

**Third Cycle Universal Periodic Review of
Papua New Guinea**



Joint Submission of the UN Country Team

1. BACKGROUND AND FRAMEWORK

A. Ratification, reporting and cooperation with treaty bodies

Ratification

Although PNG accepted several recommendations to ratify various treaties,ⁱ it has not adopted any treaties or OPs since the 2nd Cycle.

Recommendations

- UNICEF: Ratify the Convention on the Rights of the Child ('CRC') OPs.
- UNHCR: Ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

Reporting and cooperation with treaty bodies

Despite recommendations to take steps towards fulfilling reporting obligations, PNG has not submitted the required reports to the Human Rights Committee or CRC.

Recommendations

- OHCHR: Fulfil PNG's reporting obligations under human rights treaties.

B. Institutions and policies

Establishing a National Human Rights Institute ('NHRI')

Although PNG accepted the recommendations to establish an NHRI,ⁱⁱ and commented on the Government's efforts to do so, PNG has yet to establish an NHRI.

Recommendations

- OHCHR: Establish an NHRI following the Paris Principles and scale-up support for the Ombudsman Commission in the interim.

2. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS TREATY AND OBLIGATIONS

C. Equality and non-discrimination

Discrimination against women

As of 2017, PNG has a Gender Inequality Index value of 0.741, ranking it 159 out of 160 countries.ⁱⁱⁱ

The CEDAW Committee expressed concerns about customary law applied by Village Courts and the fact that these courts often go beyond their jurisdiction to resolve cases of rape through mediation and compensation payments. Customary law may entrench gender inequality, as seen with marriages. While statutory marriages are subject to formalities under Marriage Act 1962 Division 2, customary marriages may be deemed valid without the need to meet formalities if performed following prevailing custom to which the parties belong to. One such formality is the minimum-age requirement.

Recommendations

- UN Women: Ratify the CEDAW OP, review customary laws and repeal provisions that are discriminatory against women.

Sexual orientation

PNG did not accept the recommendations to repeal the provisions that criminalise sexual relations between consenting same-sex adults and/or prevent discrimination against people based on their sexual orientation.^{iv} Rather the delegation commented: “It would require wider national consultation to be able to come up with a firm national position that the government can take. Unless and until that happens this issue will not be progressed”.^v

In 2010, following direction by the National Executive Council (‘NEC’), the Department of Justice and Attorney-General (‘DJAG’) tasked the Constitutional Law Reform Commission (‘CLRC’) to review and report on the relevant sections in the Criminal Code Act 1974 (‘Criminal Code’) and the Summary Offences Act 1977 (‘SOA’) that criminalise same-sex intimacy and sex work then make recommendations on their repeal or amendment. Neither since this direction nor since the 2nd Cycle has there been a consultation, a review or progress. This is despite numerous calls for protection and equal rights.^{vi}

The discrimination faced by the LGBT community is highly pronounced. In May 2020, following the International Day Against Homophobia, Biphobia, Interphobia and Transphobia, the Australian High Commission in PNG faced strong backlash after sharing communications in support of the day,^{vii} including public threats on social media to burn the LGBT flag masted at the High Commission and a press statement by the Catholic Professionals Society.^{viii} LGBT people face victimisation and violence, with numerous reported cases of blackmail,^{ix} beatings and killings.^x In addition to the direct harm and violence, reports have demonstrated significant adverse effects on mental and public health services accessibility.^{xi}

Recommendations

- UNAIDS: Direct the CLRC to carry-out a review as a step towards the repeal of the Criminal Code provisions that criminalise same-sex sex, support the work CSOs advocating for LGBT-rights and ensure State bodies, particularly those relating to healthcare and law enforcement, receive sensitization training to ensure equal treatment of LGBT-persons.

Sex work

Aspects of sex work, including living off the earnings of sex work, are criminalised under the SOA, effectively criminalising sex work on the whole. The discrimination and criminalisation of sex workers have led to significant violence and barriers to protection and healthcare.^{xii} Following a recent high-profile violent killing, sex workers submitted a request for a law to protect them, which the Department for Community Development, Youth and Religion (‘DCDYR’) refused.^{xiii}

Recommendations

- UNAIDS: Direct the CLRC to carry-out a review as a step towards the repeal of the SOA provisions that criminalise sex work and ensure sex workers are protected by State bodies and policies.

People living with HIV ('PLHIV')

PNG accepted the recommendations to scale-up efforts to address the spread of the HIV-epidemic.^{xiv} Although PNG adopted the HIV/AIDS Management and Prevention Act 2003 ('HAMP Act'), which includes provisions protecting vulnerable groups and PLHIV from discrimination, the Act itself contains discriminatory provisions and knowledge of the Act and its protective provisions remain low. The National AIDS Council Secretariat carried out consultations and engaged consultants, however, the review failed to be carried forward. As such, the HAMP Act continues to criminalise HIV-transmission, neglects to define "discrimination" to allow for effective use of the Act's protective provisions and limits the standing of the Act to before the District and National courts. In 2019, DJAG called for the review of the HAMP Act.^{xv}

PNG took the positive step of adopting the National STI and HIV Strategy 2018-2022, which sets out various priority actions guided by the evidence that stigma and discrimination pose barriers between people and HIV services, and formally joined the Global Partnership for Action to Eliminate All Forms of HIV-related Stigma and Discrimination.

Recommendations

- UNAIDS: Support initiatives that address HIV-related discrimination across 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.

D. Administration of and access to justice and the rule of law

Access to justice

The Constitution contains a section dedicated to a broad set of human rights and uniquely provides for the legal enforcement of these rights through petitions to the National Court. Despite the availability of these provisions and mechanisms, rights respect and enforcement remain low.

Courts are slow at administering justice, with several years of case backlog and are largely inaccessible. There is an accessible network of Village Courts, which handle a range of cases, mostly relating to land, consumer protection, and personal disputes using a process based on traditional law and justice. Although not meant to handle serious or criminal cases, the Village Courts may provide critical and timely service and restrain local conflicts. However, customary justice tends to uphold the values of the societies in which they are embedded, giving way to judgements that are not always human rights-compliant.^{xvi}

The District and Family Courts hear the majority of VAW and VAC cases, excluding the emergency cases heard by the National Court or Human Rights Court. The most used recourse for domestic violence is an interim protection order under the Family Protection Act 2013 (FPA). There are several structural barriers to women's access to justice; including the distance to courts, lack of legal aid, minimal rights-information, and need for resources to pay for legal services. Cultural barriers include the *wantok* (clan) system, the informal compensation system, and the common belief amongst men and their families that by paying the bride price they have purchased ownership of their wives and the right to discipline women.

Recommendations

- UN Women: Support a gender-responsive justice system to support survivors' equal access to justice, including through training and capacity-building of Court personnel, strengthening the issuing, monitoring and enforcement of protection and interim protection orders, institutionalising and resourcing gender-responsive legal aid, and introducing specialised court procedures to allow for women's safe access to justice.

Law enforcement

Law enforcement has limited capacity and reach,^{xvii} and has long been mistrusted by local communities due to lack of training, police brutality and corruption.^{xviii} PNG accepted recommendations to strengthen the capacity of police and eliminate abuse, corruption and excessive use of force.^{xix} Since then, the Royal Papua New Guinean Constabulary ('RPNGC') has held provincial and capital discipline trainings,^{xx} and launched the 'Policing the Police Task Force' to investigate unlawful conduct in Port Moresby.^{xxi} Between 2018 and 2019, 133 police were investigated and 42 arrested, though convictions were rare outside of Port Moresby.^{xxii}

There is a need for an accountable complaints and feedback mechanism for victims of police violence and misconduct. During the COVID-19 State of Emergency, the police advertised a toll-free hotline, functioning as an internal-investigation unit. Four major investigations within the Capital and several provincial investigations were initiated from the hotline calls. The hotline was only maintained for six months, though with four significant investigations and visibility of the issues within the provinces, the hotline should become a permanent fixture.

For the most part, law enforcement lacks the capacity to fulfil their role to protect victims of VAC and VAW.^{xxiii} Positive steps have been taken since the last UPR. In 2019, two dedicated gender advisor officers were introduced into RPNGC and gender sensitivity training was provided to over 200 male officers. Work has commenced in 2021 on the development of an RPNGC Gender Equality and Social Inclusion Policy. An RPNGC Women's Advisory Network, aiming to support and enhance equal opportunity and empowerment for women in policing, has been developed and holds regular meetings.

The Government has made notable progress in establishing a range of core responsive protection services, such as Family Sexual Violence Units ('FSVUs') and Police Sexual Offence Squads, however, implementation including quality, coverage, and utilization of these services, remains low.^{xxiv}

While a juvenile justice system has been established with the implementation of the Juvenile Justice Act 2014 ('JJA') and the National Juvenile Justice Plan 2018-2022, significant gaps in the legislation remain. Under Section 30 of the Criminal Code Amendment Act 2013, the minimum-age of criminal responsibility is 10 years of age – below the international standard of 14 years. Further, Section 39 of the JJA allows the RPNGC to detain a child below the age of 10 years, provided the officer in charge notifies a parent or a person responsible for the alleged offender and delivers the child to them. This enables police officers to potentially arrest a child at any age, below the age of minimum criminal responsibility.

Recommendations

- OHCHR: Create 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.
- UN Women: Institutionalise and integrate specialist police units FSVUs within the formal RPNGC structure.
- UNICEF: Raise the minimum-age of criminal responsibility to 14 years.

Corruption

The country ranked as the 137th least corrupt nation out of 180 countries, receiving a highly corrupt rating on the global 2019 Corruptions Perceptions Index.^{xxv}

Governmental bodies and bodies supported primarily by Government funds and their respective staff may be investigated under the Leadership Code,^{xxvi} however, few investigations or prosecutions occur.^{xxvii} In February 2020, the Whistleblowers Act 2020 ('WBA') was passed. This Act allows employees to disclose any suspicions of impropriety within their workplace including failures to comply with legal obligations, miscarriages of justice and deliberate efforts to conceal conduct. In June 2020, the National Action Plan on Anti-Corruption was finalised, leading to the successful tabling and passing of the Organic Law on the Independent Commission Against Corruption ('ICAC') Law 2019;^{xxviii} establishing the Commission, a body mandated to investigate and prosecute private individuals and public officials.

Recommendations

- UNDP: Strengthen the Ombudsman Commission in their efforts to investigate complaints and administer the Leadership Code while ensuring that the ICAC is established, sufficiently funded and staff are recruited so that investigations administering the WBA and ICAC Law may be conducted.

E. Rights to freedom of opinion and expression, association and assembly

Effective participation of women in public and political life

PNG is a parliamentary democracy with a national parliament comprised of 111 seats; following the 2017 parliamentary elections not a single seat is held by a woman. The country tied for last place (alongside Vanuatu and Micronesia) in an international ranking of 193 countries.^{xxix}

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 that do tend to lack the support and resources. Women require an enabling environment, free of 'money politics' or violence, that offers them a fair chance to compete, while voters are educated on the importance of equal gender-representation.^{xxx} Currently, there are no special measures, temporary or otherwise, in place to support women's electoral representation in Parliament.

The Organic Law on National and Local-level Government Elections 1997 and the Electoral Law (National Elections) Regulation 2007 use gender-blind language and do not include specific provisions for women. The Organic Law only carries specific provisions on postal voting for pregnant women or new mothers.

During elections, ‘money politics’, vote-buying and clan-voting all contribute to intimidation, threats and increased VAW. For women working as election officials, verbal abuse and harassment are not uncommon; there was a notable case of intimidation and poor treatment of a female returning officer in Bougainville.^{xxxii} A gender assessment of the Bougainville Referendum Commission revealed an opaque hiring process for Commission staff and only 14% of long-term commission staff were women.^{xxxiii}

Recommendations

- UN Women: 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. Ensure 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 or coercion.

Civic space

Several CSOs operate in the country, including groups focused on human rights and environmental causes. Most are small and lack resources. Responding to the multiplication of advocacy campaigns led by CSOs in recent years, the Government has been seen to react with curtailing legislation, like the amendments to the Environmental Act that limit the scope of CSO interference in some strategic sectors.^{xxxiii}

Civic space is not extensive enough to advance human rights. Rather local and international CSOs focus their efforts on service delivery and some thematic issues such as GBV and women’s rights. The lack of robust monitoring by CSOs and the public’s weak discourse on demanding accountability for human rights violations have contributed to impunity for violations.

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, compounded by a lack of access to communication tools, including the internet. With only two major daily newspapers, one of which is partly owned by a Malaysian logging company and the Government, there have been some indications of interference. In late 2018, a journalist was suspended from the State-owned television outlet, EMTV, over his coverage on Government spending for the Asia-Pacific Economic Cooperation summit, though was reinstated following public pressure. Environmental activists have cited media censorship, as the media declines to broadcast stories on peaceful protests and the impact of the exploration licences on communities.^{xxxiv}

A series of high-profile developments raise the need for consideration of freedom of speech. The Cybercrime Code Act 2016, which allows for the prosecution of people who publish defamatory material or incite violence on social media, has raised concerns. In 2017, a women’s rights and environmental activist was raped by two male colleagues from civil society and by another two men in Porgera in retaliation to her vocal defence of women’s rights and her complaints about the negative impact of mining operations.^{xxxv} In 2018, an

environmental and LGBT-rights activist faced threats and violence by Government and mining company officials following his advocacy about the dangers of mining exploration and the tailings in the Sepik River.^{xxxvi}

Recommendations

- Uphold core rights and freedoms, including freedom of speech and freedom of association, by reviewing any laws or regulations that may be intended to or have the effect of excessively limiting the exercise of these rights and freedoms. Promote the activity and independence of CSOs and the media by ruling out interference or obstacles to their capacity-building.

F. Rights to life, liberty and security of person

Despite accepting recommendations to ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (‘CAT’),^{xxxvii} and further noting that it was “already in the process of ratifying”,^{xxxviii} PNG has yet to sign or ratify the CAT.

Death penalty

PNG did not accept the recommendations on the death penalty and stated that it “is in our national law, however, despite this, the current Government directive is not to implement until further directions are issued”.^{xxxix}

Despite its standing observation of a *de facto* moratorium, the Government has taken steps towards implementing the death penalty; widening the scope of crimes liable to the death penalty, introducing five methods of execution in 2013, and making multiple public statements in favour of instating executions.^{xl}

Recommendations

- OHCHR: Maintain the moratorium on the death penalty and ratify the ICCPR OP with a view to abolish it *de jure*.

Detention conditions

Conditions are poor, prisons are overcrowded, and the PNG Correctional Service (‘PCS’) is understaffed.^{xli} Delays in court proceedings, slow-paced investigations and restrictions on bail have added to the pressure on the prison system, contributing indirectly to prison breakouts.^{xlii} Some prison breakouts have resulted in the shooting and killing of escapees by prison officers, following which the incumbent PCS has not brought investigations.^{xliii}

Responsibility for the administration of the prison system lies with the PCS, which has long been neglected.^{xliv} The condition of prison facilities and staff housing has deteriorated alarmingly over the years with predictable effects on the morale of staff and detainees. Lack of resources, including trained personnel, has contributed to the neglect of rehabilitation programs.

The Correctional Service HIV/AIDS Strategy provides “preventative measures for HIV will be based on the risk behaviours occurring in prisons and will be complementary to, and compatible with, those in the community” and “if available, condoms will be provided to detainees on leave of absence programs and release”. This strategy is underpinned by the belief that the distribution of condoms within a same-sex prison would be to espouse same-

sex intimacy. Moreover, the Correctional Services Act 1995 Clause 112(b) permits the “segregation of detainees suspected of infectious or contagious conditions”; a practice that raises the risks of persecution, discrimination, and numerous other human rights concerns.

Under the Correctional Services Act 1995, children are not excluded from the purview of PCS and juveniles are not differentiated in the prison system. The Act indicates that “any person” received from the Courts are under the responsibility of PCS and are held in a PCS facility. As such, if a judge sentences a juvenile to a custodial sentence, the child is automatically under the responsibility of PCS and held in PCS facilities; unless the judge specifies that the child should be held in a juvenile rehabilitation centre. This violates the separation principle and renders children at risk of violence and sexual violence, as well as sub-standard conditions.

Recommendations

- UNAIDS: Ratify the CAT and the OP, implement policies to ensure access to necessities, including HIV/AIDS prevention commodities and services, and allow regular visits to places of detention.
- UNICEF: Ensure that children detained during the course of the administration of justice are not detained together with adults.

Trafficking in Persons

DJAG informed the National Anti-Human Trafficking Committee in 2018 that it is prioritising acceding to the United Nations Convention against Transnational Organized Crime (‘UNTOC’) which is supplemented by three protocols including the Trafficking in Persons (‘TIP’) protocol. There is a need to follow up on the status of this.

Recommendations

- IOM: Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons and amend the Criminal Code to criminalise child sex trafficking without elements of force, fraud, or coercion following the TIP Protocol. Review the National Action Plan 2015-2020 and develop the next National Action Plan (beyond 2020), allocating the resources and staff needed for effective implementation.

Gender-based violence

An estimated 56% of women (aged 15-49) experience some degree of physical violence and 28% experience some degree of sexual violence from age 15.^{xlv} Geographic remoteness of many communities makes access to quality services and support for survivors extremely difficult. Notwithstanding the small but gradually-growing number of private “safehouses”, the Government does not fund, regulate, or monitor private safehouses and their capacities, and many areas of the country have none at all. Limited case management services are provided by CSOs and/or safehouses, however the absence of qualified social workers is a critical gap across the country.

In 2017, the Government endorsed the Gender-Based Violence National Strategy (2015–2025), which to date lacks the funding and capacity for implementation. The same applies to the Government-endorsed National Action Plan against Sorcery and Witchcraft-related Violence 2015. In 2020, the EU-UN Spotlight Initiative^{xlvi} was launched and GBV Parliamentary Committee was established. A coordinated, interagency response is widely

recognized as the most effective way of providing quality services to those affected.

Recommendations

- UN Women: Support and fund gender-responsive justice and law enforcement sector reform through measures including the adoption of Codes of Conduct and capacitating specialized units. Develop and institutionalise specialised care policies that ensure monitoring of services, coordination between and funding for service providers. Maintain high-level commitment to eliminating GBV by funding the National GBV Secretariat, establishing provincial GBV Secretariats and activating the GBV Parliamentary Committee.

G. Right to health

Accessible healthcare

Public health expenditure has been steady at approximately 4% of GDP,^{xlvii} this is expected to further decline due to decreasing Government expenditure and a growing population, except for COVID-19-related response.

As the number of PLHIV continues to rise, the epidemic is compounded by the routine drug stockouts and the human rights-related barriers, including discrimination, to HIV-services.^{xlviii} Additionally, the number of people infected with chlamydia or gonorrhoea has increased, pointing to a need to improve access to condoms and early treatment.^{xlix}

Children's health continues to be under threat with one of the highest rates of child mortality in the Asia-Pacific region and a Maternal Mortality Ratio that is significantly higher than the average for the East Asia and Pacific region.¹ There is extremely low access, coverage and utilization of essential health services.^{li} Deeply concerning statistics reflecting high levels of stunting and deficiencies are intensified by limited access and use of basic services (nutrition, health, water, and sanitation), high food insecurity and economic disparity – the poorest being more likely to be stunted.^{lii}

Amidst the COVID-19 State of Emergency, the World Bank found that almost 80% of respondents nationally could access healthcare facilities if needed, but there was substantial variation across the regions.^{liii} The main reasons for not accessing healthcare were financial, though the lack of medical personnel and the inability to travel were also cited. Fear of contracting COVID-19 was cited by only a small fraction of respondents, mainly in urban areas.

Recommendations

- UNFPA: Ensure that there is an adequate number of functioning healthcare facilities, services, and commodities to serve the population, including essential medicines such as contraception, that are culturally appropriate and considerate of the needs and interests of minorities, indigenous populations, and different gender and age groups.
- UNFPA, UNAIDS: Ensure that health facilities and services are accessible without discrimination, meaning that they must be accessible to all, in law and practice, particularly by the most vulnerable populations.
- UNICEF: Address bottlenecks in access to healthcare and nutrition to ensure that supply and coverage meet increasing use and demand for maternal and child

health services while strengthening national-level coordination across nutrition-specific and sensitive sectors.

Sexual and reproductive healthcare

Contributing to the high-level of maternal mortality are the low-rates of facility-based deliveries, low ANC attendance, relatively high-rates of teenage pregnancies and unmet needs for contraception.^{liv}

Under the Criminal Code, abortions for socio-cultural reasons or on request are criminalised. Induced abortions to save a woman's life or to preserve her physical and mental health may be granted on agreement by two medical officers, however, in practice, few safe abortions take place in Government facilities. Lack of access to abortion contributes to maternal mortality and morbidity; one study found 60% of the maternal deaths that occurred over 40-months were attributable to unsafe abortion complications.^{lv}

Recommendations

- UNFPA: Decriminalise elective abortions. Ensure sexual and reproductive healthcare and services, including safe abortions and post-abortion services, are adequately resourced and fully-available, while institutionalising and resourcing scientifically-accurate comprehensive sexuality education for in and out-of-school girls and boys, emphasising non-discrimination and equality.

Accessible mental health support

There is a scarcity of mental healthcare. The term counselling is applied to a wide range of formal and informal forms of support. While some may be considered mental healthcare, others are actively harmful to survivors. For example, most 'counselling' functions as a form of mediation which prioritises reconciling survivors with abusive partners. Psychosocial support is currently provided by a wide range of CSOs, safehouses, and Family Support Centres. However, the near-complete absence of qualified mental health providers results in a lack of specialised mental healthcare beyond psychosocial support which seeks to provide basic emotional and practical support to survivors. Even amongst psychosocial support providers, the quality of care varies.

Recommendations

- UNFPA: Institutionalise and resource multi-tiered mental health care to ensure the availability of counselling services, quality specialised mental health services and psychosocial support tailored to the nature and severity of individuals' needs. Resource mental health education, including at a university level and pre-and in-service training; integrate a focus on VAW and VAC in mental health curricula.

H. Rights to a sustainable environment

PNG has a comprehensive set of laws and policies, including the Forest Act 1991, the Fisheries Management Act 1998 (amended 2015), and as of more recently, Vision 2050 and the National Strategy for Responsible Sustainable Development ('StaRS').

Nevertheless, there has been a failure at implementation seen across many of these policies. The StaRS has yet to be effectively implemented partly because it lacks an accountability

mechanism to monitor and report on StarRS' implementation. There is a clear readiness to overrule environmental impact assessments involving natural resource projects. There are concerns over the extent to which the State steps back from its regulatory role; concerns that were raised recently after the State purchased major equity in a speculative and controversial deep-sea mining venture in the Bismarck Sea.^{lvi}

CSOs, indigenous groups and human rights defenders have been vocal about several issues, including the abuse of Special Agriculture Business Leases that displace people from their land without free, prior and informed consent and the impacts of the Frieda Mine project on toxic waste and destruction of livelihoods.^{lvii} These groups note that these issues are compounded by the lack of access to justice, complaints mechanisms and public information.^{lviii}

Recommendations

- UNDP: Improve reliable and accurate environmental monitoring and effective enforcement of environmental regulations and Codes of Practice while integrating public environmental concerns into national policies.

I. Rights of the child

The Government has committed to submitting its overdue periodic State party report under the CRC. A Government Task Force Committee on the CRC report, led by the National Office of Child and Family Services ('OCFS') was established.

Violence against children

Systematic data on violence against children is not widely available; however, recent estimates suggest that 75% of children experience some form of violence during their childhood, often perpetrated within the home environment.^{lix}

The DCDYR is the primary custodian of social issues and the mandated custodian for the FPA 2013 and the Lukautim Pikinini Act 2015 ('LPA').^{lx} Within this department, the OCFS fulfils the statutory functions of the LPA and the Child Protection Policy, which include providing support to victims and presenting cases in court. In 2019, the OCFS finalized all legal documentation required for the PRIMERO system, a platform for child protection case management.

The low levels of birth registration contribute to the vulnerability of children to violence, abuse, and exploitation.^{lxi} The Government has identified civil registration as a key priority and set the target of increasing birth registration by 50% by 2022.^{lxii} PNG also enacted the Child Protection Act 2015 and the JJA, which cannot be fully implemented unless every child's birth is registered.

Recommendations

- UNICEF: Strengthen birth registration for children, including children under the age of five years.

Sexual abuse

The LPA is not being fully implemented. The penalties provided for by the Act are minimal and too low to serve as a deterrent to potential offenders.

Recommendations

- IOM: Fully implement the LPA 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.

Education

The education sector faces challenges meeting adequate standards of quality, inclusion, and safety, including distances to schools, shortages of upper-secondary placements, closures due to tribal clashes, poor water and sanitation facilities, and GBV-affected enrolment, attendance and learning outcomes. Additionally, small schools serving isolated communities have severe human, material, and financial resource constraints.

A quarter of children aged 6-18 years were not in school and nearly half of adolescents aged 10–19 years have no formal education.^{lxiii} 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 found school attendance has been strongly impacted since the beginning of COVID-19. More than half of the household with school-age children indicated reducing the number of children attending school, which could later lead to serious long-term repercussions on human capital development and a widening of the gender-gap in education if girls were kept home more than boys.^{lxiv}

Recommendations

- UN Women: Integrate gender equality into all levels of education.
- UNICEF: Complete, adopt and roll out the National Out-of-School Children strategy, particularly in remote and rural communities to ensure access to education.

J. Rights of refugees and asylum-seekers

PNG has seven reservations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, including on rights to wage-earning employment, housing, public education, and freedom of movement. PNG has not codified its complementary protection obligations under international human rights law to prevent *refoulement* of individuals who are found not to be refugees.

In PNG, there are three categories of refugees and asylum-seekers. The first category is a population of approximately 10,000 Papuan refugees and asylum-seekers. Although Government efforts are ongoing to register the population and facilitate access to citizenship, challenges to local integration remain due to a lack of sustained and coordinated efforts to promote self-sufficiency and access to rights, such as education and naturalization.

The second category is refugees and asylum-seekers forcibly transferred to PNG by Australia in 2013 who were subjected to years of harsh detention conditions on Manus Island without foreseeable durable solutions. In 2019 and early 2020, a significant number of asylum-seekers and refugees were medically evacuated to Australia due to serious health concerns, notably related to mental health. In late 2019, all the remaining refugees and asylum-seekers on Manus Island were moved to PNG and accommodated in various locations funded by

Australia. Among these, 53 asylum-seekers, who were denied access to appeal procedures, were indefinitely detained at an immigration detention facility between August to December 2019, with no access to telecommunications and justice services. External oversight by independent bodies was strictly limited. At present, about 130 transferred asylum-seekers and refugees remain in PNG and for the vast majority who will not be resettled to the USA or other third countries, local integration in PNG is not a viable or safe solution due to the challenges. Australia therefore remains responsible.

The third category is asylum-seekers and refugees who arrive in PNG voluntarily but are non-Papuan. Although these are a small number, efforts to facilitate local integration need to be promoted.

Recommendations

- UNHCR: Remove the reservations to the 1951 Convention that undermine refugees' realization of core human rights and coordinate efforts to facilitate the local integration of refugees. Codify the complementary protection obligations under international human rights law to protect against *refoulement*. Introduce legislation that prohibits the indefinite and arbitrary detention of asylum-seekers and refugees and provides that when asylum-seekers and refugees are detained, such detention complies with international laws and standards.

K. Peace and stability in Bougainville

In 2019, the Bougainville Referendum Commission ('BRC') conducted a safe, free, fair and credible referendum on the future political status of the Autonomous Region of Bougainville ('ARoB').^{lxv} The conduct of the referendum was a substantial part of the Bougainville Peace Agreement 2001 ('BPA'), alongside autonomy and a weapons disposal plan. The referendum involved the establishment of an independent electoral management body, tasked to deliver the referendum to a credible, international standard. While credible,^{lxvi} the referendum process was also transparent, with an equal amount of male and female voters and a voter turnout of 87.4%; a credit to the work of the BRC which had inclusivity as one of its key guiding principles.^{lxvii}

97.7% of voters chose independence from PNG, while 2.3% voted for greater autonomy. According to the BPA, the result of the referendum is non-binding, which means that the two parties, through consultation, will have to agree on the future political status of the ARoB, and the National Parliament has the final decision-making authority. Therefore, since January 2019, the two governments have been working together to design the post-referendum consultation process which will formally begin in March 2021. Despite the logistical challenges that COVID-19 has brought, preparations for the consultation have progressed throughout 2020 and 2021 by the two parties' technical teams.

Recommendations

- UNDP: 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. Continue to be guided by the principle of inclusivity by increasing women and youth participation and promoting the empowerment of women and human rights through the Bougainville House of Representatives.

Word count: 5,605/5,630

ⁱ A/HRC/33/10/Add.1, 104.1 (all core Conventions); 104.5-104.7 and 104.9-104.11 (Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment); 104.17-104.19 (Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families); 104.22 and 104.24 (OP to the Convention on the Elimination of All Forms of Discrimination Against Women)

ⁱⁱ A/HRC/33/10/Add.1, 104.35-104.47

ⁱⁱⁱ This low index reflects: the absence of parliamentary seats held by women; the 9.5% of adult women that have attained at least some secondary education compared to the 15% of their male counterparts; the 215 pregnancy-related deaths per 100,000 live births; adolescent birth rate of 52.7 births per 1000 women aged 15–19 years and women’s participation in the labour market at 69% compared to 70.8% for men: United Nations Development Programme, Human Development Indices and Indicators: 2018 Statistical Update – Briefing note for countries on the 2018 Statistical Update: Papua New Guinea (2018) http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/PNG.pdf (accessed on 17 March 2021)

^{iv} A/HRC/33/10/Add.1, 104.75-104.79

^v A/HRC/33/10/Add.1

^{vi} The National, ‘LGBTQ community calls for protection, equal rights’ (14 September 2020) <https://www.thenational.com.pg/lgbtq-community-calls-for-protection-equal-rights/> (accessed 16 March 2021)

^{vii} ABC News, ‘Australian government accused of "meddling" in PNG affairs after pro-LGBTQI social media post’ (28 May 2020) <https://www.abc.net.au/radio-australia/programs/pacificbeat/lgbtqi-catholic-png/12294792> (accessed 16 March 2021)

^{viii} PNG Report, ‘Aussies take down gay flag’ (28 March 2020) <https://www.pngreport.com/community/news/1387715/aussies-take-down-gay-flag> (accessed 16 March 2020)

^{ix} Human Dignity Trust, Hate Crimes against the LGBT Community in the Commonwealth: A Situational Analysis https://www.humandignitytrust.org/wp-content/uploads/resources/2020-Hate-Crimes-against-the-LGBT-Community-in-the-Commonwealth_A-Situational-Analysis.pdf (accessed 16 March 2021)

^x ABC News, ‘Papua New Guinea gay community mourns man allegedly killed by relative’ (18 October 2016) <https://www.abc.net.au/news/2016-10-18/png-gay-community-mourns-man-allegedly-killed-by-relative/7941300> (accessed 16 March 2020)

^{xi} Kelly-Hanku A, Kauntim Mi Tu Multi-Site Summary Report 2018: Key findings from the Key Population Integrated Bio-Behavioural Survey Papua New Guinea (2018) https://www.aidsdatahub.org/sites/default/files/publication/PNG_Kauntim_mi_tu_Multi-Site_Summary_Report_from_the_Key_Population_IBBS_2018.pdf

^{xii} Kelly-Hanku A, Kauntim Mi Tu Multi-Site Summary Report 2018: Key findings from the Key Population Integrated Bio-Behavioural Survey Papua New Guinea (2018) https://www.aidsdatahub.org/sites/default/files/publication/PNG_Kauntim_mi_tu_Multi-Site_Summary_Report_from_the_Key_Population_IBBS_2018.pdf

^{xiii} The National, ‘Sex workers’ plea for help’ (7 September 2020) <https://www.thenational.com.pg/sex-workers-plea-for-help/> (accessed 16 March 2021); The National, ‘No help for prostitutes’ (8 September 2020) <https://www.thenational.com.pg/no-help-for-prostitutes/> (accessed 16 March 2021); The National, ‘PM: I do not support prostitution’ (14 September 2020) <https://www.thenational.com.pg/pm-i-do-not-support-prostitution/> (accessed 16 March 2021)

^{xiv} A/HRC/33/10/Add.1, 104.142-143

^{xv} Papua New Guinea Department of Justice and Attorney General, Attorney General’s Law Journal: Volume 1, No. 1 (2019)

^{xvi} UNICEF East Asia and the Pacific Regional Office, UNFPA Asia and Pacific Regional Office, and UN Women Asia and Pacific Regional Office, Ending Violence against Women and Children in Papua New Guinea: Opportunities and Challenges for Collaborative and Integrative Approaches (2020)

^{xvii} PNG Law Enforcement has an estimated total of 7,000 law enforcement officers for a population of 8.25 million spread across 600 islands: UNICEF East Asia and the Pacific Regional Office, UNFPA Asia and Pacific Regional Office, and UN Women Asia and Pacific Regional Office, Ending Violence against Women and Children in Papua New Guinea: Opportunities and Challenges for Collaborative and Integrative Approaches (2020)

- ^{xviii} Dinnen S, *Internal Security in Papua New Guinea: trends and prospects* (2017) Lowy Institute, available at <http://interactives.lowyinstitute.org/publications/PNGin2017/png-in-2017-internal-security-png-trends-prospects.html>.
- ^{xix} A/HRC/33/10/Add.1, 104.128-104.131
- ^{xx} Loop PNG, 'RPNGC revamp ethical standards' (21 July 2019) <https://www.looppng.com/png-news/rpngc-revamp-ethical-standards-85780> (accessed 16 March 2021)
- ^{xxi} Pacific Beat, 'More than 30 PNG police officers arrested in four months' (22 Jan 2019) <https://www.abc.net.au/radio-australia/programs/pacificbeat/png-police-force-cracks-down-on-rogue-officers/10734498> (accessed 16 March 2021)
- ^{xxii} Radio New Zealand, '15 PNG police officers arrested in capital over four months' (16 January 2019) <https://www.rnz.co.nz/international/pacific-news/380257/15-png-police-officers-arrested-in-capital-over-four-months> (accessed 16 March 2021)
- ^{xxiii} UNICEF East Asia and the Pacific Regional Office, UNFPA Asia and Pacific Regional Office, and UN Women Asia and Pacific Regional Office, *Ending Violence against Women and Children in Papua New Guinea: Opportunities and Challenges for Collaborative and Integrative Approaches* (2020)
- ^{xxiv} UNICEF Situation Analysis for Women and Children (2016); UNICEF East Asia and the Pacific Regional Office, UNFPA Asia and Pacific Regional Office, and UN Women Asia and Pacific Regional Office, *Ending Violence against Women and Children in Papua New Guinea: Opportunities and Challenges for Collaborative and Integrative Approaches* (2020)
- ^{xxv} <https://www.transparency.org/country/PNG>
- ^{xxvi} <https://www.ombudsman.gov.pg/legislation/leadership-code/>
- ^{xxvii} Bertelsmann Transformation Index, Papua New Guinea Country Report 2020, <https://www.bti-project.org/en/reports/country-report-PNG.html#pos5>
- ^{xxviii} Organic Law on the Independent Commission Against Corruption law 2019 (11 December 2020)
- ^{xxix} <http://archive.ipu.org/wmn-e/classif.htm>
- ^{xxx} Haley N and Zubrinich K, *Assessing the Shift to Limited Preferential Voting in Papua New Guinea: Money Politics* (ANU 2015) SSGM In Brief 2015/30; Haley N and Zubrinich K, 2017 Papua New Guinea General Elections, Election Observation Report (ANU 2018); International Foundation for Electoral Systems, *Violence Against Women in Elections in the Autonomous Region of Bougainville: An IFES Assessment* (2019); Bougainville Women's Federation, *Report on focus groups on violence against women in elections in Bougainville* (2019)
- ^{xxxi} Australian National University, 2017 Papua New Guinea general elections, election observation report (2018)
- ^{xxxii} UN Women and UNDP, *Oi Meri Igat Rait: A gender assessment of the Bougainville Referendum Commission and the Bougainville Referendum* (Forthcoming 2021)
- ^{xxxiii} Environmental (Amendment) Act 2014, No. 10 of 2014 (30 May 2014)
- ^{xxxiv} Amnesty International, *Portrait of an Activist: Emmanuel Peni* (30 May 2019) <https://www.amnesty.org/en/latest/news/2019/05/portrait-of-an-activist-emmanuel-peni/> (accessed 16 March 2021)
- ^{xxxv} Amnesty International, *Portrait of an Activist: Cressida Kaula* (30 May 2019) <https://www.amnesty.org/en/latest/news/2019/05/portrait-of-an-activist-cressida-kaula/> (accessed 16 March 2021)
- ^{xxxvi} Amnesty International, *Portrait of an Activist: Emmanuel Peni* (30 May 2019) <https://www.amnesty.org/en/latest/news/2019/05/portrait-of-an-activist-emmanuel-peni/> (accessed 16 March 2021)
- ^{xxxvii} A/HRC/33/10/Add.1, 104.5-104.7
- ^{xxxviii} A/HRC/33/10/Add.1
- ^{xxxix} A/HRC/33/10/Add.1
- ^{xl} Criminal Code Act 1974, Sections 641(1)(a)(b)(c)(d)(e); Human Rights Watch, 'Papua New Guinea Massacre Doesn't Justify Death Penalty' (11 July 2019) <https://www.hrw.org/news/2019/07/11/papua-new-guinea-massacre-doesnt-justify-death-penalty> (accessed 16 March 2021)
- ^{xli} Bertelsmann Transformation Index, Papua New Guinea Country Report 2020, <https://www.bti-project.org/en/reports/country-report-PNG.html#pos5>
- ^{xlii} S Dinnen, *Building Bridges: Law and Justice Reform in Papua New Guinea* (ANU Press 2010)
- ^{xliii} ABC News, 'PNG prison officers shoot and kill 17 prisoners who escaped from Buimo jail' (15 May 2017) <https://www.abc.net.au/news/2017-05-15/prison-officers-in-png-shoot-and-kill-17-buimo-escapees/8526756> (accessed 17 March 2021)
- ^{xliv} S Dinnen, *Building Bridges: Law and Justice Reform in Papua New Guinea* (ANU Press 2010)
- ^{xlv} National Statistical Office, *Demographic and Health Survey 2016-2018* (2019)

^{xlvi} https://www.pg.undp.org/content/papua_new_guinea/en/home/projects/the-spotlight-initiative-in-papua-new-guinea.html

^{xlvii} World Bank, Health Financing System Assessment (2017)

^{xlviii} Kauntim mi tu: Multi-Site Summary Report from the Key Population Integrated Bio-Behavioural Survey, Papua New Guinea. Papua New Guinea Institute of Medical Research and Kirby Institute, UNSW Sydney: Goroka, Papua New Guinea 2017

^{xliv} National Statistical Office, Demographic and Health Survey 2016-2018 (2019)

^l National Statistical Office, Demographic and Health Survey 2016-2018 (2019)

^{li} National Department of Health Sector Performance Assessment Review (2016)

^{lii} Half of all children under five years of age are stunted - a staggering magnitude that is the fourth highest in the world. Over half a million children under five years of age are stunted and about 200,000 children are wasted and require critical lifesaving treatment each year. Nearly half of children 6-59 months are anaemic and of this group 27% have iron deficiency anaemia. Almost one-out-of-three children aged 6-59 months are vitamin A deficient, which relates to a high prevalence of inflammation related deficiencies affecting children's sight and immune system.

^{liii} World Bank, Papua New Guinea High Frequency Phone Survey on COVID-19 (8 December 2020)

^{liv} Low-rates of facility-based delivery (40%), low ANC attendance (60% attend at least one visit), relatively high-rates of teenage pregnancies (52.7 births/1,000 women aged 15-19), and unmet needs for contraception (27.4%): National Department of Health, Sector Performance Annual Review 2018; http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/PNG.pdf (accessed 16 March 2021); <http://info.worldbank.org/governance/wgi/#reports> (accessed 16 March 2021)

^{lv} Valley Lisa, Unsafe abortion requiring hospital admission in the Eastern Highlands of Papua New Guinea: A descriptive study of women's and health care workers' experiences in Reproductive Health (2015)

^{lvi} This project (Solwara 1) was on hold for commercial reasons in 2018, with most shareholders having withdrawn, but in January 2019, it gained a further extension of its financing. The issue of deep-sea tailings as the preferred waste disposal method for the Wafi-Golpu mine is controversial, and so is the long-planned and long-life Frieda river mine, with its planned joint-hydro and tailings dam.

^{lvii} Communication AL PNG 1/2020 (20 July 2020)
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25423> (accessed 16 March 2021)

^{lviii} Communication AL PNG 1/2020 (20 July 2020)
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25423> (accessed 16 March 2021)

^{lix} Save the Children, Unseen, Unsafe, the Underinvestment in Ending Violence Against Children in the Pacific and Timor-Leste (2019)

^{lx} Family Protection Act 2013; Lukautim Pikinini Act 2015

^{lxi} Only 13% of children aged 0-5 years have their birth registered and only 7% of these have a birth certificate: National Statistical Office, Demographic and Health Survey 2016-2018 (2019)

^{lxii} Medium Term Development Plan III (2018-2022)
https://www.ceda.gov.pg/sites/default/files/documents/PNG%20Medium%20Term%20Development%20Plan%20III_Volume%201.pdf (accessed 16 March 2021)

^{lxiii} National Department of Education, Out-of-school Children Report 2019

^{lxiv} World Bank, Papua New Guinea High Frequency Phone Survey on COVID-19 (8 December 2020)

^{lxv} Bougainville Referendum Commission, The final report of the Bougainville Referendum Commission Conduct of the Bougainville Referendum (2020)

^{lxvi} Bougainville Referendum Commission, The final report of the Bougainville Referendum Commission Conduct of the Bougainville Referendum (2020)

^{lxvii} Commonwealth Observer Group, Papua New Guinea: Referendum on the political future of Bougainville was credible, transparent and inclusive (December 2019)