



PNG and Human Rights

Universal Periodic Review – 3rd Cycle – 2021

Compilation of issues and recommendations by representatives of PNG civil society, March 2021

1. Summary

The following submission contains the human rights concerns, and recommendations to address them, made by civil society participants in a human rights capacity building program with Papua New Guinea (PNG) civil society held online in March 2021.

The capacity building program was an initiative of the Diplomacy Training Program (DTP), Pacific Islands Association of NGOs (PIANGO) and Citizen's Constitutional Forum (CCF), Fiji in partnership with the UN Office of the High Commissioner for Human Rights (OHCHR).

The Diplomacy Training Program (DTP) is an independent NGO affiliated with the University of New South Wales, providing practical training in human rights and advocacy in the Asia-Pacific region.

Pacific Islands Association of Non-Governmental Organisations (PIANGO) is the major regional non-governmental organization with membership in 23 countries and territories of the Pacific Islands. For over 25 years, PIANGO has served the Pacific through strengthening and building the capacity of the civil society sector.

Citizens' Constitutional Forum (CCF) is an NGO based in Suva with more than 10 years' experience in community education and advocacy on democracy, human rights and multiculturalism.

The submission is divided into thematic areas. It is submitted to illustrate and emphasise the wide range of human rights issues in PNG that civil society is concerned about. It reflects the inputs of women and men from all across PNG including from Bougainville whose people recently voted for self-determination. Approximately 80 individuals participated in the program, including a women's group from Porgera, in the PNG Highlands – a place that has been negatively impacted by mining. The program was conducted online because of COVID.

A list of the participants and their organisations is included at the end of this submission. The issues and recommendations are based on the contributions of individual participants, and are not necessarily all supported by all participants or their organisations. Some of the participants asked that their names/organisations be withheld.

The submission is made in the spirit of human rights awareness building, constructive dialogue and accountability for human rights that the UPR process is intended to promote.

A number of the participants and their organisations are making individual submissions or are joining in with shared NGO submissions. Evidence to support the concerns of the participants is referenced in some of the other submissions by Amnesty International, Human Rights Watch and CIVICUS, and can be found in reports and actions of UN human rights special procedures (e.g. Frieda River Mine), human rights treaty bodies and the UN's specialised agencies.

2. Women's Rights

2.1 Gender based violence (GBV) is prevalent throughout PNG - and is perpetrated at the community level but also by law enforcement officials, including the police. Gender inequality and discrimination is the root cause of GBV. Women are the main targets of sorcery accusation-related violence (SARV). Laws on GBV are not adequately enforced. There is general impunity of perpetrators which is seen also as a causal factor to continuing GBV. There is a lack of justice and redress and remedy for the victims.

2.2. Lack of representation of women in parliament - There are no women as elected representatives in the PNG parliament. The PNG government has failed to implement the recommendations of the CEDAW Committee on this issue in its review of PNG in 2010. The Constitutional and Law Reform Commission (CLRC) is yet to submit its bill on Temporary Special Measures for Women in Parliament. It was proposed for the first reading in this year's (2021) first seating.

2.3 Women have been disproportionately impacted by the extractive industries in PNG - including through GBV, displacement and loss of livelihoods. The negative impacts on women from the Porgera and Panguna (Bougainville) mines were highlighted.

2.4 The Right to Free Prior and Informed Consent must be applied for mining, forestry and other development projects equally to PNG'S matrilineal societies.

2.5 The particular discrimination, negative attitudes and vulnerability to gender-based violence of sex workers in PNG was highlighted as a neglected and sensitive issue.

2.6 Sexual and Reproductive Rights

Recommendations:

- PNG government to adopt the UN Convention Against Torture, Other Cruel, Inhuman or Degrading Treatment or Punishment
- Specific and adequate recurrent funding for safe houses/shelters for women needed and should be included in the next PNG budget
- PNG government must implement the CEDAW and previous UPR recommendations concerning GBV and SARV which it has accepted.

- PNG government to fund and establish Provincial Gender based Violence Secretariat and the GBV Action Committee operations in line with the National GBV Secretariat and National Gender GBV Strategy to ensure the effective implementation of the Family Protection Act, Juvenile Justice Act, SNAP, and *Lukautim Pikinini* (Child Protection) Act
- A National Action Plan for Women, Peace and Security be developed in conjunction with stakeholders across PNG
- Rights of women and children to be included in human rights education and human rights training programs beginning with primary education
- Specific training on GBV for police and military should be provided with the input and expertise of women's CSOs in PNG
- Dedicate resources to addressing the gender impacts of the extractive industries on women, including support for the establishment of women run small and medium enterprises
- To complete and submit PNG's overdue periodic reports to CEDAW and to involve consultations with CSOs in its reporting process
- Ensure PNGs matrilineal systems of land ownership and inheritance are recognised

3. Business and Human Rights

3.1 Ensure accountability of MNEs operating in PNG - Negative human rights impacts have been documented in relation to Porgera, Panguna, OK Tedi and other extractive industries. These negative impacts include GBV, pollution of rivers and seas that communities depend on for sustenance, community and civil conflict, and corruption.

3.2 Lack of Free, Prior and Informed Consent - The mining act in PNG does not reflect new international standards and best practice on the right of Indigenous peoples to Free, Prior and Informed Consent.

3.3 Proposed mining, sandmining, seabed mining, forestry and palm oil developments - The proposed Frieda River Mine, Deep Sea Mining, Sandmining, Palm Oil Plantations in East New Britain and other extractive industries pose unacceptable risks to human rights to many communities, and unacceptable risks to PNG's biodiversity and to its commitments to address Climate Change.

3.4 Gender Impacts of mining – Mining uniquely affects women in various ways; on environment, family relationships, livelihoods, wealth and finance, categories of women, mental health, women's health, traditional culture (values, beliefs, norms, rhythms, sacred sites, herbal medicine, land identification) and increased domestic violence, including hyper-masculine context of mining.

Recommendations:

- Review UPR 2nd Cycle and the PNG Government Commitment in 2016 to address logging issue In PNG

- The UN Environment Program and OHCHR should work with the PNG government to immediately institute a thorough investigation into:
 - The oil palm developer, Tzen Niugini and its operating Licence and Permit in East New Britain that has led to loss of land and livelihoods, displacement of traditional landowners and the targeting and harassment of human rights and environmental defenders
 - The Agreement signed with landowners and directors of Land Owner Companies and verifying the legitimacy
 - Records of awareness and consultation giving people proper information to make Free Prior and Informed Consent
 - Demarcated land reserved for oil palm and reserved for the Indigenous peoples (IPs) to hunt and make gardens
 - Illegal land-user cases and abuse of IP rights issues

The PNG government should:

- Commit to the development, adoption and implementation of a National Action Plan on BHR (NAP) before next UPR. The NAP should:
 - Involve consultation with civil society and business
 - Include issues related to oil palm, sandmining, seabed mining and landzoning for forestry
 - Consider gender in line with the recommendations and guidance of the UN Working Group on Business and Human Rights
- Adopt a strategy to promote wider awareness and understanding of the UN Guiding Principles on Business and Human Rights
- Improve the capacity of the national human rights courts to hold MNEs accountable
- Establish a court dedicated to holding companies accountable that can be accessed by victims
- Establish the crime of corporate negligence on Mining and Extractive Industries
- Create a National Action Plan on Free Legal Aid - for Access to Justice to victims of mining and the extractive industries
- Review the Mining Act to be consistent with the UN Guiding Principles on Business and Human Rights and relevant international human rights and environment standards
- Inquire into links of mining on people disability - workplace accidents/environmental health etc

- Address the legacy issues of mining including Porgera, Panguna and other mines - the impacts on women, workers, communities whose environment have been affected. These legacies include PTSD and mental health issues - and the government should assess needs and develop programs - with a focus on women and children
- Include calculation of climate impacts of forestry and logging in PNG's NDCs for UNFCCC
- Should not permit logging without companies conducting and continuing human rights due diligence

4. The Human Right to Health

4.1 Participants commented that it is important that State Agencies develop their strategies from a human rights perspective. There was a particular focus on the human right to health. A human rights approach to health in PNG would require the PNG government and its development partners to consider issues of equality of service provision and access in health service delivery, especially in rural remote areas and to remote communities. Rural areas of PNG are still struggling to have better and quality health services in their communities. Currently access to quality health services is not equal across the country. Many communities do not have access to clean water which is a human right linked to other rights, such as the right to health – and linked to the SDGs.

4.2 There was concern that huge amounts of money that could be used to purchase lifesaving equipment for public hospitals that will improve its service and capacity, are going into private hospitals while the government lacks money to fund its hospitals.

4.3 There were concerns about the discrimination faced by people living with HIV (PLHIV).

Recommendations:

- Ensure that health planning in PNG and by PNG's donors takes a human rights-based approach to health
- Address disparity/inequalities of access to health care services
- Recognise access to clean drinking water is a human right
- All government departments and statutory bodies, should sign up their medical cover for staff with PNG's public hospitals (general hospital), instead of with private hospitals like PIH
- Develop Health Service Facility Infrastructures in compliance with the National Health Services Standards of PNG Department of Health
- Water PNG Limited, the state-owned water utility services company is legislated by the Government to operate in districts headquarters to develop and manage quality water supply and sewerage systems under PNG Government's subsidized cost
- Ensure effective clinical settings around PNG for PLHIV
- Ensure the medical kit for PLHIV supply chain and must be consistently be in stock all throughout PNG to avoid shortage of medical treatment

- Provide culturally appropriate awareness of preventative measures regarding COVID-19 and ensure access for all to adequate WASH facilities particularly in rural areas in order to reduce the spread of the disease
- Increase education, awareness and promotion on the importance of immunisations, particularly in rural areas
- Provide adequate antenatal and postnatal care and support, particularly in rural areas

5. Rights of Older People

5.1 Older people are a largely ignored community in PNG, experiencing discrimination, insecurity and marginalisation. There is strong intersection with disability and ageing too - as we get older many of our capacities are reduced.

Recommendations:

- Support the establishment of a Network/Organisation for Older People
- Take concrete steps to ensure the right to social security for older persons in PNG
- Undertake a study and recommendations in relation to the needs of older people - in relation to health, food and shelter

6. Freedom of Speech and Association

6.1 Concern was expressed that PNG's Cybercrime Law is being misused to target, intimidate and silence critics and whistleblowers.

Recommendations:

- Review cybercrime laws to ensure consistent with International Covenant on Civil and Political Rights
- Need to take steps to ensure the safety of human rights defenders
- Ensure the safety of human rights defenders and whistleblowers

7. Discrimination on the Basis of Sexual Orientation and Gender Identity

7.1 Participants raised a number of concerns around systemic discrimination on the basis of sexual orientation and gender identity within all levels of PNG government and society. This discrimination affects the enjoyment of all other rights, including, but not limited to, the right to health, to education, to work, and to cultural life.

7.2 Concern was also raised around the gender bias and discrimination in the emerging field of artificial intelligence (AI).

Recommendations:

- Address the issues of gender equality and identity in the development and application of AI and to address bias in algorithms that reinforce bias and stereotypes

- Conduct a study into how AI can recognise and be inclusive of Pacific/PNG cultures - including intersectionality and 3rd gender
- Recognise the existence of LGBTQIA communities in PNG
- Undertake measures to promote tolerance and non-discrimination on grounds of sexual orientation or identity in line with the Yogyakarta Principles

8. Civil Rights and COVID

8.1 Concern was expressed that the police should not mistreat common peoples' rights, in depriving them and giving them corporal punishment, when they're only trying to sustain their livelihoods in providing for their families in those times of pandemic difficulties.

9. Disability – and the Rights of Persons with Disability

9.1 Participants noted that persons with a disability in PNG experience discrimination, in many areas of life in PNG. PNG has ratified the UN Convention on the Rights of Persons with a Disability (CRPD) but has not yet submitted its initial report as a state party. It was noted that a draft Bill for the establishment of a National Disability Office is before the Parliament.

9.2 In 2005, the PNG government launched the first five year Disability Policy (2005–2009) which recognized disability as an emerging sector. It encouraged the establishment of Organizations of Persons with Disabilities (OPDs). The OPD movement started throughout the country and people with disabilities (PWDs) started taking the leading role to advocate for our rights and impairment specific concerns/challenges and needs.

9.3 In 2013, the PNG Government ratified the CRPD, and in 2015, PNG launched a 10 year National Policy on Disability (NPD) 2015–2025 which we PWDs wrote ourselves. The NPD vision is 'Remove Barriers, Make Rights Real' and the NPD was the interpretation of the ratified CRPD for implementation in PNG country context. OPDs are recognized in the NPD as mandated representative organizations of PWDs but we are still advocating for full recognition and representation of PWDs through our respective OPDs in all representative bodies at all levels as per CRPD Article 4.3.

“In 2020, advocacy from PWDs and OPDs resulted in a finalized Disability Bill in place and is now awaiting to be tabled in parliament into becoming an Act where after 45 years of independence, we will finally have a Disability Legislation.”

9.4 Rehabilitation service availability and quality - Service provision capacity for rehabilitation does not meet existing demand and service limitations relate to the general underdevelopment of the rehabilitation sector, limitations in human resources (including front-line health care workers), and underdeveloped integration of rehabilitation in secondary and tertiary levels of care.

9.5 Health Rehabilitation Services - Rehabilitation governance and financing. Strong leadership and good governance are needed to coordinate the many stakeholders involved

in rehabilitation service delivery, including in relation to the provision of assistive products. Nongovernmental stakeholders can include private non-profit or for-profit providers, faith-based organizations or user group associations, which can all be essential for the effective provision of rehabilitation.

9.6 Rehabilitation workforce - The rehabilitation workforce experiences challenges similar to those of the general health workforce, but also faces additional challenges. The number of those working in rehabilitation is comparatively smaller than in other areas of health, making it difficult to promote development and advance the professions.

9.7 Rehabilitation data and research - Information about rehabilitation is very limited which makes it difficult for policymakers and service providers to make informed decisions that strengthen rehabilitation services. Data collection across health systems is vital for a range of policy development and implementation activities.

Recommendations:

- To involve and consult with DPOs in preparation and submission of PNG's first report to the CRPD in 2021/2
- To pass the Disability Bill for the establishment of a National Disability Office by the end of 2021
- To ensure the National Disability Office has its own allocation in PNGs National Budget with priority staffing by merits so 99% of the staffing capacity of the Disability Office under the Disability Legislation will comprise of PWDs
- The various Articles of the ratified CRPD that have been interpreted in the Disability Bill must come into effect once the Disability Bill is passed where PNG must have legal harmonization with other legislations and policies where Disability can be integrated and mainstreamed into all other program sector areas such as Education, Health, Infrastructure, Economic Developments, Social Developments etc. with Disability Budget Allocation within these respective program areas.
- The annual decentralized government funds through the Provincial Service Improvement Program (PSIP) funds and the District Service Improvement Program (DSIP) funds as per the legislative harmonization with the Financial Management Act with the Disability Act must now start to have integrated mainstreamed disability specific funding components that must be channeled right down to the ward / community level for disability inclusion integrated service delivery.
- There must now be full representation of PWDs through our respective OPDs on Ward Development Committees, Local Level Government Committees, District Development Authorities, Provincial Executive Councils and some form of representation at the National Executive Council as per the ratified UNCRPD Article 4.3 that will enable our voices, concerns, issues and needs to be heard and included within the mainstream government decision making representative bodies to enable disability inclusive development to be

mainstreamed within government service delivery mechanisms

10. Refugees and Asylum Seekers

10.1 At the moment, PNG hosts three categories of refugees and asylum seekers:

1. Melanesians from West Papua who have fled persecution and oppression from the Indonesian government. The most recent increase of arrivals was in December 2019 following increased conflict and repression in PNG with an approximate 145 persons seeking asylum.
2. Those brought to PNG in 2012 and 2013 under the Regional Resettlement Arrangement (RRA) between the governments of Australia and PNG.¹ Their population at the moment is at 130 single adult males.
3. Spontaneous Arrivals - those who spontaneously arrived in PNG and sought asylum under PNG law. Current statistics stands at 16 people in this category.

10.2 It was noted that the climate emergency is already impacting on movement and displacement of peoples in PNG, and this issue is likely to increase for PNG and Bougainville and the wider Pacific.

Recommendations:

The PNG government should:

- Commit to end the RRA no later than 2022 and send all remaining asylum seekers and refugees back to Australia, except for those refugees who freely choose to settle in PNG
- Not accept any pressure from Australia to forcefully settle refugees in PNG against their will
- Allow an independent inquiry into the RRA and all its processes, including awarding of contracts to services providers, complaints of human rights abuse by both Australia and PNG, service providers etc.
- Withdraw PNG's seven reservations on The Refugee Convention to benefit all refugees in PNG, and not only a certain cohort
- Prioritize the issuing of legal identity documents to all West Papuan refugees recognized by the government
- PNG Immigration to coordinate with all provincial governments and the Department of lands and physical planning to identify and issue land to naturalized West Papuans, as per National Executive Council decision of 2014
- Given the dire state of their settlement in Port Moresby, government should intervene to allocate a piece of land for them to build their homes
- Provide support to this group to ensure they have access to meaningful employment and financial independence.
- Consult widely and formulate an inclusive national policy framework in line with the Guiding Principle on Internal Displacement (OCHA) aimed at preventing human induced displacement, providing protection, humanitarian assistance, and durable solutions

¹ Regional Resettlement Arrangement between Australia and Papua New Guinea, 2013

- Task a particular government department to be directly responsible for Internally Displaced Persons (IDPs)
- Allocate annual grants for NGOs to access to work with IDPs
- Properly resettle the Manam Islanders, and other protracted IDPs
- Continue to take a leading role in the Pacific to raise concerns and lobby for concrete actions from world powers in combatting climate change

11. Children's Rights

11.1 Participants noted that PNG has ratified the Convention on the Rights of the Child (CRC) and that PNG is committed to submitting its overdue periodic reports.

11.2 The number of children in PNG that are homeless, particularly visible in PNG's towns and cities. There was concern that these children are particularly vulnerable and unsafe and at risk of physical harm. Other rights are also impacted including their right to education, their right to health and their right to adequate standard of living.

11.3 Concern was also expressed that children of parents who come from mixed patrilineal/matrilineal face discrimination in terms of inheritance law and the impacts can be profound in communities where land has such cultural and economic importance.

11.4 There was also concern expressed that some children face particular issues of discrimination and marginalisation – such as children with a disability, the girl child and children with albinism.

11.5 It was also noted that children and youth are at particular risk of human rights violations at the hands of the military and the police – and the lack of separate detention facilities for juveniles – as required by the CRC.

Recommendations:

- That PNG government submits its report on the CRC with the participation of civil society and children
- Ensure that all children have access to education
- That the education curriculum includes Human Rights Education
- Legal equality for youth
- To undertake in depth research on displacement of young people in PNG - and relationship with matrilineal and patrilineal societies - customary law/ inheritance
- Allocate resources for the construction of separate detention facilities for juveniles
- Ensure an effective independent inspection system for places of detention
- Funding of juvenile centres throughout PNG and ensuring detention of children is only used as a last resource
- Take steps to encourage youth voting and enrolment of young people

12. The Right to Education and Human Rights Education

12.1 Participants believe that there are higher levels of illiteracy among women and girls in PNG. This is seen to be a contributory factor in other human rights violations and social problems. In addition to school education adult education and literacy programs should be expanded. Issues of disparity in access in urban and rural areas was raised.

Recommendations:

- Human rights should be taught in all levels of education. This will help produce better shaped citizens which will help fight corruption and other negative issues in the country
- Human rights training should be provided to all government officials and the PNG government should develop and implement a national human rights training strategy for its public service
- Human rights awareness programs should be made available to communities for them to understand human rights and fight corruption and negative issues in the country
- That human rights education & human rights capacity building strategies be developed in cooperation with civil society

13. Bougainville

13.1 Participants from Bougainville highlighted the need for the PNG government to recognise past human rights abuses in Bougainville, and the vote of the people of Bougainville for their self-determination.

Recommendations:

- To provide justice for former combatants in the conflict
- To respect and assist the people of Bougainville as they fulfil their aspirations for self-determination
- To provide compensation for those communities affected by mining
- To ensure that the rights of women and their vulnerabilities to abuse and discrimination are addressed in the process of ensuring peace and security

14. Albinism

14.1 Participants raised concerns about the discrimination experienced by PNG nationals with albinism.

Recommendations:

- PNG government to gather information and undertake awareness campaigns to challenge discrimination
- Invite the UN Special Rapporteur on the enjoyment of human rights by persons with albinism for a country visit

15. National Human Rights Institution (NHRI)

15.1 The establishment of a PNG NHRI has been in motion for almost thirty years when PNG proposed to set up a Commission during the Vienna World Conference on Human Rights in 1993. The Government has twice formally endorsed its establishment (in 1997 and 2007), with legislation drafted in 2008. The Government also reported in its first UPR reporting cycle that a NHRI would be established, but nothing has eventuated. Participants raised concern about the lack of commitment by the Government to the establishment of this body and its role in the protection and promotion of human rights in PNG.

Recommendations:

- As recently indicated by the PNG minister for Justice, ensure legislation is passed in accordance with the UN Paris Principles to create a PNG NHRI with a mandate to cover the human rights impacts of the private sector, and to engage with CSO and NGOs
- Reach out to the International Coordination Committee of National Human Rights Institutions or the Business and Human Rights Working Group of NHRIs to help build the capacity of the new PNG NHRI to address private sectors, CSO and NGOs human rights impacts

16. Human Rights Court Track Law

16.1 In 2016 the second cycle of the Universal Periodic Review verified the Human Rights Court Track that enables victims to sue perpetrators specifically the multinational corporations. The National Human Rights Court Track was established in 2011 to enforce and provide remedies for victims.

Recommendation:

- Implement The Human Rights Court Track to enable to victims of Porgera and other extractive industries to seek and find redress and justice.

List of registered course participants

Nelly Agoramba

Kevin Akike

Jacqueline Amora

Peyam Andamale

Angeline Angwin

Lucy Anua

Rose Aputi

Sr. Scholastica Banik

Wesitah Benjamin

Lesley Bola

Vicky Bolo

Roselyn Erehe

Sarah Garap

Pauline Gaupe

Everlyn Gaupe

Wendy Gaupe

Vero Gene

Jill Gule

Carol Habin

Lynn Harris

Parker Hou

Therese Ianu

Jonathan Inapelo

Rhonda John

Shirley Kameso
Elis Kameso
Reben Karl
Rita Kauori
Issacc Kelya
Jerry Kende
Sharon Kennedy
Lely Kesa
Cathy Ketepa
Matilda Koma
David Kopio
Bill Kuala
Cressida Kuala
Regina Kuala
Judy Kuala
Essmaline Kuala
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Esther Lau
Maureen Lesley
Pauline Liowane
Ronnie Lui
Susan Maiyo
Karath Mal Waka
Helen Mangula
Lovelyn Naiuma
Anisha Namete
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Leo Paol
Wendy Parakis
Epes Peter
Yako Peter
Yvonne Poi
Lineth Polopa
Johannes Pook
Helen Pukai
Mina Pupulapae
Cynthia Purakali
Gilson Rex
Wesley Serber
Christine Simiha
Jason Siwat
Judy Takili
Ruth Tindipa
Wiyauson Tony
Willie Waraiembu
Fiona Win
Julie Yako

Patricia Yanguan

NB. Some participants asked not to be listed. It was agreed at the beginning of the program not to attribute particular comments, recommendations etc to individuals or organisations.

List of participant's organisations

Akali Tange Grassroots Human Rights
Anglicare (PNG)
Bougainville Women's Federation Kieta
District
Caritas PNG
Catholic Bishops Conference of Papua
New Guinea and Solomon Islands
Catholic Women Association
Centre for Environmental Research &
Development Inc.
Eastern Highlands Baptist Union
Eden Empowerment
Equal Playing Field
GEDSI Consultancy Services
Hope World Wide Inc Papua New Guinea
IGAT Hope Inc
Key Population Advocacy Consortium -
Papua New Guinea
KP Advocacy Consortium
Meriamanda
Missionary Franciscan Sisters
Oxfam International in Papua New Guinea
Papua New Guinea Rights of Older
People's Society (PNGROOPS)
Porgera Medex Family Health Care Centre
Porgera Mt Kare Young Generation
Association (PMKYGA)

Rural Village Association
Sakales Women's Association
Susu Mamas Papua New Guinea
Incorporation
World Vision PNG
Youth LEAD PNG
119 Indigenous Women

Porgera Red Wara Women's Association
Inc
Porgera Urban LLG Women's
Representative
Porgera Women's Rights Watch Inc
Ronimb Community Development
Foundation Inc.