

PAPUA NEW GUINEA

**TIME FOR A REAL ACTION TO
PROTECT HUMAN RIGHTS**

*UN Universal Periodic Review
of Papua New Guinea, May
2016*

AMNESTY
INTERNATIONAL



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EXECUTIVE SUMMARY

This document is published in the lead-up to the second Universal Periodic Review (UPR) of Papua New Guinea (PNG) in May 2016. It focuses on several key human rights issues, including sexual and gender based violence, sorcery related violence, unnecessary or excessive use of force by the authorities, rights of asylum seekers and refugees, and the death penalty.

FOLLOW UP TO THE PREVIOUS REVIEW

During its first UPR in May 2011, PNG accepted recommendations to reinforce the legal framework for the prevention of violence against women,¹ including a national awareness campaign,² the creation of safe places for victims of gender-based violence,³ as well as comprehensive investigation and prosecution in cases of domestic violence and sorcery-related violence.⁴ PNG also accepted recommendations to adopt a national gender policy⁵ and to establish a national human rights institution.⁶ In line with recommendations accepted during the 2011 review, the Special Rapporteur on violence against women visited PNG in 2012.⁷

PNG also accepted recommendations to prevent alleged human rights violations by police officers,⁸ to ensure their accountability for respecting human rights,⁹ and to carry out effective and independent investigations and prosecutions of alleged excessive use of force by the security forces.¹⁰

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Papua New Guinea*, 11 July 2011, A/HRC/18/18, recommendations 78.17 (Argentina), 78.18 (Canada), 78.19 (Norway), 78.20 (Republic of Korea).

² A/HRC/18/18, recommendation 78.35 (United States).

³ A/HRC/18/18, recommendation 78.36 (New Zealand).

⁴ A/HRC/18/18, recommendation 78.22 (Poland).

⁵ A/HRC/18/18, recommendation 78.48 (Switzerland).

⁶ A/HRC/18/18, recommendation 78.23 (Samoa), 78.24 (Thailand), 78.25 (Canada), 78.26 (Morocco), 78.27 (Costa Rica), 78.28 (Maldives), 78.29 (Poland), 78.30 (Argentina), 78.31 (Norway), 78.32 (South Africa), 78.33 (France), 78.34 (New Zealand).

⁷ A/HRC/18/18, recommendations 78.44 (Slovenia), 78.45 (Norway), and 78.46 (Canada); Human Rights Council, *Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum – Mission to Papua New Guinea*, 18 March 2013, A/HRC/23/49/Add.2.

⁸ A/HRC/18/18, recommendation 78.50 (Republic of Korea).

⁹ A/HRC/18/18, recommendation 78.56 (Slovenia).

¹⁰ A/HRC/18/18, recommendation 78.57 (Slovakia).

A number of states made recommendations on the abolition of the death penalty. Regrettably, PNG rejected all of them, including recommendations to establish a moratorium on executions.¹¹

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Amnesty International welcomes PNG's ratification of the Convention on the Rights of Persons with Disabilities in 2013. More broadly, however, we are concerned about the lack of priority given by the government to its reporting obligations under the international human rights treaties to which it is party.¹² This reflects a lack of political will on the part of the government to implement its human rights obligations and to promote and protect the human rights of its population.

NATIONAL HUMAN RIGHTS INSTITUTION

The government has yet to establish a national human rights institution despite the endorsement of a bill by the National Executive Council in 1997. In Amnesty International's 2011 UPR submission we welcomed this endorsement and the subsequent 2007 Final Option paper on the establishment of a national human rights institution as well as the setting up of a small human rights unit in the Office of the Ombudsman.

SEXUAL AND GENDER BASED VIOLENCE

Discrimination against women in PNG remains of grave concern to Amnesty International. Harmful norms, practices and traditions contribute to the negative stereotyping of women and their widespread discrimination in almost all facets of society.

Polygamy is widely practiced in many rural areas of the country and contributes to societal perceptions that women have a lowly status and can be treated as a commodity. This is further exacerbated by the practice of paying a "bride price", i.e. "buying" a woman. In their concluding observations on PNG in July 2010, the CEDAW Committee urged the government to "put in place without delay a comprehensive strategy, including legislation, to modify or eliminate customary practices and stereotypes that discriminate against women in conformity with

¹¹ A/HRC/18/18, recommendations 79.31 (Spain), 79.32 (Holy See), 79.33 (Czech Republic), 79.34 (Slovakia), 80.1 (Switzerland) and 80.2 (France).

¹² No report was submitted for the Convention on the Elimination of All Forms of Discrimination against Women due on 1 July 2014; the last report submitted for the International Convention on the Elimination of All Forms of Racial Discrimination was in 1983; no report was submitted for the International Covenant on Civil and Political Rights due on 21 October 2009; no report was submitted for the International Covenant on Economic, Social and Cultural Rights due on 1 July 2010; and no report was submitted for the Convention on the Rights of the Child, which was due in 2008.

articles 2, 2 (f) and 5 (a) of the Convention”.¹³ Amnesty International is concerned to note that as of early 2016, this has not been undertaken.

FAMILY VIOLENCE

Information available to Amnesty International, including its own research, indicate that violence against women in the home and in the community remains pervasive. The threat of gender-based violence, particularly sexual violence, impacts on women’s ability to move freely in the community, to use public transport, to access health and education services, and to travel to the market or the workplace. In July 2010, the CEDAW Committee expressed concern that “harmful norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes of women” have contributed to “the persistence of violence against women, including sexual violence at domestic and community levels”.¹⁴

Amnesty International welcomes the introduction of the 2013 Family Protection Act, which criminalises domestic violence. The introduction of Family and Sexual Violence Units is also a positive development.¹⁵ The government has also built partnerships with trauma response centres. However, these initiatives have yet to be followed up by political will to implement them in more locations nationwide and to invest further in robust gender policies.

Many women are unable to access remedy for incidents of family violence due to a widely prevalent culture of silence that leads to significant under-reporting of violence against women, as well as a lack of resources in police departments to deal effectively with family violence reports, for example not having enough money to afford petrol to visit a complainant. Women victims of violence are regularly subjected to undue pressure from family and members of the community to “settle” serious criminal charges through traditional reconciliation methods.¹⁶ When women do lodge complaints with law enforcement authorities they are often unable to access free legal aid or are intimidated, threatened and even beaten up.

Despite some progress, it is difficult for survivors of domestic violence to obtain interim protection orders as police often prioritise couple counselling and mediation as a means to address cases of domestic violence.¹⁷

SORCERY-RELATED VIOLENCE

Women continue to be attacked and sometimes killed following accusations of sorcery. Sorcery (“puri-puri”) is thought by many in PNG, especially in remote

¹³ Concluding observations of the Committee on the Elimination of Discrimination against Women: Papua New Guinea, CEDAW/C/PNG/CO/3 (2010), para. 26.

¹⁴ CEDAW/C/PNG/CO/3, paras. 25 and 29.

¹⁵ World Health Organization and National Department of Health, Papua New Guinea, *Health Service Delivery Profile, Papua New Guinea, 2012*, http://www.wpro.who.int/health_services/service_delivery_profile_papua_new_guinea.pdf (accessed 15 February 2015).

¹⁶ Human Rights Watch, *Bashed up: Family Violence in Papua New Guinea*, 2015, p. 43.

¹⁷ Human Rights Watch, *Bashed up: Family Violence in Papua New Guinea*, 2015, pp. 28, 34 and 70.

areas, to account for sudden or unexplained deaths or illnesses. In some cases this has led to one person being killed for another person's unexplained death.

- In May 2015, a group of men in a remote part of Enga province killed a woman after she had been accused of “sorcery”. Two other women were also targeted during the attack – they were assaulted and briefly held captive in a hut, but released when other villagers heard their screams. The three women had been threatened since at least January 2015, when the local police intervened when they and their children received death threats and were accused of using “sorcery”. The police convinced members of the community to withdraw the accusations, however, this failed to stop the attack.¹⁸
- In February 2013, 23-year-old Kepari Leniata was stripped, tied up, doused in petrol and burned alive by the relatives of a boy who had died following illness in the city of Mount Hagen. The attackers claimed Kepari had caused the boy's death through “sorcery”. The PNG authorities did not investigate the case and no one was brought to justice for her killing.¹⁹

Amnesty International welcomes the repeal in May 2013 of the 1971 Sorcery Act which provided a defence for violent crime if the accused was “acting to stop sorcery”. Since then, however, many sorcery-related killings have not been investigated and prosecuted and the government's response has been seriously inadequate.²⁰

A National Action Plan to address sorcery-related violence was adopted on 21 July 2015; however, it has yet to be implemented.

UNNECESSARY OR EXCESSIVE USE OF FORCE BY POLICE AND MILITARY

Reports of unnecessary or excessive use of force by police and military have persisted in recent years. The PNG authorities rarely carry out independent investigations into these violations and accountability mechanisms remain weak.

- In March 2014, a graphic video depicted a seemingly defenceless man being repeatedly attacked by a police dog squad. In the video, which has been shared on social media, the man is seen sitting on the ground, surrounded by officers holding three leashed dogs as they lunge at and attack him. A marked police vehicle and officers in uniform are clearly visible in the video. At the end of the video, the man manages to escape.

¹⁸ Amnesty International, *Papua New Guinea: Vicious 'sorcery' killing leaves two more women at imminent risk*, 26 May 2015, <https://www.amnesty.org/en/latest/news/2015/05/papua-new-guinea-vicious-sorcery-killing-leaves-two-more-women-at-imminent-risk/>, (accessed 15 February 2016).

¹⁹ Amnesty International, *PNG: No justice for woman burned alive in 'sorcery' attack*, 6 February 2014, <https://www.amnesty.org/en/latest/news/2014/02/png-no-justice-woman-burned-alive-sorcery-attack/>, (accessed 15 February 2016).

²⁰ Amnesty International, *PNG: Police must act urgently to save captured women accused of "sorcery"*, 10 April 2013, <https://www.amnesty.org/en/latest/news/2013/04/papua-new-guinea-police-must-act-urgently-save-captured-women-accused-sorcery/> (accessed 26 February 2016).

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported in March 2015 being “deeply concerned at reports that police officers who use excessive force which results in death are rarely disciplined, suspended from office or prosecuted in court”²¹

TORTURE AND OTHER ILL-TREATMENT

Following a visit to PNG in March 2014, the UN Special Rapporteur on torture reported that women’s vulnerability was “particularly exacerbated upon arrest and in police custody”.²² The Special Rapporteur reported receiving “many allegations of sexual abuse”, including reports of incidents where arresting officers demanded sex in exchange for release from custody; where women were arrested for minor offences with the intention of sexually abusing them; and where arrested women were kept overnight in cells with male detainees and subjected to gang rape.

Marginalised groups, including sex workers and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons are particularly vulnerable to abuses by police while in custody. National laws criminalizing sex work and same-sex sexual activity are rarely fully enforced. Instead, police officers use these laws to abuse their authority to extort money and sexual favours from sex workers, with the implicit threat of charges or detention if they fail to meet demands.

ASYLUM-SEEKERS AND REFUGEES

Australia has used Manus Island in PNG as a detention centre for asylum-seekers since 2012. The conditions at the detention centre are poor, despite the expansion in 2015 of the medical facilities and a small reduction in the number of detainees, which has reduced overcrowding. However, Amnesty International remains concerned about prolonged and arbitrary detention of asylum seekers at the centre.

In March 2014, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported that “the situation at the Manus Island centre is clearly very unhealthy and volatile, and both Australia and PNG remain responsible for protecting the human rights - including the right to life - of the asylum seekers in the camp.”²³

In January 2015, there was a two-week hunger strike at the detention centre involving more than 700 detainees. At the time, Amnesty International raised concerns about the security services entering the living compounds at the detention in violation of the asylum seekers’ right to peaceful protest. Amnesty International

²¹ Human Rights Council - *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Addendum - Mission to Papua New Guinea*, 30 March 2015, A/HRC/29/37/Add.1, para. 23.

²² UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea, 25 May 2010, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E> (accessed 15 February 2016).

²³ A/HRC/29/37/Add.1, para. 48.

was also concerned that excessive use of force may have been used to end the protest.²⁴

In February 2014, Reza Berati, a 24-year-old Iranian, was killed and at least 62 other detainees were injured when security staff and police entered their living compounds at the detention centre, attacking detainees with sticks, machetes and guns. Two men from PNG are currently on trial for the incident; however, three other suspects are thought to be involved, including a New Zealander and an Australian.²⁵

In October 2015, the Australian and PNG governments announced that final decisions would be made regarding refugee status for the remaining 926 adult male detainees by the end of 2015 and that those receiving refugee status would be resettled across PNG. In February 2016, the PNG government announced that 472 asylum seekers had been determined as refugees and were free to leave the detention centre. Around 61 refugees were reported to have already been released into alternative accommodation on Manus Island. Amnesty International remains concerned about resettlement arrangements by the PNG and Australian governments for these men regarding housing, healthcare, family reunification and access to appropriate employment opportunities.

THE DEATH PENALTY

PNG retains the death penalty in law and, according to Amnesty International's latest figures, 13 prisoners are currently on death row.

The Criminal Code (Amendment) Act, 2013, adopted by Parliament on 28 May 2013, adds four new legal methods of execution in addition to hanging: lethal injection, electrocution, firing squad, and "medical death by deprivation of oxygen". The law also expands the scope of the death penalty to crimes of robbery and aggravated rape where there has been accompanying violence, use of dangerous weapons, or more than one perpetrator. It also specifies that the death penalty can be applied for sorcery-related murder.

Although PNG has not carried out any executions since 1954, it disappointingly rejected all recommendations to abolish the death penalty during its 2011 UPR.²⁶

²⁴ Amnesty International, *Australian and PNG authorities must respect asylum seekers' right to protest*, 19 January 2015, <https://www.amnesty.org/en/latest/news/2015/01/australian-and-png-authorities-must-respect-asylum-seekers-right-protest/>, (accessed 15 February 2016).

²⁵ The Guardian, *Men accused of Reza Barati's death in Manus detention centre stand trial*, <http://www.theguardian.com/australia-news/2015/sep/21/men-accused-of-reza-baratis-death-in-manus-detention-centre-stand-trial> (accessed 26 February 2016).

²⁶ A/HRC/18/18, recommendations 79.31 (Spain), 79.32 (Holy See), 79.33 (Czech Republic), 79.34 (Slovakia), 80.1 (Switzerland) and 80.2 (France).

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Papua New Guinea to:

Implementation of international human rights obligations

- Submit all periodic reports that are outstanding to the treaty bodies;
- Design an effective framework to implement its national and international human rights obligations;
- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, as well as the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

Gender equality

- Repeal any remaining laws and regulations that discriminate against women and girls or amend them in line with international human rights standards;
- Ensure that all public servants are aware of the gender policy, once it has been adopted, and how to implement it in their work in an effective manner.

Sexual and gender-based violence

- Fully and promptly implement the Family Protection Act;
- Ensure full and prompt investigation of all reports of gender-based violence, including sexual violence against individuals detained by the police, that the perpetrators are brought to justice in fair trials, and that the victims receive reparation;
- Ensure that national-level and provincial-level plans are in place for the prevention of violence against women and girls, based on a common framework to ensure coherence across provinces and compliance with PNG's due diligence obligations;
- Put in place clear referral protocols which link up police, healthcare and welfare services, such as counselling, emergency accommodation and legal advice, to ensure that relevant staff are familiar with these protocols, and that they are followed systematically;
- Ensure that women and girls who have been subject to gender-based violence have access to healthcare services, counselling, emergency accommodation and long-term and sustainable housing and livelihood solutions;
- Ensure that healthcare professionals, welfare officers, counsellors, legal advisors and security forces are trained in how to respond to female survivors of gender-based violence in a manner that respects women's human rights and prioritizes their safety and welfare;
- Establish Family and Sexual Violence Units in all major police stations, with sufficient staff and resources available;

- Implement awareness-raising programmes to educate communities about sexual and gender-based and sorcery-related violence;
- Ensure that non-governmental organizations get sufficient government funding to carry out their services for victims of gender based violence;
- Adopt a comprehensive approach to ensuring the economic and social rights of women and girl survivors of violence, including their rights to housing, social security, education, and work;
- Develop and provide the necessary resources to implement a standard system for collecting data and compiling statistics on violence against women and girls for use by all service agencies.

Unnecessary or excessive use of force

- Vigorously pursue investigations by an independent mechanism of all crimes committed by the security forces to ensure that the perpetrators are brought to justice;
- Introduce effective measures to prevent the abuse of women who have been arrested and detained by police;
- Ensure that all complaints about violence or sexual abuse of detainees by the police are fully investigated and prosecuted.

Asylum-seekers and refugees

- Work with Australia to put an end to mandatory detention of asylum-seekers;
- Develop a robust resettlement framework for refugees as a matter of urgency, including assistance with housing, healthcare, family reunification and access to appropriate employment opportunities.

The death penalty

- Repeal all provisions in domestic law allowing for the death penalty and establish an official moratorium on executions with a view to abolishing the death penalty;
- Commute all death sentences to terms of imprisonment;
- Pending abolition of the death penalty, ensure rigorous application of international standards for fair trial in all death penalty cases.