

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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PAPUA NEW GUINEA: INCREASED PARTICIPATION OF CIVIL SOCIETY HAILED A SUCCESS IN HUMAN RIGHTS REVIEW

On 23 March 2022, Papua New Guinea presented the UN Human Rights Council with its responses to recommendations from its third Universal Periodic Review (UPR) during the 39th session of the UPR Working Group. One of the key successful outcomes of this process was the increased participation by civil society actors compared to the last review in 2016.

The increase of civil society participation in this UN process has effectively doubled since the last cycle. In 2016, there were 12 individual and only 3 joint submissions (representing a total of 23 participants). In 2021, there were 13 individual and 15 joint submissions (representing a total of 61 participants).

In 2021, the Diplomacy Training Program (DTP), the Pacific Islands Association of NGOs (PIANGO), Citizens' Constitutional Forum (CCF Fiji) and the Office of the High Commission for Human Rights (OHCHR) hosted an online national level capacity building program to increase the knowledge of and participation in the UPR process. CIVICUS, Human Rights Watch and Amnesty International also presented at these training sessions. The training has been instrumental to the increased participation by civil society in this cycle.

The submissions covered a broad range of human rights issues from women's rights, the impact of climate change and extractive industries, rights to education, work and health. As a result, strong and well-informed interventions were made by many countries as part of the process.

Below is a summary of some key issues raised by civil society in their submissions, as well as responses provided by the PNG government. It is not meant to be an exhaustive list of the numerous issues raised in the submissions, but a guide to ensure accountability for the issues and commitments raised as part of the UPR process. Amnesty International urges PNG to use this as an opportunity to increase its engagement with civil society and submit a mid-term report on progress towards implementation of recommendations to the Human Rights Council and to use and Item 6 General Debate to draw it to the attention of Member States.

Calls to end the death penalty

On 4 November 2021, 22 countries called on Papua New Guinea to abolish the death penalty – a recommendation that was made in submissions by Amnesty International, Human Rights Watch and Joint Submission 7.¹

In 2016, only 12 countries made the same recommendation for the abolition of the death penalty.

On 22 January 2022, PNG's parliament passed amendments to the Criminal Code to abolish the death penalty, which would make Papua New Guinea the 21st country in Asia and the Pacific to abolish the death penalty and the 110th country to do so globally. We welcome the move by PNG to abolish the death penalty, a recommendation that was widely supported throughout the UPR process and we encourage the authorities to enshrine their commitment to abolition under international law by promptly ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

LGBTI rights and decriminalization

Papua New Guinea's laws criminalize consensual same sex sexual activity. The criminalization of consensual same sex relations cannot be considered a recognizable criminal offence under international human rights law. It is in violation of a number of human rights, including the right to dignity, equality before the law, non-discrimination, liberty and security of the person and rights to privacy. In 2016, Amnesty International reported on the harmful impact of laws that criminalize sex work and same sex sexual activity in PNG, both of which further marginalize individuals and increase the risk of violence against them.²

¹ See: <https://www.ohchr.org/en/hr-bodies/upr/uprpg-stakeholders-info-s39>

² Amnesty International, *Papua New Guinea: Outlawed and Abused: Criminalizing sex work in Papua New Guinea*, 26 May 2016, ASA 34/4030/2016, available at: <https://www.amnesty.org/en/documents/asa34/4030/2016/en/>

Ten submissions by civil society organizations raised LGBTI rights, including the need to end stigma, violence and discrimination and repeal laws that criminalize same sex sexual activity between consenting adults. 11 States recommended that PNG consider decriminalizing consensual same sex sexual activity, and a further three called for anti-discrimination laws on the basis of sexual orientation and gender identity.

PNG only noted recommendations to repeal relevant aspects of the criminal code, stating the issue is ‘an evolving one that is culturally sensitive in the country’. However, the UPR process has highlighted increasing support for decriminalization.

We urge the authorities to repeal laws that criminalize consensual same sex sexual activity between adults and implement laws that prohibit discrimination on the basis of sexual orientation and gender identity.

Rights of women and girls

At least 11 of the submissions (joint and individual) highlighted the rights of women and girls including high levels of family violence, sorcery accusation related violence (SARV), income inequality, lack of political representation of women, high maternal death rates and access to safe and legal abortion. While the recommendations on the human rights of women and girls were varied, there was near universal acknowledgement that PNG needs to adopt more measures to end violence against women and SARV.

In response, PNG noted it is ‘an ongoing priority of government through its various policies and programs to combat gender-based violence and sorcery-accusation related violence; however gaps remain on implementation’.³ Unfortunately, PNG did not support recommendations to provide access to safe and legal abortion.⁴ PNG noted that its laws already support equal participation of women in politics and public life, but commitments did not extend beyond encouraging political parties to nominate and endorse women candidates.⁵

We urge the authorities to continue its engagement with civil society, and particularly women, to develop effective measures to end gender-based violence and sorcery accusation-based violence. We urge the government of PNG to reconsider its stance on safe and legal abortion, as a demonstration of its commitment to the rights of women and girls and to do more to ensure the equal participation of women in political life.

Children’s rights

We acknowledge the commitments by PNG to review the minimum age of criminal responsibility from 7 to 14 years of age, a recommendation that was specifically supported by Human Rights Watch’s submission.⁶ In addition, PNG acknowledged its commitment to prevent abuse and exploitation including through early and forced marriage.⁷ However, PNG noted a rarely enforced provision of the Lukautim Pikini Act which prohibits child marriage (for persons under the age of 18). This law contradicts the Marriage Act 1964, which allows for girls to get married at 16 years of age, or 14 years of age with judicial consent.

PNG must commit to reform of the Marriage Act 1964 to bring it in line with the Lukautim Pikini Act on marriageable age and address cultures and customs, such as the payment of bride price, which encourage early and forced marriage.

Extractive industries, the right to a healthy environment and climate change

Six submissions raised issues around the right to a healthy environment and climate change. In particular, concerns over failings to adequately address the environmental and human impact at mining sites at Porgera (where widespread human rights violations have been reported) and in the Sepik region. In response, PNG acknowledged its support to address environmental issues and tackle climate change and claimed it already has close consultation with indigenous people.⁸

³ UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Papua New Guinea, Addendum, UN Doc. A/HRC/49/11/Add.1, Recommendations 131-150 [France, Thailand, Portugal, Australia, Ukraine, Germany, Marshall Islands, United Kingdom of Great Britain and Northern Ireland, Philippines, Canada, Chile, Cyprus, United States of America, Netherlands, Italy, Latvia, Spain, Malawi, Ireland, New Zealand and Switzerland]

⁴ A/HRC/49/11/Add.1 at Recommendation 106.

⁵ A/HRC/49/11/Add.1 at Recommendations 120-127.

⁶ A/HRC/49/11/Add.1 at Recommendation 153.

⁷ A/HRC/49/11/Add.1 at Recommendations 151 and 152.

⁸ A/HRC/49/11/Add.1 at Recommendations 58 – 66.

There is a clear disconnect between tangible government commitments on improving environmental protection and tackling climate change and the feedback from people making submissions that very little has been done, particularly around extractive industries.

We urge PNG to adopt and implement clear and measurable targets to improve the right to healthy environment and other related rights and to regularly engage with impacted communities to track performance of these targets. We also urge PNG to equally prioritize climate change adaptation and mitigation projects beyond climate resilient infrastructure.

Civil and political rights

As part of a joint submission PIANGO, CIVICUS and Transparency International⁹ raised concerns around restrictions in the civic space, particularly on the right to access information, the right to privacy, the rights to freedom of expression and to peaceful assembly and association. Examples were provided of repercussions against journalists and whistleblowers, particularly those who exposed corruption or worked on environmental issues. Spain, Brazil and the Marshall Islands recommended better protection for access to information, freedom of expression, association and assembly and also the right to privacy.¹⁰

In reply, PNG acknowledged existing Constitutional rights and committed to developing an access to information law. However, some commitments lacked the clarity of the recommendations made to government and appeared to refute concerns that freedom of expression is restrained in the country. PNG cited the Cybercrime Code Act (2016) that criminalizes defamation, as a means of justifying its restriction on the right to freedom of expression.¹¹ It failed to consider that laws criminalizing defamation, whether of public figures or private individuals, should be treated as a matter for civil litigation.

We urge PNG to implement the recommendations to protect the right to freedom of expression and association by reviewing laws and regulations that have the effect of limiting the exercise of those rights and freedoms, as well as the persecution of human rights defenders, journalists and whistleblowers.

PNG does not currently have a National Human Rights Institution but pledged to work towards the establishment of one that is consistent with the Paris Principles. We urge PNG to set up an adequately resource a fully independent National Human Rights Institution as soon as possible.¹²

⁹ Joint Submission 10 (PIANGO, CIVICUS and Transparency International) available at: <https://www.ohchr.org/en/hr-bodies/upr/uprpg-stakeholders-info-s39>

¹⁰ A/HRC/49/11/Add.1 at Recommendations 95 to 97.

¹¹ A/HRC/49/11/Add.1 at Recommendation 97.

¹² A/HRC/49/11/Add.1 at Recommendation 36 to 42 [as recommended by Nepal, Indonesia, India, Georgia, Australia, Ukraine, Montenegro, New Zealand, Pakistan and the Netherlands and supported by PNG].