

2022 UPDATE - UPNG

MANGE J. MATUI

SECRETARY

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XAVIER WINNIA – DIRECTOR, RESEARCH

Outline of Presentation

- ▶ The Commission
- ▶ Powers and Functions of CLRC
- ▶ Core Business of CLRC
- ▶ Underlying Law
- ▶ CLRC's work on Underlying Law

Establishment of the Commission

- ▶ The Commission is the predecessor of the former Law Reform Commission and the Constitutional Development Commission
- ▶ Commission was established by the CLRC Act 2004
- ▶ The Commission became operational in 2006
- ▶ The Commission has now been in existence for almost 16 years
- ▶ The Commission has 7 Commissioners supported by the Secretariat headed by the Secretary and 57 officers

Powers of CLRC

- ▶ The powers of the Commission are set out in Section 11 of the CLRC Act. These are:
 1. Consult with any Govt Dept or agency that would be affected by a change in a proposed law
 2. Provide advice or information to any Govt Dept or agency concerning proposals for reform or amendment of laws
 3. Consider any proposals for the reform of a law referred to it from time to time
 4. Hold seminars and conferences on appropriate legal issues
 5. Conduct research on any area of law - particularly customary law
 6. Use any information, advice or assistance available to it within and outside of the country
 7. Obtain information on laws and legal systems of other countries for the purposes of providing ideas for reform and development of laws of PNG

Functions of CLRC

- ▶ The functions of the Commission are clearly set out in Section 12 of the CLRC Act. These are:
 1. Review Constitutional Laws
 2. Review the laws of PNG
 3. Make recommendations in relation to the making of laws
 4. Make recommendations for the consolidation or repeal of laws
 5. Make recommendations for the development of new approaches to the changing needs of society
 6. Liaise with National Govt in implementing its recommendations to Parliament
- ❖ An additional function of the Commission is in Schedule 2 of the *Constitution* and the *Underlying Law Act 2000* – Monitor the Development of the Underlying Law

Core Business of CLRC under sections 11 and 12 of the CLRC Act

- ▶ **Initiate Law Review and Reform Process:** Initiate law reviews through public consultation, workshops, research and discussion papers.
- ▶ **Recording Customary Laws and Monitor the Development of the Underlying Law:** Provide guidance, advice and recommendations in relation to restatement, codification, amendment or reform of the customary laws, and generally, the common law and equity of England.
- ▶ **Review of all Colonial Laws and other Laws:** Ensure modernization of all laws, including all colonial laws by bringing them into accord with current conditions to ensure their relevance and applicability.

Core business of CLRC under sections 11 and 12 of the CLRC Act

- ▶ **Provide Legal Advice and Drafting Laws:** Provide Legal Advice and work with relevant stakeholders and government agencies in elimination of defects in laws, simplification of laws, consolidation of laws, and or repeal of laws that are unnecessary or obsolete, through assistance with drafting new laws and amendments.
- ▶ **Monitor the Progress of Reports and the Implementation of Laws:** Once reports on amendment of laws or new laws are recommended to the Government and the Parliament, CLRC monitors their passage, and also, monitors laws which are passed on the floor of the National Parliament and reports of their enforcement and effectiveness, and report on the need for improvement, if any.
- ▶ **Seek Supreme Court Review and Interpretation:** Seek judicial review of certain acts, practices and laws which are not in line with the country's values, and democratic principles and ideals, which are captured either under the Papua New Guinea Constitution or other laws.

Underlying Law

- ▶ Constitution of PNG
 - a. Section 25
 - b. Schedule 2.1 of the Constitution
- ▶ Underlying Law Act 2000
 - a. Importance of Custom – section 6
 - b. Role of Custom – section 7

Role of CLRC in developing the Underlying Law

- ▶ Underlying Law Act 2000
 - a. Decision of the court – section 8
 - b. Review after Court decision – section 13
 - c. Role of CLRC in the development of UL – section 16

CLRC's role in recording custom

- ▶ CLRCs role;
- ▶ Role under schedule 2.13 of the Constitution
- ▶ Role under CLRC Act 2000
- ▶ Role under the Underlying Law Act 2000

Current work of CLRC

- ▶ Recording Custom
- ▶ Case management
- ▶ Role of CLRC under section 19

Conclusion

- ▶ Our society before 1975
- ▶ Work of CPC and its thinking
- ▶ Our society from 1975 to 2025
- ▶ Our society from 2025 and beyond
- ▶ Role of our custom in 2025 and beyond

Thank you