



2008 Human Rights Report: Papua New Guinea

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2008 Country Reports on Human Rights Practices](#)

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Papua New Guinea is a constitutional federal multiparty parliamentary democracy with a population of approximately 6.7 million and more than 800 indigenous tribes. The most recent general elections, held in June and July 2007, were marred by bribery, voter intimidation, and influence peddling. A coalition government, led by Prime Minister Michael Somare, was formed following the election. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently.

The government generally respected the human rights of its citizens, but there were serious problems in some areas. Human rights abuses included arbitrary or unlawful killings by police, police abuse of detainees, poor prison conditions, police corruption and impunity, lengthy pretrial detention, infringement of citizens' privacy rights, government corruption, violence and discrimination against women and children, discrimination against persons with disabilities, intertribal violence, and ineffective enforcement of labor laws.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, police killed a number of persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. However, public concern about police violence persisted.

In January a shootout between police and youths from the Gigo settlement in Kimbe Province resulted in the death of a young man. In December police shot and killed three gunmen who tried to rob the Bank South Pacific in West New Britain.

There were no developments in the following 2007 cases involving police actions: the March shooting of three persons in which one person died and two were injured, the May 4 shooting death of Jeffrey Kui, and the May 25 shooting of three persons, two of whom died.

There were no further developments in the alleged 2006 police killing of a person at a Port Moresby hotel.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices; however, individual police members frequently beat and otherwise abused suspects during arrests, interrogations, and in pretrial detention. There were numerous press accounts of such abuses, particularly against young detainees. On June 17, a suspect had his leg amputated after a police officer reportedly shot him. In August William Kapis, a suspect in numerous bank robberies, was shot in both legs during his apprehension by the police.

There were no developments in the 2007 cases in which an auxiliary police officer in Rabaul allegedly shot and injured a high school student, or in which police reportedly beat a soldier in Port Moresby. There also were no developments in the 2006 case in which correction officers at Buimo Prison beat and sexually abused young male detainees.

On September 22, a National Court judge found seven members of the police force in Madang liable for breach of basic human rights of five young men in 2004. The prosecution claimed that the police officers forced two of the five detainees to have sex between themselves. In addition the prosecution alleged that the policemen subjected the detainees to torture and held them for three weeks without charges. The court found the seven policemen, as well as their commissioner and the government, liable. At year's end damages were pending assessment.

Prison and Detention Center Conditions

Prison conditions were poor, and the prison system suffered from serious underfunding. During most of the year, four of the country's 20 prisons remained closed because of life threatening conditions. Neither prisons nor police detention centers had medical care facilities. In some police holding cells, detainees lacked bedding and sufficient food and water. Overcrowding in prisons and police cells was a serious problem. In rural areas infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding. Prison escapes were common, even from high security installations.

Male and female inmates usually were held separately, but some rural prisons lacked separate facilities, and there were reports of assaults on female prisoners. There were no separate facilities for juvenile offenders; however, in some prisons juveniles were provided with separate sleeping quarters. To hold minors waiting to be arraigned prior to bail being posted, there were three juvenile reception centers located in Port Moresby, Lae, and Goroka. Human Rights Watch reported that juveniles routinely were held with adults in police detention cells, where in many cases they were assaulted by older detainees. Police denied juvenile court officers access to police cells. Pretrial detainees were not separated from convicted prisoners.

The government permitted prison visits by human rights observers, but no such visits were requested during the year.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

A commissioner who reports to the minister for internal security heads the national police force, the Royal Papua New Guinea Constabulary. Internal divisions related to clan rivalries and a serious lack of resources negatively affected police effectiveness. Police corruption and impunity were serious problems. At year's end there were no reports of any action taken against officers who in March 2007 allegedly assaulted the director of police prosecutions in Port Moresby.

Police shootings are investigated by the police department's Internal Affairs Office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police may challenge the coroner's finding in the National Court, with the assistance of the Public Solicitor's Office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court.

In January a police complaints ombudsman was appointed as a result of a July 2007 agreement between the police and the Ombudsman Commission. The ombudsman deals with public complaints and concerns about members of the police force.

Arrest and Detention

Under the law, to make an arrest police must have reason to believe that a crime was committed, is in the course of being committed, or will be committed. A warrant is not required, and police made the majority of arrests without one. Citizens may make arrests under the same standards as the police, but this was rare in practice. Police, prosecutors, and citizens may apply to a court for a warrant; however, police normally did so only if they believed it would assist them in carrying out an arrest.

Only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, the police or magistrates may grant bail. Arrested suspects have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review; however, the government did not always respect these rights. Detainees had access to counsel, and family members had access to detainees. There were reported instances of politicians directing or bribing police officials to arrest or intimidate individuals seen as political enemies or as possible whistle blowers on corruption.

Due to very limited police and judicial resources and a high crime rate, suspects often were held in pretrial detention for lengthy periods. Although pretrial detention is subject to strict judicial review through continuing pretrial consultations, the slow pace of police investigations and occasional political interference or police corruption frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of shortages of judges and travel funds. Some detainees were held in jail for more than two years because of the shortage of judges.

In August the Lae resident National Court judge highlighted the increasing volume of new criminal cases. With an estimated 235 criminal cases pending, approximately 200 prisoners at the Buimo jail allegedly organized a four-day hunger strike in August to protest the slow speed of their cases pending in the National Court.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The legal system is based on English common law. The law provides for due process, including a public trial, and the court system generally enforced these provisions. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to an attorney. The Public Solicitor's Office provides legal counsel for those accused of "serious offenses" (charges for which a sentence of two years or more is the norm) who are unable to afford counsel. Defendants and their attorneys may confront witnesses, present evidence, access government-held evidence, plead cases, and appeal convictions. The shortage of judges created delays in both the process of trials

and the rendering of decisions.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. District courts may order "good behavior bonds," commonly called "protection orders," in addition to ordering that compensation be paid for violation of human rights. However, courts had difficulty enforcing judgments. Additionally, many human rights matters were handled by village courts, which were largely unregulated. Village and district courts often were hesitant to interfere directly in domestic matters. Village courts regularly ordered that compensation be paid to an abused spouse's family in cases of domestic abuse rather than issue a domestic court order.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions; however, there were instances of abuse. Police raids and searches of illegal squatter settlements and homes of suspected criminals often were marked by a high level of violence and property destruction. Police units operating in highland regions sometimes used intimidation and destruction of property to suppress tribal fighting.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. All newspapers included a variety of editorial viewpoints and reported on controversial topics. There was no evidence of officially sanctioned government censorship; however, newspaper editors complained of intimidation tactics aimed at influencing coverage.

In May the managing director, editors, and subeditors of the daily newspaper Post Courier were reportedly referred to the Parliamentary Privileges Committee over coverage of a diplomacy scandal involving a foreign government (see section 3). Simon Eroro, one of the newspaper's journalists, went into hiding after receiving death threats, allegedly because of his articles dealing with the scandal.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. In practice cost factors and lack of infrastructure limited public access to the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly; however, the government often limited this right in practice. Public demonstrations require police approval and 14 days' notice. Asserting a fear of violence from unruly spectators, police rarely gave approval.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against religious groups, including anti-Semitic acts. There was no known Jewish community in the country.

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees

Although a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not enacted enabling legislation and has not established a system for providing protection to refugees. The government did not grant refugee status or asylum. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or 1967 protocol.

With support from the UNHCR, the government continued to provide protection to approximately 2,700 persons residing at the East Awin refugee settlement who fled the Indonesian province of Papua (formerly Irian Jaya). Another 5,000 such persons, classified by the government as "border crossers," lived in villages adjacent to the border with Indonesia.

Registered refugees residing in the East Awin refugee settlement were granted a residence permit that allowed them to travel freely within the country and, on a case-by-case basis, to travel abroad depending on the urgency of the business and a guarantee of financial support by sponsoring institutions.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic but flawed elections based on universal suffrage.

Elections and Political Participation

The most recent general election was held in June and July 2007. Bribery, voter intimidation, and undue influence were widespread in some parts of the country during the election. After the election the National Court registered 53 election petitions that alleged illegal practices. By year's end 16 petitions had been dismissed and 13 withdrawn; two others were upheld and by-elections ordered, and 22 scheduled for court hearings, including Supreme Court appeals.

Political parties could operate without restriction or outside influence.

There is no law limiting political participation by women, but the deeply rooted patriarchal culture impeded women's full participation in political life. There was one woman in the 109 seat Parliament. She served as minister of community development, the only cabinet position held by a woman. There was one female National Court justice and no female provincial governors. In December the National Executive Committee approved a proposal for three nominated seats to increase the number of women in Parliament.

There were six minority (non Melanesian) members of Parliament. Of these, two were in the cabinet, and three were provincial governors.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

Corruption at all levels of government was a serious problem due to weak public institutions, leadership, and governance; lack of transparency; politicization of the bureaucracy; and the use of public resources to meet traditional clan obligations.

In May there were allegations of that representatives of a foreign government had offered 80 million kina (approximately \$32 million) to government officials in exchange for establishing diplomatic relations. In a separate case, in June the media claimed that a government minister had 100 million kina (\$40 million) in a foreign bank account. At year's end no investigation reports on either case had been released.

Public officials are subject to financial disclosure laws as stipulated in the leadership code of conduct. The Ombudsman Commission, the Leadership Tribunal, and the Public Accounts Committee are key organizations responsible for combating government corruption.

No law provides for public access to government information. The government published frequent public notices in national newspapers and occasional reports on specific topics facing the government; however, it generally was not responsive to individual requests, including media requests, for access to government information.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative

and responsive to their views.

In September a two-day national conference on human rights was held to reach consensus among key stakeholders, such as the government, diplomatic missions, the UN Development Program (UNDP), the Individual and Community Rights Advocacy Forum, Transparency International, Save the Children, and the UN Children's Fund, to establish a comprehensive approach to human rights. The Individual and Community Rights Advocacy Forum initiated seven awards for human rights defenders that were presented at the end of the conference.

On October 21, the two treaties that constitute the International Bill of Rights came into force for the country, obliging the government to report to UN treaty bodies on the steps taken to implement rights contained therein, initially in 2009 and every four years thereafter.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal protection under the law irrespective of race, tribe, place of origin, color, or sex; however, enforcement of the provisions was not effective.

Women

Violence against women, including domestic violence and gang rape, was a serious and prevalent problem.

Rape, including spousal rape, is a crime punishable by imprisonment, and prison sentences were imposed on convicted assailants, but few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat. The legal system allows village chiefs to negotiate the payment of compensation in lieu of trials for rapists.

Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, few victims pressed charges, and prosecutions were rare. Widespread sexual violence committed by police officials and their unresponsiveness to complaints of sexual or domestic violence served as barriers to reporting by both women and men. Traditional village mores, which served as deterrents against violence, were weak and largely absent when youths moved from their villages to larger towns or to the capital.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was customary, an increasing number of women were charged with murdering one of their husband's other wives. Independent observers indicated that 90 percent of women in prison had been convicted for attacking or killing another woman.

Prostitution is illegal; however, the laws were not enforced, and the practice was widespread. Sexual harassment is not illegal, and it was a widespread problem.

The laws have provisions for extensive rights for women dealing with family, marriage, and property disputes. Some women have achieved senior positions in business, the professions, and the civil service; however, traditional discrimination against women persisted. Many women, even in urban areas, were considered second class citizens. Women continued to face severe inequalities in all spheres of life: social, cultural, economic, and political. There is no employment antidiscrimination law.

Village courts tended to impose jail terms on women found guilty of adultery while penalizing men lightly or not at all. By law a district court must endorse orders for imprisonment before the sentence is imposed, and circuit riding National Court justices frequently annulled such village court sentences. Polygyny and the custom in many tribal

cultures of paying a "bride price" tended to reinforce the view that women were property. In addition to the purchase of women as brides, women sometimes were given as compensation to settle disputes between clans, although the courts ruled that such settlements denied the women their constitutional rights.

According to statistics published in a UNDP report during the year, women continued to lag behind men in literacy and education due to discrimination; 51 percent of women were literate, compared with 63 percent of men. The Ministry of Community Development was responsible for women's issues and had considerable influence over the government's policy toward women.

Children

Independent observers generally agreed that the government did not dedicate significant resources to protecting the rights and welfare of children. Religious and secular nongovernmental organizations (NGOs) operated programs to protect and develop youth and children.

Primary education was not free, compulsory, or universal. Substantial fees were charged and posed a significant barrier to children's education. Many children did not progress further than primary school.

Boys and girls had equal access to medical care, but many children did not have effective care. Government provided free medical care for citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas.

Sexual abuse of children was believed to be frequent. Independent sources confirmed that in two major cities, 1,000 or more cases of child sexual abuse were reported during the year. Incest is a crime and reportedly increased in frequency. On March 6, the National Court convicted a man of incest with his daughter and sentenced him to seven years' imprisonment. There were cases of commercial sexual exploitation of children between the ages of 14 and 16 in urban areas, including minors working in bars and nightclubs. Human Rights Watch documented numerous instances of police abuse of children. Some children were forced to work long hours as domestic servants in private homes, often to repay a family debt to the "host" family.

The legal age for marriage is 18 for boys and 16 for girls. There is a lower legal marriage age (16 for boys and 14 for girls) with parental and court consent. However, customary and traditional practices allow marriage of children as young as age 12, and child marriage was common in many traditional, isolated rural communities. Child brides frequently were taken as additional wives or given as brides to pay family debts and often were used as domestic servants. Child brides were particularly vulnerable to domestic abuse.

Trafficking in Persons

The law does not prohibit all forms of trafficking in persons, although trafficking in children for sexual exploitation is a crime. There were reports of trafficking of women and girls within the country for sexual exploitation and domestic servitude. Custom requires the family of the groom to pay a "bride price" to the family of the bride. While marriages were usually consensual, women and girls were sometimes sold against their will. There also were reports of Asian women being trafficked into the country to work in the sex industry. Transactional sex was common and often involved the sexual exploitation of children.

The government investigated allegations of corruption among officials dealing with passport issuance and immigration. The allegations primarily involved the illegal issuance of residence and work permits for Chinese or South Asian nationals migrating to the country. Although they originally suspected that corrupt officials were aiding the transport of trafficking victims into the country, authorities did not uncover any evidence that mala fide permits

and passports were used for this purpose. Nevertheless, there was concern that the country may have been used as a route for trafficking in persons to Australia through different means.

The penal code lists trafficking under the general term of slavery, the penalty for which is 20 years' imprisonment. The Ministry of Justice was responsible for enforcing the law but was ineffective in doing so. There were no prosecutions for trafficking in persons during the year.

There were no government programs to assist trafficking victims.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/g/tip.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical and mental disabilities; however, there are no antidiscrimination laws. Persons with disabilities faced discrimination in education, training, and employment. No legislation mandates accessibility to buildings.

Through the National Board for the Disabled, the government granted funds to a number of NGOs that provided services to persons with disabilities. The government provided free medical consultations and treatment for persons with mental disabilities, but such services were rarely available outside major cities. In several provinces, apart from the traditional clan and family system, services and health care for persons with disabilities did not exist. Most persons with disabilities did not find training or work outside the family structure.

National/Racial/Ethnic Minorities

Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement sometimes resulted in violent tribal conflict in the highland areas. In the last few years, the number of deaths resulting from such conflicts continued to rise due to the availability of modern weapons. However, Radio Australia reported that on October 2, at least 30 warring hill tribes from the Southern Highlands signed a peace agreement. Tribal fighting continued in Western Highlands Province.

Other Societal Abuses and Discrimination

Sodomy and acts of "gross indecency" between males are illegal, but there were no reports of prosecutions under this law during the year. There were no specific reports of societal violence or discrimination against homosexuals, but homosexuals were vulnerable to societal stigmatization.

There were no reports of government discrimination against persons with HIV/AIDS; however, there was a strong societal stigma attached to HIV/AIDS infection that prevented some individuals from seeking HIV/AIDS related services, and there were reports that companies dismissed HIV positive employees after learning of their condition.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right to form and join labor unions, subject to registration by the Department of Labor and Industrial Relations, and workers exercised this right in practice. The government did not use registration to control unions; however, an unregistered union has no legal standing and thus cannot operate effectively. An estimated half of the approximately 250,000 wage earners in the formal economy were members of approximately 50 trade

unions. The Public Employees Association represented an estimated 12,000 persons employed by national, provincial, and municipal governments, or one third of the public-sector workforce. Unions were independent of both the government and political parties.

The law provides for the right to strike, although the government may and often did intervene in labor disputes to require arbitration before workers may legally strike. The law prohibits retaliation against strikers, but it was not always enforced. The Department of Labor is responsible for enforcement. Employees of some government owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies or in pay disputes. In most cases the strikes were brief and ineffective.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and engage in collective bargaining, and workers exercised these rights in practice. Under the law the government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. The Department of Labor and Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage were set through negotiations between employers and employees or their respective industrial organizations.

The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, the Department of Labor enforced the law selectively.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred in the formal economy. Some children were obliged to work long hours as domestic servants in private homes.

d. Prohibition of Child Labor and Minimum Age for Employment

The law establishes the minimum working age as 16; for hazardous work, the minimum age is 18. However, children between the ages of 11 and 18 may be employed in a family business or enterprise provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture. Work by children between the ages of 11 and 16 must not interfere with school attendance. Some children under 18 worked in bars and nightclubs and were vulnerable to commercial sexual exploitation.

e. Acceptable Conditions of Work

The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. The national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. The minimum wage was 37.50 kina (approximately \$15) per week, and although it was above the national per capita income, it did not provide a decent standard of living for a worker and family who lived solely on the cash economy.

The law regulates minimum wage levels, allowances, rest periods, holiday leave, and overtime. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas, and it provides for premium pay for overtime work. The law provides for at least one rest period of 24 consecutive hours every week. Although

the Department of Labor and Industrial Relations and the courts attempted to enforce the law, they were not effective.

The Department of Labor and Industrial Relations is also responsible for enforcing the Industrial Health and Safety Law and related regulations. The law requires inspection of work sites on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions.

Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations. The law protects legal foreign workers. The few illegal foreign workers lacked full legal protection.