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**STATUS OF HUMAN RIGHTS IN THE INDEPENDENT STATE OF PAPUA NEW GUINEA
FOR THE 39TH SESSION OF THE
UNIVERSAL PERIODIC REVIEW**

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to discuss the status of human rights in the Independent State of Papua New Guinea (Papua New Guinea) for the 39th Session of the Universal Periodic Review (UPR).

Background

2. Papua New Guinea is an island state located off the coast of Australia, and has a population of approximately 7.2 million people¹. Papua New Guinea is a predominantly Christian nation with approximately 64.3% of the population identifying as Protestant, 26% as Roman Catholic, 5.3% as other Christian, and 3.1% unspecified².

3. Papua New Guinea's previous review was held on 6 May 2016³. As a result of the review, Papua New Guinea received 161 recommendations, 107 of which it supported⁴. One recommendation in particular that was supported by Papua New Guinea was that the government:

[i]mplement the recommendations of the Special Rapporteur on violence against women, particularly those pertaining to domestic violence and violence related to sorcery accusations; take all necessary steps to fully implement the Sorcery National Action Plan; ensure the investigation of incidents of sorcery related violence and prosecution of alleged perpetrators; and provide adequate shelter, psycho-social, legal and other services for survivors of gender-based violence, including in rural areas⁵.

4. It was also recommended that Papua New Guinea “[e]nd impunity for trafficking by enforcing provisions in the Criminal Code Amendment of 2013”⁶.

Legal Framework

5. Under Article 35 of the Constitution of Papua New Guinea, “[n]o person shall be deprived of his life . . .”, and under Article 36 “[n]o person shall be submitted to torture (whether physical or mental), or to treatment or punishment that is cruel or otherwise inhuman, or is inconsistent with respect for the inherent dignity of the human person”⁷.

6. Additionally, under Article 208C of Papua New Guinea's Criminal Code:

(1). Any person who recruits, transfers, conceals, harbours or receives any person
by –

- (a) threat; or
- (b) use of force or other forms of coercion; or
- (c) abduction; or
- (d) fraud; or
- (e) deception; or
- (f) use of drugs or intoxicating liquors; or
- (g) the abuse of office; or
- (h) the abuse of relationship of trust; authority or dependency; or
- (i) the abuse of position of vulnerability; or
- (j) the giving or receiving of payments or benefits to achieve the consent of a person having control over another person,

with the intention that the other person will be subject to exploitation, is guilty of a crime.

Penalty: Imprisonment for a term not exceeding 20 years.

(2) If the offence is committed in relation to a person who is under 18 years of age at the time of the offence, the offender is liable to imprisonment for a term not exceeding 25 years.

(3) If the offender subjects the person to circumstances that result in, or are likely to result in, the death of that person, the offender is liable, subject to Section 19, to imprisonment for life⁸.

7. Under Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which Papua New Guinea is a party, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”⁹. Furthermore, under Article 7, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”¹⁰.

8. Furthermore, under Article 6 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), to which Papua New Guinea is also a party, “State parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”¹¹.

9. Additionally, under article 34 of the Convention on the Rights of the Child:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials¹².

10. In an effort to put an end to Sorcery Accusation Related Violence (SARV), the government of Papua New Guinea repealed the Sorcery Act in 2013, which then subjected SARV to the same provisions found within the Criminal Code Act 1975¹³. Under Article 299 of the Criminal Code, “(1) Subject to the succeeding provisions of this Code, a person who unlawfully kills another person, intending to cause his death or that of some other person, is guilty of willful murder”, and “(2) A person who commits willful murder shall be liable to be sentenced to death”¹⁴.

Sorcery in Papua New Guinea

11. Papua New Guinea is very diverse and tribal country. In fact, there are more than 800 indigenous languages spoken across the entire population¹⁵. Sorcery has a long history within Papua New Guinea. As Anton Lutz, a Lutheran missionary, stated:

Papua New Guinean’s ideas about sanguma [black magic or witchcraft] and sorcery are regionally diverse, logically contradictory, change over time, and spread to new places and people where they mix with pre-existing beliefs. And they are used to justify their illegal violence against vulnerable people¹⁶.

12. Despite the legal protections against it, sorcery related violence continues to endanger the lives of individuals who are violently attacked and even killed after being falsely accused of practicing sorcery¹⁷. Peter Barkie, Milne Bay provincial commander, stated that SARV is a regular occurrence, and that while it is widely known that it takes place, rarely does it go reported¹⁸.

The belief here that about sorcery is so intense that they kill anyone they suspect is practicing it, but the practice here is different from that in Southern Highlands where women are beaten and tortured before being burnt alive.

They just slaughter them, no torture, no burning.

But what is frightening about the practice here is that the first-born child of the person accused is also killed because they believe it is passed from the parent to the first-born child¹⁹.

13. For example, in June of 2019, six men were sentenced to eight years in prison each after they were convicted of torturing three women, whom the men claimed were practising sorcery²⁰. According to reports, the men accused the three women after one of the men’s daughter had a heart ailment. They proceeded to torture the women with hot pokers and boiling water²¹. And, in November of 2020, a woman was murdered, and a 13-year-old boy was found dead by hanging as a result of SARV²².

Human Trafficking

14. In Papua New Guinea human traffickers exploit both domestic and foreign victims for sexual exploitation and forced labour²³. Furthermore, human traffickers also exploit domestic victims to be trafficked abroad²⁴. Men are trafficked for forced labour in logging and mining camps²⁵. Many of these victims are also children and according to a report it is estimated that approximately 30% of Papua New Guinea's sex trafficking victims are below the age of 18²⁶. Furthermore, according to the Global Slavery Index, it is estimated that 81,000 people are living in modern slavery within the country²⁷.

15. The main issues facing Papua New Guinea in combatting human trafficking is a lack of resources and a lack of awareness of the issue by both the government and general public²⁸. Furthermore, it is also important that the government go after not only those trafficking the individuals but the consumers as well²⁹.

16. In December 2020, Papua New Guinea secured its first conviction for human trafficking and sentenced a man to 20 years of hard of labour for trafficking and rape³⁰. The man was convicted on six counts of human trafficking against six young women³¹. The man purchased the young women from their parents and then used the young women to entertain the guests at a lodge and even directed them to drink alcohol and have sex with the guests. It was also reported that he assaulted and raped one of the girls³².

Conclusion

17. It is critical that Papua New Guinea take immediate action to put an end to SARV. Awareness and education campaigns about SARV are necessary, so that the public is educated about the practice and encouraged to report incidents. Furthermore, it is critical that the government provide aid and assistance for the victims of SARV related attacks. Additional training and resources for law enforcement are also critical to ensure that all cases go reported and are thoroughly investigated. The government must also increase funding and resources to better combat human trafficking as well as increase training for police to identify and investigate human trafficking. It is also important that government create awareness campaigns to educate the population about human trafficking and how to identify it and report it to the police.

¹ Papua New Guinea, THE WORLD FACTBOOK, *available at* <https://www.cia.gov/library/publications/the-world-factbook/geos/pp.html>.

² *Id.*

³ Universal Periodic Review – Papua New Guinea, *available at* <https://www.ohchr.org/EN/HRBodies/UPR/Pages/PGindex.aspx>.

⁴ UPR of Papua New Guinea – Second Cycle Thematic List of Recommendations A/HRC/33/10/Add. 1, *available at* <https://www.ohchr.org/EN/HRBodies/UPR/Pages/PGindex.aspx>.

⁵ *Id.*

⁶ *Id.*

⁷ Constitution of the Independent State of Papua New Guinea, *available at* http://www.paliii.org/pg/legis/consol_act/cotisopng534/.

⁸ Criminal Code (Amendment) Act 2013, art. 208C, *available at* <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/98690/117506/F334954182/PNG98690.pdf>

⁹ International Covenant on Civil and Political Rights, 16 Dec. 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 6.

¹⁰ *Id.*

¹¹ Convention on the Elimination of All Forms of Discrimination Against Women, 18 Dec. 1979, art. 6, *available at* <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

¹² Convention on the Rights of the Child, 20 Nov. 1989, GA Res. 44/25, art. 34, *available at* <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

¹³ Rebecca Kuku, “*They Just Slaughter them*”: *How Sorcery Violence Spreads Fear Across Papua New Guinea*, THE GUARDIAN (13 Nov. 2020, 2:00 PM), *available at* <https://www.theguardian.com/world/2020/nov/14/they-just-slaughter-them-how-sorcery-violence-spreads-fear-across-papua-new-guinea>.

¹⁴ *Id.*

¹⁵ Tess Davis, *Repealing the 1971 Sorcery Act: A Solution to Papua New Guinea’s Witch Hunts?*, INTLAWGRRLS (18 Apr. 2013), *available at* <https://ilg2.org/2013/04/18/repealing-the-1971-sorcery-act-a-solution-to-papua-new-guineas-witch-hunts/>.

¹⁶ Kuku, *supra* note 13.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Six PNG Men Jailed for Abusing Women Accused of Sorcery*, RNZ (4 Jul. 2019, 3:18 PM), *available at* <https://www.rnz.co.nz/international/pacific-news/393644/six-png-men-jailed-for-abusing-women-accused-of-sorcery>.

²¹ *Id.*

²² Kuku, *supra* note 13.

²³ *Address Human Trafficking*, THE NATIONAL (30 Jul. 2020), *available at* <https://www.thenational.com.pg/address-human-trafficking/>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Country Data Papua New Guinea*, WALK FREE (2018), *available at* <https://www.globalslaveryindex.org/2018/data/country-data/papua-new-guinea/>.

²⁸ *Address Human Trafficking*, *supra* note 23.

²⁹ *Calls for New Approach to Curb Human Trafficking in PNG*, (29 Jan. 2020, 8:49 AM), *available at* <https://www.rnz.co.nz/international/pacific-news/408368/calls-for-new-approach-to-curb-human-trafficking-in-png>.

³⁰ Zedaiah Kanau, *20yrs for Trafficking, Rape*, THE NATIONAL (28 Dec. 2020), *available at* <https://www.thenational.com.pg/20yrs-for-trafficking-rape/>.

³¹ *Id.*

³² *Id.*