media imposed by the governments despite legal and constitutional safeguards has been a worrying trend in these three countries.

Fiji ranks 52 out of 180 countries in the 2019 World Press Freedom Index.¹ However, the Online Safety Act 2018 is a cause of concern with its likely use to prosecute political opponents, intimidate internet users and resultantly curtail the freedom of expression.² It lacks guidelines to defining scope of powers of the Commission it creates.³ The Electoral Act 2014 also has restrictive provisions prohibiting CSOs from facilitating, participating or engaging with any voter or electoral gathering after the issuance of the Writ of Elections.⁴ Despite constitutional provision, the government may restrict the rights to prevent hate speech, maintain national security and public order, or protect of reputation, privacy, and rights of other persons.⁵ In April 2019, three journalists from New Zealand, investigating environmental degradation in Fiji, were arrested by the authorities and detained overnight for their work.⁶ Media workers have been arrested for doing their jobs, along with an increasing use of sedition laws and other criminal provisions to target activists and journalists.⁷

In Papua New Guinea, some activists and government critics reported the intimidation and harassment.⁸ Journalists were subject to intimidation and, in some cases, violence by police and supporters of parliamentarians. In 2018, journalists in Papua New Guinea raised concerns over

¹ Reporters Without Borders, 2019 World Press Freedom Index, Fiji. Available at: <https://rsf.org/en/fiji>.

² CIVICUS, 'Online Safety Law raises fears of increased censorship in Fiji after election', 28 February 2019. Available at: <https://monitor.civicus.org/country/fiji/#newspost-2622>

³ Ibid.

⁴ Government of Fiji Gazette, Electoral Act 2014, section 115. Available at: <http://www.feo.org.fj/wp-content/uploads/2017/03/Electoral-Act-2014.pdf>.

⁵ U.S. Department of State, 2018 Country Reports on Human Rights Practices, Fiji. Available at: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/fiji/>.

⁶ Amnesty International, 'New Zealand journalists feel force of Fiji's contempt for human rights.' Available at: <https://www.amnesty.org/en/latest/news/2019/04/new-zealand-journalists-feel-force-fiji-contempt-human-rights/>.

⁷ Amnesty International, 'New Zealand journalists feel force of Fiji's contempt for human rights.' Available at: <https://www.amnesty.org/en/latest/news/2019/04/new-zealand-journalists-feel-force-fiji-contempt-human-rights/>.

⁸ U.S. Department of State, 2018 Country Reports on Human Rights Practices, Papua New Guinea. Available at: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/papua-new-guinea/>.

the lack of freedom and violence perpetrated by the Government staff.⁹ Further, the amendment to the penal code, especially allowing the government to punish social media users who “incite violence” or “break the law”, was an attempt to curb criticism.¹⁰ Under the new cybercrime law allowing investigation and prosecution for defamatory publication of material concerning another person, unlawful disclosure of classified information, and using electronic systems to incite unrest, five persons were charged. But they were not convicted because the courts, police, and relevant government agencies lacked guidance on how to implement the law.¹¹

Freedom of information and transparency

Another area of concern is the free access to information, essential to enhance transparency, accountability, and to aid good governance. In Fiji, the constitution gives a general right of access, but enabling legislation has not yet been passed. A draft Freedom of Information Bill was circulated in 2000 but derailed by political unrest. In 2018, Fiji passed the Information Act which enables the public to exercise their right to access official information and documents held by the government and its agencies.¹²

Papua New Guinea does not release information about public expenditures and does not have an access to information law.¹³ It has a strong constitutional provision on access to information,¹⁴ but no enabling legislation. It has been classified as one of the highly corrupt countries in the world.¹⁵ Corruption in the government is a serious problem with weak public institutions and governance, lack of transparency, politicisation of the bureaucracy, and misuse of public resources by officials.¹⁶ This lack of access to reliable information from state institutions has led to circulation of unfounded information through social media and otherwise.¹⁷

Vanuatu ranked 64 out of 180 countries concerning the level of corruption of the public sector.¹⁸ Vanuatu enacted the Right to Information Act in 2016 to ensure better accountability of the government and citizen participation. However, despite legislative provisions, due to lack of training, it is yet to be effectively used to report on the government activities and to bring it to account. Recently, there have been renewed calls for Vanuatu to crackdown on

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- ⁹ CIVICUS, ‘PNG Journalist: We no longer enjoy media freedom. Available at: <https://monitor.civicus.org/newsfeed/2018/05/24/png-journalist-we-no-longer-enjoy-media-freedom/>.
- ¹⁰ U.S. Department of State, 2018 Country Reports on Human Rights Practices, Papua New Guinea. Available at: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/papua-new-guinea/>.
- ¹¹ Ibid.
- ¹² Government of Fiji, Information Act 2018. Available at: <https://www.fiji.gov.fj/getattachment/9d6f70b2-0bb6-48b4-b66b-3dc2e9acf59b/Act-9---Information-Act.aspx>.
- ¹³ Freedom House, 2018 World Freedom, Papua New Guinea. Available at: <https://freedomhouse.org/report/freedom-world/2018/papua-new-guinea>.
- ¹⁴ Constitution of the Independent State of Papua New Guinea, section 51. Available at: http://www.pacii.org/pg/legis/consol_act/cotisopng534/.
- ¹⁵ Transparency International Papua New Guinea, Global Corruption Index 2018. Available at: <https://www.transparencypng.org.pg/png-scores-highly-corrupt-on-the-2018-corruption-perceptions-index/>.
- ¹⁶ Global Security, Papua New Guinea. Available at: <https://www.globalsecurity.org/military/world/oceania/png-corruption.htm>.
- ¹⁷ Transparency International Papua New Guinea, ‘Lack of law for access to information in PNG is cause of fake news’. Available at: <https://www.transparencypng.org.pg/lack-of-law-for-access-to-information-in-png-is-cause-of-fake-news-says-tipng/>.
- ¹⁸ Transparency International Global Corruption Index. Available at: <https://www.transparency.org/country/VUT#>

corruption and better enforce its anti-corruption policies with several instances of corruption being discovered.¹⁹

Violence against women and girls

In Fiji - over the last 25 years - many positive developments have taken place in relation to women, including efforts to ending violence against women and increased reporting and awareness. However, there remain a lot of challenges to be addressed.²⁰ Although Fiji has separate laws to deal with sexual violence, domestic violence and harassment, there are serious concerns relating to violence, discrimination in the family, restricted physical integrity, access to reproductive and financial resources in Fiji.²¹

Violence against women continues to remain a serious and widespread problem within families, prisons and police stations in Papua New Guinea.²² The law criminalising gender-based violence, it has nonetheless persisted throughout the country and is generally committed with impunity.²³ Female survivors of domestic violence often face difficulties in accessing support and assistance.²⁴ There has been an unabated retributive violence against women and girls due to sorcery accusations. The government's 2013 Sorcery National Action Plan is inadequately funded and has yet to be implemented. In December 2017, the Papua New Guinea government announced US\$2.9 million for sorcery awareness and education programmes, but the effect is yet to be seen.²⁵

In Vanuatu, gender equality is part of the fundamental right enshrined in its National Constitution. The National Policy on Gender Equality affirms commitment across all sectors and at all levels of society for elimination of discrimination and violence against women and girls.²⁶ However, violence against women, particularly domestic violence, is common. According to recent data, 60 percent of women in a relationship experienced physical or sexual violence by a partner.²⁷ NGOs and civil society have played an important role in educating the public and helping women access the justice system, but they lack funding to implement their programmes fully.²⁸

Recommendations:

- Fully respect and protect for the rights to freedom of expression, and access to information for all, including journalists, activists, political opponents, and take measures to create an enabling environment for the exercise of these rights;

¹⁹ ABC News, EU aid fraud – crackdown on corruption in Vanuatu. Available at: <https://www.abc.net.au/radio-australia/programs/pacificbeat/eu-aid-fraud-crackdown-corruption-in-vanuatu/10969360>.

²⁰ Pacific Community, Inspiring Gender Equality Projects, March 2019. Available at: <https://www.spc.int/updates/news/2019/03/inspiring-gender-equality-projects-launched-on-eve-of-international-womens-day>.

²¹ Social Institutions and Gender Index. Available at: <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/FJ.pdf>.

²² Social Institutions and Gender Index. Available at: <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/PG.pdf>

²³ U.S. Department of State, 2018 Country Reports on Human Rights Practices, Papua New Guinea. Available at: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/papua-new-guinea/>

²⁴ Danish Institute of Human Rights, Papua New Guinea Human Rights Impact Assessment. Available at: https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/hrb_2019/papua_lng_hria_summary_report_final_feb2019.pdf.

²⁵ Human Rights Watch, World Report 2019, Papua New Guinea. Available at: <https://www.hrw.org/world-report/2019/country-chapters/papua-new-guinea>.

²⁶ National Gender Equality Policy, Vanuatu. Available at: <https://www.nab.vu/document/national-gender-equality-policy-2015-2019>.

²⁷ U.S. Department of State, 2018 Country Reports on Human Rights Practices, Vanuatu. Available at: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/vanuatu/>.

²⁸ Ibid.

- Take effective measures to implement its national policies to promote these rights and uphold international obligations;

Urge the HRC member states to provide technical assistance and support these States and other SIDS in the implementation and fulfilment of their international and regional obligations.
