



New Law on Informal Economy could be a Game Changer

By BUSA JEREMIAH WENEGO

ON the October 19, 2015 the Constitutional Law Reform Commission launched the draft report on the Review of the Informal Sector Development & Control Act 2004 at the University of Papua New Guinea.

The report contains a set of recommendations and the proposed Bill that would be presented to the government for its consideration and endorsement sometime in the year.

If passed the Bill may well be the game changer to transform PNG's socio-economic landscape. Particularly if the informal economy is seen as a "wealth distributive mechanism" it could allow money generated in big impact projects such as the PNG LNG, to be transferred to the majority of the populous who are its beneficiaries.

Furthermore, if provided the right environment it could unleash entrepreneurship and innovation that is abundant among many Papua New Guineans but lethargic due to lack of support. One should only take a bus ride to the infamous Gordon Market or travel up into the kakaruk market in Goroka or elsewhere to witness the vibe of energy and salesmanship at play.

This is what the law aims to nurture but in compliance with appropriate minimum standards to protect consumer welfare and generally minimize its negativity.

Yet the challenge will once again fall on the shoulders of the government to ensure that the intention of the law is realized.

Already the government is urged in the report to step-up and provides leadership in administering the law as well as providing essential public goods and services to encourage the development of the informal economy in PNG.

So far the government has failed miserably in this area although it has introduced a policy and a law, to address issues affecting the informal economy.

This reinforces the sad reality that implementation/enforcement has always been a challenge for the PNG Government.

Most LLGs are struggling to function effectively in most areas of the country due to lack of support both in terms of resource and limited un-



Girua market in Popondetta falls under informal economy where entrepreneurship is abundant and Oro Governor Gary Juffa has urged the vendors to keep the market clean and tidy.

derstanding of their functions and responsibilities.

The report alluded to the fact that most LLGs that were consulted had no idea about the existence of the law although it was a national law.

"So far the government has failed miserably in this area although it has introduced a policy and a law, to address issues affecting the informal economy".

At the national agency level, the report found that no oversight was provided making way for Administering Authorities to make laws without alignment to the Informal Sector Development & Control Act

2004.

In most cases, administering authorities simply "turned a blind eye" on the law. For instance, in 2012 the courts making reference to the Informal Sector Development & Control Act 2004 restrained the Lae City Council to implement its decision to close down informal markets in the city.

In the case of NCDC, Buai producers and political leaders in Central Province issued threats of challenging the legality of the Buai Ban law although this has not come to pass.

If the ban was contested in the courts with reference made to the Informal Sector Development & Control Act 2004, the outcome could have change the dynamics of the informal economy in PNG.

This is where CLRC's foresight in introducing a "modal law" is important as it bypasses the difficulties that could have eventuated if a national law superimposes itself with no regard to the administrative set-

up of certain provinces like NCDC.

By allowing provinces to have the "freedom to make necessary amendments to the modal law" to suit their unique situation, it is hoped that they will effectively control negative aspects and promote the positive side of their own informal economy.

Then having the Department of Community Development & Religion as the lead agency providing oversight on the law, it is envisage that those amendments will be made with due respect to the "spirit/intention of the national law" as well as in alignment with the National Informal Economy Policy.

The Department to its credit has already embarked on a restructure (with no progress as yet) that will see a new section dedicated to coordinating the implementation of the policy and the law.

Yet questions are being asked if this arrangement would yield any tangible results. The Department itself is still reeling from the leader-

ship tussle which transpired two years ago that has seen the department fragmented into factions as staff took sides.

The aftermath of this battle can still be seen today with most of its offices half empty and manned by only few dedicated officers.

In this environment there is no guarantee that the law will hit the ground running once it is passed by the government.

This is where the Department with the aid of CLRC should explore options that will lead to the effective implementation and administration of the policy and the law.

One option would be for the Department to quickly work towards establishing a "stand alone mechanism" like an office within its structure.

Such a set-up apart from speeding things up would allow the Department to effectively reach out (going beyond its traditional role as a social welfare department) to other stakeholders whose mandate or policies are related to aspects of the Informal Economy Policy and Act.

On the other hand the informal economy participants on their part misunderstood the law the first time it was passed by parliament, subsequently, giving rise to the proliferation of diverse sets of informal economic activities some of which posed serious health and safety risks.

This meant that balance needed to be struck in the law to ensure that the growth of the informal economy is "controlled" to minimize its harmful effects.

The informal sector law in its current form in fact advocates for this. This is contrary to the views that it "gave fire" to the widespread chaos that is unfortunately the hallmark of PNG's informal economy.

The draft report to the credit of the CLRC has reinforced this idea with penalties raised depending on the severity of the offence which is determined by taking into consideration an informal economic business activity's impact on the environment, hygiene, health, safety and the nature of the items sold whether it is addictive and other factors.

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Your Thoughts...



with Esther Wani

What is your New Year's resolution?...



Name: GuoFuao
Age: 13
Home Province: Chimbu Province
School: Gon Primary School
What is your New Year's resolution?
I want to stop lying, gossiping and disobeying my family.



Name: Emmanuel Dalali
Age: 6
Home Province: Milne Bay
School: Not yet, will start next year
What is your New Year's resolution?
I want to obey my mum and go to school next year.



Name: Dubana Paul
Age: 15
Home Province: Central Province
School: Kupiano Secondary School
What is your New Year's resolution?
I want to study hard in school and avoid peer pressure.



Name: Moses Agua
Age: 20
Home Province: 20
School: IT Job Training Centre
What is your New Year's resolution?
I want to start celebrating New Year at home and avoid accidents which are common in the festival season. However, I don't do anything which I want to change next year so I will not change anything apart from staying at home on New Year's Eve.

Say NO to Drugs and Home brew!



Literacy is the base of knowledge

By Esther Bralyn Wani

LITERACY is not just about reading and writing in English. It is more than that, literacy provides more than reading and writing. It becomes the source of all knowledge once a person knows how to read and write.

Even though, a child or an adult may get an education and they can know the basics of reading and writing, it all depends entirely on the person because that does not guarantee them knowing everything. If the person reads more on everything and anything, they will pick up more than what they have been taught.

An educationist, MesiaNouau said, "Literacy is the base of all knowledge. It will build positive development to contribute to the country. It is important to increase the rate of literacy in the country."

Mr. Nouau who is a teacher by profession said the literacy rate is not the same anymore in the 1950s and 70s. He said today's literacy has dropped by 1 % which shows that PNG's knowledge base is around 56%.

"Literacy rate is not about knowing how to read and write only. Literacy is knowledge, if we know how to read and write we will have more knowledge," Mr. Nouau said.

Superintendent Commanding Officer for the Correctional Service,

HarahaKeko said, "I got shocked when I asked my prisoners to fill up forms and they would tell me they do not know what to write or even understand what the form is about."

Mr. Keko said this shows that some of the prisoners might not understand their lawyers and they can be charged for a crime that they didn't commit.

He said they could charge innocent men and women just because they do not know how to write or read.

Understanding things when reading them builds the rate of knowledge that one consumes. The introduction of new technology comes with a price, it has its disadvantage and advantages when using it with responsibility it is very helpful but it can be harmful too.

Minister for Research Science and Technology, MalakaiTabar, mentioned the rate of literacy decreasing in the Buk2Buk Seminar at the University of Papua New Guinea.

Minister Tabar said, "It is time to go back to the books now with the introduction of technology, students are using tablets or phones to take shots of notes and just leave it there without even reading it."

He said students can start reading books and get a lot of information they need instead of depending on their phones which can be very distracting.



These 5 young lawyers who came up with the initiative to collect books and bring it to elementary and primary schools in their village to help the students learn to read.

HIV/AIDS kills! Stick to one partner...

A triple celebration for Alan Jones Memorial

Story and Photos by
Frieda Sila Kana

HULA Ward in the Rigo District of Central Province had a reason to celebrate the rare appearance of their Provincial Governor, Kila Haoda on December 10th at the Alan Jones Memorial Primary School.

It was a triple celebration for this rural primary school, with the declaration of a new day high school, the opening of two double classrooms and two teachers houses during the 20th grade 8 graduation ceremony and the 58th speech day of the school on December 10th 2015.

The Alan Jones Memorial Primary school in Hula, formerly known as Manea primary school now caters for the school age children from Hula main village as well as other smaller villages nearby.

The new day high school will be called Hood Point Day High School and it will start with the intake of some of this year's grade 8 students together with others. This was declared by the Assistant Sec-



The 58th speech day celebrated with children from the lower grades waiting patiently for their turn to get their awards while graduating students walk over to their sitting places.

retary for Education, Dr. Apelis Eliakam who spoke on behalf of the Secretary for Education at the time of the celebrations.

In any school before moving into another level of education, the administration of the school has to be ready with buildings and facilities to cater for the new students and

teachers. In this case, Alan Jones Memorial Board of Management and the School Administration were quite ready for a start up for next year with the generous assistance of the governor of central province as well as the Australian Government through AusAID which enabled them to erect two double

classrooms, one library building and two teachers' houses at an approximate cost of K200,000.

While opening the day with a school report, the headmaster of the school, Henry Karaho proudly stated that Alan Jones Memorial school, one of the only four level 6 primary schools in the province came top in its grade 8 external examinations last year with the 131 points out of 150 in the external exams. However the score of last year was a notch lower than that of this year which was same as 2011 at 132 out of 150. Thus he also added that, of the 154 grade 8 students who graduated this year, 84 of them will be retained at the new day high school.

The introduction of a new day high school is an economical gain for the parents and guardians of the area and a great relief because

now the school is right near their home and they no longer have to send their children to Kemabolo day high school, nor to Kwikila Secondary School which cost a lot for their parents with PMV fares and sleepless nights for some.

The Governor for Central Province, Kila Haoda was instrumental in the erecting of the extra classroom building with the allocation of K100,000 in 1913 and so was happy to be present to co-officiate with the other donor, AusAID in the opening of the new buildings and the declaration of the new day high school on that day.

The AusAID Regional Project Officer for Health Procurement and Education Facility, Marie Rose Vaki represented the AusAID, the major donor of the new classrooms at the graduation and opening ceremonies.

She said that this assistance was one under the Government to Government partnership programme. Under this program 20 schools in the Central Province will receive assistance and to which Alan Jones Memorial was fortunate to be the first to receive this.

Impressions of a visitor

By Dominic Roche from India

OUR aircraft landed at Port Moresby at a quarter to six in the morning on the 1st November, 2015.

Now nearly forty days later in a country which has just celebrated its 40 years of independence recently, especially after a whirlwind tour of Wewak and (Mount Hagen)Eastern Highlands Provinces, the breath-taking beauty of this country is really fascinating.

The first thing that struck me is the natural greenery and the flowers! Flowers in the gardens, flowers in the hedges and wild and exotic flowers of a wide range of bold hues around the countryside and mountains!

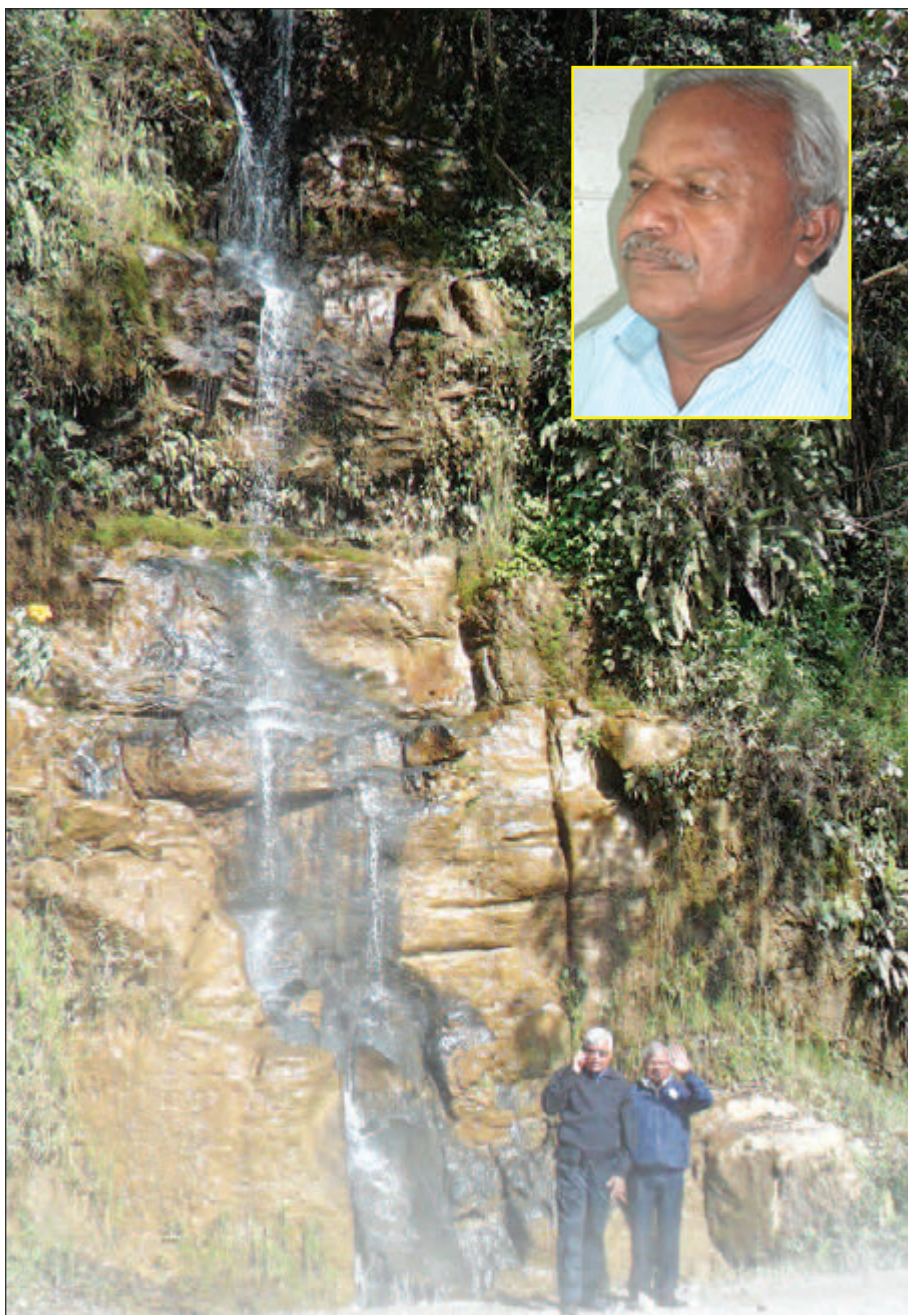
Barring a few found in the gardens, most of the flowers I had the good fortune to drink in the beauty of, for the first time in my life!

Which set me thinking.....the Good Lord should have been in a very happy frame of mind when He created PNG...such bold and colourful strokes!!

That brought me to think of our National Capital-hot and sultry; with its lawns and hedges dry and fading away; while the people themselves in their colourful attire throng the city lining both the sides of the road, one tends to think that the city has seen better days!

While the weather in the highlands was nippy and a bit cold at night with an occasional drizzle making one feel that this is God's own country indeed, the contrast in the capital could not have been starker, blowing as it does like a blast in the face from the furnace!

The people seem to be simple



Waterfall in Enga province. (Inset) Dominic Roche.

and warm-hearted and fiercely proud of their rich culture and traditions.

They easily respond with a wave, hi or a high-five with a toothy smile!

Visiting the Greens Market for Indian vegetables, I found quite a few of them available though a bit costly.

The bulb onions had done the vanishing act some time back! But when they did make a reappearance the price was sky-high!!

We are told that some parts of the country do produce them but lack of roads prevent them from bringing them to the cities and air-lifting them would be at a forbidding cost and not a viable option.

How I wish this country with its rich and fertile soil could be well-connected by motorable roads so that people could move around, commodities can find their way to the markets and as a result the economy could move up to its rightful place!

The religious freedom obtained in the country, what with

the Holy Bible being placed in the Parliament and the resolution that all laws promulgated henceforth shall be in conformity to the Holy Bible...things that do not cease to amaze me!

The robust response struck by the Church to the call to chip in with funds and plans to meet the threat of the life-crippling drought and following it up with the countries committing themselves to help mitigate the impact-and the major denominations of the various churches coming under a single banner for facing such practical realities as one united front augur well for the country.

"The Country Prays for Rain..." the newspapers flashed boldly the other day.

I would like to join the praying millions and firmly believe that the day is just round the corner when all those sincere prayers going up will come down in the form of welcome showers restoring the greens and colours of the city.

Thus I go back to India with pleasant memories of having lived in a fascinating country although for a short time, rich in its natural beauty-its mountains, rivers and seas and its simple and kind-hearted people.

A glance through the newspapers reveal the efforts being taken; ports, airports being inaugurated; projects put in place in various sectors for development of the country and its rich natural resources with a call to all to join hands for a bright tomorrow.

Let the words of Confucius ring true for this country and its people: "The man who moves a mountain begins by carrying away small stones."

PM calls for mature debate

PRIME Minister Peter O'Neill has expressed disgust and disappointment at the way in which the Opposition has sought to drag politics to a new low over Christmas.

"I had hoped that in 2016 the nation would have a mature and responsible Opposition, but with the way Mr (Don) Polye has sought to manage his affairs in this last week of the year I expect we will be disappointed.

"The people of Papua New Guinea are sick and tired of the cheap and personal gutter politics we have seen from the Opposition Leader in this term of Parliament.

"Papua New Guineans want debate on policy on substantive issues that matter to the lives of the men, women and children of our nation.

"The paranoia the current and previous opposition leader has displayed is not the standard that is needed in this country," said Mr O'Neill.

The Prime Minister made the comments after Mr Polye made a series of unsubstantiated claims in a press release content over Christmas.

"Be mindful that the Opposition misleads media with the expectation that some journalists will not check facts.

"Polye's latest misleading claims related to land - because he knows there is no more emotive issue in our country than land ownership.

"He further continues to make unsubstantiated claims of conspiracies between government agencies that he often claims have to do with undermining opposition.

"I can assure the media who received these latest Opposition statements that there is no truth to his claims.

"I urge all journalists to fully investigate the claims made by Polye, which is the role of the independent media of our nation, and not simply publish unsubstantiated drivel."



PRIME Minister Peter O'Neill

PM O'Neill said as the nation prepares for elections in 2017, the level of public debate has to mature and rise to a new level.

"The 2017 elections will be the most important in the history of Papua New Guinea, and we need the people of our nation to hear debate on the serious issues of the economy, climate change, education, healthcare, infrastructure and law and order."

Meanwhile Mr Polye said Mr O'Neill's claim that the Opposition is telling lies to the media, is something 'evasive and deflective of his predatory behaviour.'

Mr Polye has lashed out at the 'media darling Prime Minister' for the first time in criticizing the media, which is the government's fourth arm.

He denied telling lies to the media in his media statements, saying to his 'fellow highlander Prime Minister that the truth hurts'.

Polye, who has been at the upfront debating on many government policies and decisions, said he was cautious of public feedback and with this in mind he strives to tell 'our people nothing but the truth and facts about national issues.'

Polye said it was his duty to educate Papua New Guineans to prepare themselves well for the general elections in 2017.

Mr Polye has taken Mr O'Neill to task over the land in Port Moresby's Boroko area to clear his name, saying his involvement amounts to 'abuse of office for personal gain'.

He reiterated that the PM was alleged to have been pestering the PNG Power



Opposition Leader Don Polye

Limited board to sell it cheaply without the proper tendering and procurement processes.

He said 'the political controversy between Don Polye and Peter O'Neill' was smaller than the country's welfare and interests, and that national issues should be debated constructively.

Polye said he doubted whether the Prime Minister was genuine when he called for constructive debates as the writing was on the wall that the PM sabotaged 'the Opposition's budget debate.

He has urged the Prime Minister not to contradict himself.

"Our people, media, investors, donors and other development partners are the Opposition's best judges.

"I don't make remarks which are below my belt against the Prime Minister nor any other MPs in government as I encourage constructive debates.

"With the guide of our Opposition's alternative government policy Skill-Industry Growth strategy, I on record put to the Prime Minister and his government constructive debates on the defiance of rule of law and other laws (law and order) by those in power, erosion of parliamentary democracy, good governance, transparency and accountability, economic management, police brutality, corruption issues and infrastructure developments among other socio-economic issues," said a confident Mr Polye.

He said he was vocal on other issues like the climate change, healthcare and education.

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Furthermore, it has inserted a provision to deal with betel nut related issues which now imposes a much tougher penalty for the irresponsible chewers.

However, the report fell short of proposing mechanism to protect the rights of the informal economy participants subsequently, there is no mention of the need to "properly organize" informal economy participants and their activities into groups for the purpose of dialogue and consultation. Section 3(1) of the Informal Sector Development & Control Act 2004 provides for the administering authority to consult (if they wish to) with relevant ward committees, Police Force and relevant government agencies responsible for health, physical planning and building when declaring areas on which informal economy businesses could be conducted.

However, experiences thus far have indicated that this has not been the case. Even if this exists in some provinces there is little evidence to suggest that administering authorities sought views from informal economy operators or vendors because informal economy, both its activities and operators, are disorganized.

Furthermore, given the complexity and cross-cutting nature of the informal economy, provinces need to have special informal economy committees comprising of key stakeholders to deal with these issues.

For instance, border provinces such as Vanimo see massive influx of cheap Indonesian goods into Vanimo Town and the villages along the highway leading to Batas. These imported goods (with questionable content and quality) make up a large portion of the informal economy in Vanimo and the neighboring villages.

To protect consumers and ensure fair play the provincial government or the Vanimo Town Authority will have to work with the Border Development Authority, Customs, Police, NAQIA and others. Therefore, the absence of such a mechanism will do little to change the status quo of the situation.

The report also did not highlight the need for a proper "restorative justice" mechanism to be in place to deal with cases of harassment and abuse inflicted by enforcers on informal economy participants. The Informal Sector Law in its current form is "silent" on this matter.

Section 3(6) of the law only goes as far as saying that "an operator (informal economy vendor/participant) aggrieved by the decision of the Administering Authority under section (4) and (5) may appeal to the District Court. Yet for most informal economy operators or vendors the Village Court is the most affordable, reliable, reachable and dependable arm of the justice system since it addresses individual and community's legal concerns through a typically PNG Way.

The District Courts can be utilized by an interest group or an entity representing the interest of informal economy vendors/operators. Therefore, the report failed to recognize that the infringements done by the informal economy participants (apart from the sale of drugs, counterfeit products and homebrew) are "economic crimes" and not criminal offences that would require the "heavy arm of the law".

Thus section 4(2) of the Informal Sector Law should be reworded or amended to ensure that the members of the Police Force are excluded from being appointed as inspectors to police the informal economy.

The NCDC Buai Ban law demonstrated that administering authorities armed with "addi-

tional powers" can abuse it and in the absence of a "voice" and an appropriate "restorative justice" mechanism for the informal economy participants, informal economy will be suppressed to a point where lives can be lost.

Deaths relating to the Buai Ban have been well documented in the media. Such actions would thereby defeat the whole intention/purpose of the law. In saying that the law does provide "sufficient space" as captured under section 3 where the administering authority is required to "adequately notify and welcome feedback from the informal economy operators of its attempt to make changes/determination to the law".

The operator(s) in their part should respond within a set time frame or take the matter to the district court if not satisfied with the authority's feedback. In addition, inspectors appointed by the administering authority as per section 5(2) should properly notify the informal economy operator/vendor of its decision or actions.

However as alluded to earlier, with most of the operators/vendors lacking basic literacy skills (read and write) and resources (funds) they would need someone to do this for them or better still an entity like an informal economy market vendor association that represents their common interest.

Such interest group could unify the concerns and amplify the issue in order to get the attention of the administering authority or policy makers.

Increasing penalty fees and repealing section 18 of the Act which has a list of laws and their clauses that were excluded means that informal economy participants will be forced to comply with standards that maybe regarded as "too high" for them especially, when most of these participants have very poor literacy skills and lack formal employment to supplement their inconsistent meager incomes.

While the intention is to put forth a progressive and rosy image of the city and urban areas, this should not come at the expense of people's livelihoods.

PNG is now a country that is already experiencing a widening disparity gap between the rich and the poor amidst its most prosperous period in its 40 years of nationhood.

Early indications are that the PNG LNG will not be as "transformative" as it was predicted to be.

On the contrary, the emergence of the PNG LNG project has created more problems than solutions for this nation and its citizens.

Cost of basic household goods and services have dramatically increased while the government is being forced to make deals that could possibly cost this country a great deal.

In this difficult and trying time when this nation is heading into uncharted waters, the wisest thing to do for the PNG Government is to lean on its "strengths". Informal economy with almost 80-85% of its population engaged in myriad of activities is its strength.

Through the good and bad times it has helped this nation to ride out crisis after crisis. Giving it its long overdue consideration in the national agenda may well be the game changer for PNG.

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