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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Thirty-ninth session**  
1–12 November 2021

## **Compilation on Papua New Guinea**

### **Report of the Office of the United Nations High Commissioner for Human Rights**

#### **I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

#### **II. Scope of international obligations and cooperation with international human rights mechanisms and bodies<sup>1, 2</sup>**

2. The United Nations country team reported that, although Papua New Guinea had accepted several recommendations to ratify various treaties, it had adopted no treaties or optional protocols since the second cycle of the universal periodic review. The United Nations country team recommended that Papua New Guinea ratify the Convention on the Rights of the Child, the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women to review customary laws and repeal provisions that are discriminatory against women.<sup>3</sup>

3. The Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that Papua New Guinea accede to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.<sup>4</sup>

#### **III. National human rights framework<sup>5</sup>**

4. As Papua New Guinea is a State party to the Convention for the Protection of the World Cultural and Natural Heritage (1972) and the Convention for the Safeguarding of the Intangible Cultural Heritage (2003), the United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged the Government to fully implement the provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life (see article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights). UNESCO also encouraged Papua New Guinea to



give due consideration to the participation of communities, practitioners, cultural actors and non-governmental organizations, as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young people and persons with disabilities) and to ensure that equal opportunities are given to women and girls. UNESCO further encouraged Papua New Guinea to ratify the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) and to complete its policy and legislative frameworks in support of the implementation of the right to take part in cultural life.<sup>6</sup>

5. The United Nations country team recommended that Papua New Guinea establish a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and scale up support for the Ombudsman Commission in the interim.<sup>7</sup>

## **IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **A. Cross-cutting issues**

#### **1. Equality and non-discrimination<sup>8</sup>**

6. The discrimination faced by the lesbian, gay, bisexual and transgender community is highly pronounced. In May 2020, following the International Day against Homophobia, Transphobia and Biphobia, public threats were made on social media to burn the rainbow flag symbolizing support for the rights of lesbian, gay, bisexual and transgender persons. Lesbian, gay, bisexual and transgender persons experience victimization and violence, with numerous reported cases of blackmail, beatings and killings. In addition, significant adverse effects on access to mental and public health services have been reported. The United Nations country team recommended that Papua New Guinea direct the Constitutional and Law Reform Commission to carry out a review of the Criminal Code as a step towards repealing provisions that criminalize same-sex sexual relations, that it support the work of civil society organizations advocating the rights of lesbian, gay, bisexual and transgender persons and that it ensure that State bodies, particularly those involved in the provision of health care and law enforcement, receive awareness-raising training in order to ensure equal treatment of lesbian, gay, bisexual and transgender persons.<sup>9</sup>

7. Papua New Guinea has adopted a national strategy on sexually transmitted infections and HIV for 2018–2022, in which it sets out various priority actions guided by the evidence that stigma and discrimination erect barriers between people and HIV service providers, and has formally joined the Global Partnership for Action to Eliminate All Forms of HIV-related Stigma and Discrimination. The United Nations country team recommended that Papua New Guinea address HIV-related discrimination in various settings, including the justice sector, by ensuring that those affected by HIV are protected from discrimination under the law, are aware of their rights and have adequate recourse.<sup>10</sup>

#### **2. Development, the environment, and business and human rights<sup>11</sup>**

8. The country ranked as the 137th least-corrupt nation of 180 countries and was rated as highly corrupt in the global 2019 Corruption Perceptions Index. While governmental bodies and bodies supported primarily by government funds and their respective staff may be investigated under the Leadership Code, few investigations or prosecutions have occurred. The Whistleblower Act 2020 aims to encourage employees to disclose any suspicion of impropriety in the workplace, including failures to comply with legal obligations, miscarriages of justice and deliberate efforts to conceal misconduct. In June 2020, the national action plan against corruption was finalized, leading to the successful tabling and passage of the Organic Law on the Independent Commission against Corruption Law 2019 and establishing that Commission, a body mandated with investigating and prosecuting private individuals and public officials.<sup>12</sup>

9. On environmental issues, Papua New Guinea has a comprehensive set of laws and policies, including the Forest Act 1991, the Fisheries Management Act 1998 (amended in 2015), the Papua New Guinea Vision 2050 and the National Strategy for Responsible Sustainable Development. The United Nations country team recommended that Papua New Guinea improve the reliability and accuracy of its environmental monitoring activities and that it enforce effectively its environmental regulations and codes of practice while integrating public environmental concerns into national policies.<sup>13</sup>

10. The United Nations country team recommended that Papua New Guinea strengthen the Ombudsman Commission's ability to investigate complaints and implement the Leadership Code and that it ensure that the Independent Commission against Corruption is sufficiently well-funded and well-staffed as to enable investigations under the Whistleblower Act 2020 and the Organic Law on the Independent Commission against Corruption Law 2019.<sup>14</sup>

## **B. Civil and political rights**

### **1. Right to life, liberty and security of person<sup>15</sup>**

11. The United Nations country team recommended that Papua New Guinea maintain the moratorium on the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights with a view to abolishing it *de jure*.<sup>16</sup>

12. The United Nations country team highlighted the need to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and to amend the Criminal Code so as to criminalize child sex trafficking without elements of force, fraud or coercion, in line with the Protocol. The United Nations country team recommended that Papua New Guinea review the national action plan 2015–2020 and develop the next national action plan (for the period beyond 2020), allocating the resources and staff needed for its effective implementation.<sup>17</sup>

### **2. Administration of justice, including impunity, and the rule of law<sup>18</sup>**

13. The Constitution contains a section dedicated to a broad set of human rights and is unique in providing for the legal enforcement of these rights through petitions to the National Court. Despite these provisions and mechanisms, rights are often not respected or protected. The courts are slow at administering justice and are dealing with a case backlog of several years. There is a network of village courts that handle mostly cases relating to land, consumer protection and personal disputes using a process based on traditional law and justice. Although they are not meant to handle serious or criminal cases, village courts may provide critical and timely services and defuse local conflicts. However, customary justice tends to uphold the values of the societies in which they are embedded, giving way to judgments that are not always human rights-compliant.<sup>19</sup>

14. The district and family courts hear the majority of domestic violence cases, excluding the emergency cases heard by the National Court and the human rights court. There are several structural barriers to women's access to justice, including the distance to courts and the lack of legal aid, information about rights and resources to pay for legal services.<sup>20</sup>

15. The United Nations country team recommended that Papua New Guinea support a gender-responsive justice system so that survivors have equal access to justice, including by providing training and capacity-building for court personnel, strengthening the issuing, monitoring and enforcement of protection and interim protection orders, institutionalizing and resourcing gender-responsive legal aid and introducing specialized court procedures to allow for women's safe access to justice.<sup>21</sup>

16. Law enforcement entities have limited capacity and reach, and have long been mistrusted by local communities because officers have lacked training and because of police brutality and corruption. Papua New Guinea accepted recommendations to strengthen the capacity of the police and eliminate abuse, corruption and the excessive use of force. Since then, the Royal Papua New Guinea Constabulary has held discipline trainings in the

provinces and the capital and launched a “policing the police force” initiative to investigate unlawful conduct in Port Moresby. In 2018 and 2019, 133 police officers were investigated and 42 were arrested, although convictions were rare outside of Port Moresby.<sup>22</sup>

17. During the COVID-19 state of emergency, the police advertised a toll-free hotline functioning as an internal investigation unit. Four major investigations in the capital and several investigations in the provinces were initiated on the basis of calls made using the hotline. The hotline was maintained for only six months but, given its value, it should become a permanent fixture.<sup>23</sup>

18. For the most part, law enforcement officers lack the capacity to fulfil their task of protecting victims of domestic violence. Positive steps have been taken since the past universal periodic review. In 2019, two dedicated gender advisers were introduced in the police and gender-sensitivity training was provided to over 200 male officers. Work has commenced in 2021 on the development of a gender equality and social inclusion policy for the Royal Papua New Guinea Constabulary. A women’s advisory network aimed at supporting and enhancing equal opportunity for and the empowerment of women in policing has been developed and holds regular meetings.<sup>24</sup>

19. While the Government has made notable progress in establishing a range of core protection service providers, such as family sexual violence units and police sexual offences squads, the quality, coverage and degree of utilization of these services remains low.<sup>25</sup>

20. While a juvenile justice system has been established as a result of the implementation of the Juvenile Justice Act 2014 and the national juvenile justice plan for 2018–2022, significant gaps in the legislation remain.<sup>26</sup>

21. The United Nations country team recommended that Papua New Guinea develop and strengthen codes of conduct and induction training for law enforcement personnel while instituting complaints and feedback mechanisms for victims of abuse, corruption and excessive use of force, including a toll-free hotline, and create strong accountability processes to respond to misconduct. It also stressed the need to institutionalize and integrate specialist police units and family sexual violence units within the formal structure of the Royal Papua New Guinea Constabulary and raise the minimum age of criminal responsibility to 14 years.<sup>27</sup>

22. The United Nations country team stressed the need to implement policies to ensure access to HIV/AIDS prevention goods and services, allow regular visits to places of detention and ensure that children detained during the course of the administration of justice are not detained together with adults.<sup>28</sup>

### **3. Fundamental freedoms and the right to participate in public and political life<sup>29</sup>**

23. UNESCO recommended that the Government decriminalize online defamation and place it within a civil code that is in accordance with international standards and that it introduce legislation on access to information that is in accordance with international standards.<sup>30</sup>

24. Local media provides independent coverage of the political opposition, as well as controversial issues such as alleged police abuse and official corruption. Nevertheless, media outlets are limited and access to communication tools, including the Internet, is lacking. A series of high-profile developments have demonstrated the need for consideration to be given to issues of freedom of speech. The Cybercrime Code Act 2016, which allows for the prosecution of people who publish defamatory material or incite to violence on social media, has raised concerns. In 2017, a women’s rights and environmental activist was raped in retaliation to her vocal defence of women’s rights and her complaints about the negative impact of mining operations. In 2018, an activist for environmental rights and the rights of lesbian, gay, bisexual and transgender persons faced threats and violence by government and mining company officials following his efforts to raise awareness about the dangers of mining exploration and the tailings in the Sepik River.<sup>31</sup>

25. The United Nations country team recommended that Papua New Guinea uphold the rights to freedom of expression and freedom of association by reviewing any laws or regulations that may be intended to or that have the effect of excessively limiting the exercise of those rights and freedoms and that it promote the independence of civil society

organizations and the media by preventing interference and removing obstacles to their capacity-building.<sup>32</sup>

## **C. Economic, social and cultural rights**

### **1. Right to health<sup>33</sup>**

26. The United Nations country team recommended that Papua New Guinea ensure an adequate number of functioning health-care facilities, services and commodities to serve the population, including essential medicines such as contraceptives, that are culturally appropriate and considerate of the needs and interests of minorities, indigenous populations, and different gender and age groups.<sup>34</sup>

27. The United Nations country team stressed that health facilities and services should be accessible without discrimination, meaning that they must be accessible to all, in law and in practice, particularly the most vulnerable populations.<sup>35</sup>

28. The United Nations country team also stressed that supply and coverage should meet the increasing use of and demand for maternal and child health services while strengthening national-level coordination across nutrition-specific and sensitive sectors.<sup>36</sup>

29. The United Nations country team recommended that Papua New Guinea ensure the availability of counselling services, quality specialized mental health services and psychosocial support tailored to the nature and severity of individuals' needs; that it provide resources for mental health education, including at the university level and in pre- and in-service training; and that it integrate a focus on violence against children in mental health curricula.<sup>37</sup>

### **2. Right to education<sup>38</sup>**

30. A quarter of children aged 6–18 years are not in school and nearly half of adolescents aged 10–19 years have no formal education. Significant disparities in access remain, with just half of the children from the poorest quintile enrolled in school and girls living in extremely remote areas being twice as likely to be out of school than boys. The World Bank has found that school attendance has been strongly affected since the beginning of the COVID-19 pandemic. More than half of households with school-age children have indicated reducing the number of children attending school, which could lead to serious long-term repercussions on human capital development and a widening of the gender gap in education if girls are kept home more than boys.<sup>39</sup>

31. Given this context, the United Nations country team recommended that Papua New Guinea integrate gender equality into all levels of education and complete, adopt and roll out the national strategy on out-of-school children, particularly in remote and rural communities, to ensure access to education.

32. UNESCO recommended that Papua New Guinea ratify the Convention against Discrimination in Education and guarantee, by law, nine years of compulsory education and 12 years of free education.<sup>40</sup>

## **D. Rights of specific persons or groups**

### **1. Women<sup>41</sup>**

33. The challenges facing women's equal and meaningful political participation and leadership are due to a variety of systemic, structural and cultural factors. Few women contest elections and those who do tend to lack support and resources. Women require an enabling environment that is free of violence and that offers them a fair chance to compete, while voters are educated on the importance of equal gender representation. Currently, there are no special measures, temporary or otherwise, in place to support women's electoral representation in Parliament.<sup>42</sup>

34. The United Nations country team recommended that Papua New Guinea fund and support action to eliminate the barriers to women's political participation based on research and gender-disaggregated data, including special temporary measures such as reserved seats and quotas for women. It also recommended that it ensure that women can vote freely and without risk of violence or coercion by sharing inclusive voter information and increasing public understanding of the electoral laws prohibiting bribery and coercion.<sup>43</sup>

## 2. Children<sup>44</sup>

35. The low levels of birth registration contribute to the vulnerability of children to violence, abuse and exploitation. The Government has identified civil registration as a key priority and set the target of increasing birth registration by 50 per cent by 2022. Papua New Guinea has also enacted the Child Protection Act 2015, which cannot be fully implemented unless every child's birth has been registered. The United Nations country team recommended strengthening birth registration for children, including children under 5 years of age.<sup>45</sup>

36. The United Nations country team also recommended that Papua New Guinea fully implement the *Lukautim Pikinini* Act 2015 and review current penalties relating to the sale of children, child prostitution and child pornography as a step towards increasing the penalties or encouraging prosecutors to use the Criminal Code Amendment Act.<sup>46</sup>

37. UNESCO recommended to pursue efforts against child marriage, especially by harmonizing the Marriage Act in light of the Child Protection Act of 2015.<sup>47</sup>

## 3. Migrants, refugees, asylum seekers and internally displaced persons<sup>48</sup>

38. When the recommendations from the second cycle of the universal periodic review were made, asylum seekers and refugees forcibly transferred to Papua New Guinea were subject to indefinite and arbitrary detention at the regional processing centre on Manus Island. Since the 2016 decision in *Namah v. Pato*, in which the Supreme Court found that the detention of transferred asylum seekers was in breach of the right to liberty under sections 38 and 39 of the Constitution, restrictions on freedom of movement at the regional processing centre have eased.<sup>49</sup>

39. However, in August 2019, 53 asylum seekers were detained in harsh conditions amounting to indefinite and arbitrary detention at Bomana Immigration Detention Centre in Port Moresby. They were denied access to fair and efficient appeal procedures to address *sur place* and other protection claims, and UNHCR was unable to monitor the detention conditions. UNHCR remains gravely concerned that, although the right to freedom of liberty is enshrined in the Constitution, domestic laws do not guarantee this right for asylum seekers and refugees in accordance with international laws and standards.<sup>50</sup>

40. UNHCR recommended that Papua New Guinea introduce legislation that ensures that the detention of asylum seekers or refugees is only applied as a measure of last resort, that establishes statutory time limits for detention and that ensures access to an effective judicial remedy to review the necessity of detention; and that it allow UNHCR access to monitor the conditions of asylum seekers and refugees who are detained in Papua New Guinea.<sup>51</sup>

41. UNHCR recommended that Papua New Guinea ensure that all persons seeking asylum enjoy procedural guarantees and that refugee status determination decisions can be appealed on the merits.<sup>52</sup>

## E. Specific regions or territories

42. The United Nations country team recommended that Papua New Guinea continue to work with the Autonomous Bougainville Government throughout the post-referendum consultation process, promoting joint decision-making and ensuring that the public is kept informed. Papua New Guinea should also promote the principle of inclusivity by increasing the participation of women and youth, empowering women and protecting human rights through the Bougainville House of Representatives.<sup>53</sup>

## Notes

- <sup>1</sup> Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Papua New Guinea will be available at [www.ohchr.org/EN/HRBodies/UPR/Pages/PGindex.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGindex.aspx).
- <sup>2</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.1–104.25.
- <sup>3</sup> United Nations country team submission for the universal periodic review of Papua New Guinea, p. 2.
- <sup>4</sup> United Nations Office of the United Nations High Commissioner for Refugees (UNHCR) submission for the universal periodic review of Papua New Guinea, p. 6.
- <sup>5</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.35–104.48.
- <sup>6</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO) submission for the universal periodic review of Papua New Guinea, paras. 11–12.
- <sup>7</sup> United Nations country team submission, p. 2.
- <sup>8</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.77–104.78.
- <sup>9</sup> United Nations country team submission, p. 3.
- <sup>10</sup> *Ibid.*, p. 4.
- <sup>11</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.154–104.157.
- <sup>12</sup> United Nations country team submission, p. 6.
- <sup>13</sup> *Ibid.*, p. 12.
- <sup>14</sup> *Ibid.*, p. 6.
- <sup>15</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.128–104.131 and 104.180–104.191.
- <sup>16</sup> United Nations country team submission, p. 8.
- <sup>17</sup> *Ibid.*, p. 9.
- <sup>18</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.135 and 104.192–104.193.
- <sup>19</sup> United Nations country team submission, p. 4.
- <sup>20</sup> *Ibid.*, p. 4.
- <sup>21</sup> *Ibid.*, p. 5.
- <sup>22</sup> *Ibid.*, p. 5.
- <sup>23</sup> *Ibid.*, p. 5.
- <sup>24</sup> *Ibid.*, p. 5.
- <sup>25</sup> *Ibid.*, p. 5.
- <sup>26</sup> *Ibid.*, p. 5.
- <sup>27</sup> *Ibid.*, p. 6.
- <sup>28</sup> *Ibid.*, p. 9.
- <sup>29</sup> For the relevant recommendation, see A/HRC/33/10, para. 104.69.
- <sup>30</sup> UNESCO submission, paras. 9–10.
- <sup>31</sup> United Nations country team submission, p. 7.
- <sup>32</sup> *Ibid.*, p. 8.
- <sup>33</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.141–104.146.
- <sup>34</sup> United Nations country team, p. 10.
- <sup>35</sup> *Ibid.*, p. 10.
- <sup>36</sup> *Ibid.*, p. 10.
- <sup>37</sup> *Ibid.*, p. 11.
- <sup>38</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.51, 104.70, 104.147 and 104.149.
- <sup>39</sup> United Nations country team submission, p. 13.
- <sup>40</sup> UNESCO submission, para. 8.
- <sup>41</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.52 and 104.60–104.128.
- <sup>42</sup> United Nations country team submission, p. 6.
- <sup>43</sup> *Ibid.*, p. 7.
- <sup>44</sup> For the relevant recommendations, see A/HRC/33/10, paras. 104.54 and 104.119.
- <sup>45</sup> United Nations country team submission, p. 13.
- <sup>46</sup> *Ibid.*, p. 13.
- <sup>47</sup> UNESCO submission, para. 8.
- <sup>48</sup> For the relevant recommendations, see A/HRC/33/10, para. 104.161.
- <sup>49</sup> UNHCR submission, p. 4.
- <sup>50</sup> *Ibid.*, p. 4.
- <sup>51</sup> *Ibid.*, p. 4.
- <sup>52</sup> *Ibid.*, p. 6.
- <sup>53</sup> United Nations country team, p. 14.