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Papua New Guinea

Country Reports on Human Rights Practices - [2005](#)

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Papua New Guinea is a federal multiparty parliamentary democracy. The population was approximately 5.9 million, and there were more than 800 indigenous tribes. Citizens elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. The most recent general elections were held in June 2002; there were localized instances of voter intimidation, violence, 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 of government authority.

The government generally respected the human rights of its citizens; however, there were serious problems in some areas. The following human rights problems were reported:

- arbitrary or unlawful killings by police
- beatings and other abuses by police, including of children
- poor prison conditions
- lengthy pretrial detention
- police infringement of citizens' privacy rights
- government corruption
- violence and discrimination against women, and child abuse
- discrimination against persons with disabilities
- intertribal violence

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 continued. On October 31, police fired into a crowd of students in Enga Province, killing 3 and reportedly injuring at least 20. A police official stated that police were confronted by rock-throwing students when they attempted to arrest the headmaster of Porgera primary school, and, fearing for their safety, opened fire to disperse the crowd. Two officers involved in the shootings were suspended, and the police commissioner opened an investigation into the incident; the investigation was still ongoing at year's end. Early in the year 3 police officers were sentenced to 15 years in jail for shooting a young suspect in late 2004 and throwing him back into his burning home, where he bled to death.

In the past few years, due to the availability of modern weapons, there have been an increasing number of deaths resulting from violent tribal conflicts (see section 5).

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices; however, individual members of the police 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. In August the minister for internal security revealed that the government paid more than \$120 million (352.8 million kina) in damages to victims of police abuse over the past 10 years. In September the nongovernmental organization (NGO) Human Rights Watch (HRW) published a report detailing widespread police abuse of children in custody, including severe beatings and sexual abuse. Following the report's release, the police commissioner stated that since 2002 more than 500 cases of police abuse had been reported and more than 100 police officers

had been dismissed as a result.

Although abuses such as citizens being permitted to beat suspects reportedly did not occur during the year, no action was taken against offenders from previous years.

On February 7, persons from a neighboring village reportedly burned down more than 80 houses in Bau village in Madang Province. One person was reported hospitalized and two were reported missing in the incident.

Prison and Detention Center Conditions

Prison conditions were poor. According to the minister for correctional services, at year's end there were more than 3,300 detainees, of whom approximately 90 percent were male. During most of the year, 15 of the country's 17 jails were operational. The prison system suffered from serious underfunding. During most of the year, prisons closed because of life-threatening conditions remained closed. Some prisons in urban areas were seriously overcrowded. In rural areas infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding (see section 1.d.).

Male and female inmates usually were housed 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. HRW reported that juveniles routinely were held with adults in police lockups. Pretrial detainees were not separated from convicted prisoners.

Prisoners were often confined in crowded conditions in police stations. Prison guards' living conditions were as poor as those of the prisoners. Prison escapes were common, even from high-security installations. In January 65 prisoners escaped from Bomana Prison near Port Moresby; the following month more than 60 prisoners escaped in 2 separate jailbreaks in the highlands region. In October 33 inmates escaped from Baisu Prison near Mount Hagen; police fatally shot one escapee while attempting to recapture him. Seventeen of the remaining escapees remained at large at year's end.

The government permitted prison visits by human rights observers.

d. Arbitrary Arrest or Detention

The law 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 country's national police force, the Royal Papua New Guinea Constabulary. A new commissioner appointed in 2002 replaced much of the police leadership in an effort to address corruption and inefficiency. During the year some police officials were suspended for involvement in corruption or other criminal activity. Police effectiveness was impeded both by a serious lack of resources and by clan rivalries; within the constabulary, clan members often attempted to thwart remedial or disciplinary actions against fellow members of their clan.

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 September 2004 the minister for internal security published a highly critical report on the administration and operation of the police force. Among other problems, the report cited widespread police corruption and abuses, inadequate resources, poor discipline, and lack of accountability, and recommended reforms. The report's publication coincided with the launch of the Australian-sponsored Enhanced Cooperation Program (ECP), under which 210 Australian Federal Police (AFP) officers were sent to work alongside the constabulary to improve police practices. The ECP met with some initial success, but in May the Papua New Guinea Supreme Court ruled that immunity of AFP officers from prosecution in local courts, which had been a condition of the ECP, was unconstitutional. Virtually all AFP officers left the country after the court's decision, but approximately 40 advisers working in ministries and offices remained. At year's end the two governments were engaged in negotiations on a possible scaled-down version of the ECP, which would increase the number of advisers but probably not include AFP police on the streets.

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, although this was rare in practice. Police, prosecutors, or 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.

Under the law 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. The government did not always respect these rights in practice. Access to

counsel by detainees was not a problem during the year. During the year 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 or misuse or theft of public assets.

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 a shortage of judges and travel funds. Some detainees have been held in jail for more than two years because of shortages of judges.

There were no reports of political detainees.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice. The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district (provincial) courts. There also are village courts headed by lay persons (generally local chiefs, known as "big-men"), who judge minor offenses under both customary and statutory law.

Trial Procedures

The legal system is based on British 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" who are unable to afford counsel. Serious offenses are defined as charges for which a sentence of two years or more is the norm. Defendants and their attorneys may confront witnesses, present evidence, plead cases, and appeal convictions. The shortage of judges created delays in both the process of trials and the rendering of decisions (see section 1.d.). During the year development aid was provided for some training and education of the judiciary.

Political Prisoners

There were no reports of political prisoners.

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

The law prohibits such actions; however, there were instances of abuse. Police raids and searches of illegal squatter settlements and the 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 (see section 5).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. All newspapers included a variety of editorial viewpoints and reported on controversial issues. There was no evidence of officially sanctioned government censorship; however, newspaper editors complained of intimidation tactics aimed at influencing coverage.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly; however, the government often has limited this right in practice. Public demonstrations require police approval and 14 days' notice. In recent years police, asserting a fear of violence from unruly spectators, rarely gave approval. Police reportedly received no requests for such approval during the year. In May several hundred persons held demonstrations outside the Australian High Commission in Port Moresby; while the demonstrators reportedly did not have police approval, the police took no action to disrupt the demonstrations.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. Associations wishing to open a bank account and conduct financial transactions must register with the government. The process of registration was slowed by bureaucratic inefficiency, but there was no policy of denying registration. International affiliation of church and civic groups was permitted freely.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice. The Department of Education set aside one hour per week for religious instruction in the public schools. Religious representatives taught the lessons, and parents chose the class their children would attend. Children whose parents did not wish them to attend the classes were excused, but there were no classes for members of non-Christian religions.

Societal Abuses and Discrimination

There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice. 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. In practice the government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or 1967 protocol.

During the year the government provided protection for several hundred persons who fled the Indonesian province of Papua (formerly Irian Jaya). Several hundred more lived in informal, unrecognized camps adjacent to the border with Indonesia. A government reservation to the 1951 convention regarding the issuance of travel documents restricted the travel of some persons from the Indonesian province of Papua living in a refugee camp in the western part of the country.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. Any citizen may stand for election. Because of the large number of candidates, some members of Parliament (MPs) have won election with less than 10 percent of the total votes cast.

Elections and Political Participation

The most recent general election was held in June 2002. Of the 109 seats in Parliament, 77 changed hands. Prime Minister Michael Somare formed a coalition government following the election. Fraud, voter intimidation, theft of ballot boxes, and violence, including rape and murder, marred the election in some parts of the country, and the polls were declared failed in six electoral districts in the Southern Highlands. New elections in those districts, financed by Australia and accompanied by very little violence, were held successfully in April 2003.

The law provides that a losing candidate may dispute an election result by filing a petition with the National Court. Such petitions may question actions of the winning candidate and his supporters or allege malfeasance by the election officials. The procedure is fair, but time consuming and expensive both to initiate and to defend. Following the 2002 election, 83 such petitions were filed against winning candidates. A number of the petitions were successful, and new elections were held in those cases.

In August 2001 the government signed a peace agreement with Bougainville rebels, and in November 2004 a new Bougainville constitution was approved in a referendum. In May legislative and presidential elections for a new Autonomous Bougainville Government (ABG) were held; international observers considered them to be free and fair. Voters elected Joseph Kabui as the first president of the ABG. The UN Observer Mission in Bougainville (UNOMB) closed following the inauguration of President Kabui in June.

The weapons-surrender program mandated in the 2001 Bougainville peace agreement and carried out under UN supervision was declared successful and formally concluded in 2003, but the collection of weapons continued during the first half of the year. Weapons collection ended in June with the closure of the UNOMB.

There is no law limiting political participation by women, but the country's deeply rooted patriarchal traditional culture impeded women's full participation in political life. There was 1 woman in the 109-seat Parliament, compared with 2 in the previous Parliament. She was named minister for welfare and social development, the only cabinet position held by a woman. There were no female Supreme Court justices or provincial governors.

There were five members of minorities (non-Melanesians) in the Parliament. Of these, two were in the cabinet and two were provincial governors.

Government Corruption and Transparency

Corruption at all levels of government was a serious problem, primarily because clan-related obligations continued to undermine allegiance to constituents or to the country as a whole.

In February a court overturned a December 2004 lower court ruling to dismiss an MP and former minister of public works from office following his November 2004 conviction for failing to account for approximately \$578,230 (1.7 million kina) in public funds during his 1992-97 tenure as minister. The MP took his seat in Parliament days after the court's decision, after paying a nominal fine.

In August the leader of the opposition party was arrested and charged with misappropriation of government funds. He was released on bail and continued to sit in Parliament. The investigation into his conduct was ongoing at year's end.

At year's end more than 50 government officials were under investigation by the ombudsman's office.

No law provides for public access to government information. The government published frequent public notices in national newspapers and occasional reports on specific issues 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

There were no official barriers to the formation of human rights groups. The government cooperated with both domestic and international human rights NGOs, but at times was slow in responding to their requests for information. The International and Community Rights Advocacy Forum, an umbrella group, concentrated on human rights and the environment during the year.

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, political opinion, color, creed, religion, or sex. Despite these constitutional and other legal provisions, women often faced discrimination. Geographic diversity prevents any one tribe or clan from dominating the country. Successive governments, based on loose coalitions, have consistently avoided favoring any group. Skirmishes and conflicts tended to be based on disputes between clans over issues such as boundaries, land ownership, and injuries and insults suffered by one clan at the hands of another; they were not ethnically based.

Women

Violence against women, including domestic violence and gang rape, was a serious and prevalent problem. 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. Traditional village mores, which served as deterrents, were weakening and were largely absent when youths moved from their village to a larger town or to the capital. Although rape is punishable by imprisonment and sentences were imposed on convicted assailants, 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. In July several thousand women demonstrated in Kainantu, in the Eastern Highlands, calling for government action to combat the high rate of violent crime in the area, including numerous rapes.

In late 2004 Madang provincial governor James Yali was charged with raping his sister-in-law, a 17-year-old high school student, during the 2004 national governors' conference. On December 13, the National Court found him guilty of rape and remanded him to Beon Jail in Madang until sentencing, scheduled for January 2006.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was still customary, an increasing number of women were charged with the murder of another of their husband's wives. According to one report, 65 percent of women in prison were there for attacking or killing another woman.

Prostitution is illegal; however, the laws were not enforced and the practice was widespread. There were no reports of sex tourism during the year. 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 issues. 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. 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 of the country's 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 also sometimes were given as compensation to settle disputes between clans. The courts have ruled that such settlements denied the women their constitutional rights. In May police reported that tribesmen in the Western Highlands were trading young women and girls for guns to use in fights with rival tribes.

According to statistics published in the UN Development Program's 2003 human development report, women continued to lag behind men in literacy and education. Adult literacy was 65 percent; 58 percent of women were literate, compared with 71 percent of men. There were approximately 10 percent fewer girls in primary schools than boys. According to government statistics cited in a UN Children's Fund (UNICEF) report published during the year, the maternal mortality rate was approximately 370 deaths per every 100 thousand live births based on available data for the period 1990-2004.

During the year 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 NGOs operated programs to protect and develop youth and children. In the past, children were well cared for within the family and under traditional clan and village controls; however, small-scale studies indicated that this situation has changed over the last decade, especially in areas where households have become isolated from the extended family support system and depend on the cash economy for a livelihood.

Primary education was not free, compulsory, or universal; substantial fees were charged. According to a UNICEF report published during the year, the primary school enrollment rate was 79 percent for boys and 69 percent for girls based on data for the period 2000-2004. Many children did not progress further. Government-provided free medical care for citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas. Boys and girls had equal access to medical care, but many children did not have effective care. Many villages were geographically isolated, and malnutrition and infant mortality rates were very high. Nearly 70 of every 1,000 children born did not survive their first year.

According to a report prepared by the government and UNICEF, sexual abuse of children was believed to be frequent. There were some cases of commercial sexual exploitation of children in urban areas, including children working in bars and nightclubs. A report by HRW documented numerous instances of police abuse of children (see section 1.c.). 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

Although the law does not prohibit trafficking in persons, there was no evidence that persons were trafficked to, from, or within the country. However, over the last several years, the government investigated allegations of corruption among officials dealing with passport issuance and immigration. These allegations primarily involved the illegal issuance of residence and work permits for Chinese or South Asian nationals migrating to the country. Nevertheless, there was concern that the country may be used as a route for trafficking in persons to Australia.

Persons with Disabilities

Through the National Board for the Disabled, the government provided funds to a number of NGOs that provided services to persons with disabilities. The government did not provide programs or services directly. Apart from the traditional clan and family system, services and health care for persons with disabilities did not exist in several provinces. No legislation mandates accessibility to buildings. Persons with disabilities faced discrimination in education, training, and employment. Most persons with disabilities did not find training or work outside the family structure. The government provided free consultation and treatment for persons with mental disabilities; however, such services were rarely available outside major cities.

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 has risen due to the availability of modern weapons.

Other Societal Abuses and Discrimination

The 2004 AIDS/HIV Management and Protection Act makes it illegal to impede the access of any person to goods or services for protection against HIV infection, including relevant medical care and information; prohibits the termination of employees because of AIDS/HIV status; gives the ombudsman and the courts authority to deal with unlawful discrimination against persons with AIDS/HIV; and provides for criminal penalties for intentional transmission of the HIV virus. There were no reports of government discrimination against persons with AIDS/HIV; however, there was a strong societal stigma attached to AIDS/HIV infection, and there were reports that companies have 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. The government did not use registration to control unions; however, an unregistered union has no legal standing with the Department of Labor

and Industrial Relations or before the courts and thus cannot operate effectively. About half of the approximately 250 thousand wage earners in the formal economy were organized and were members of approximately 50 trade unions. Most unions representing private-sector workers were associated with the Trade Unions Congress. The Public Employees Association represented an estimated 23 thousand persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, it was enforced selectively. Unions were independent of the government and of political parties.

b. The Right to Organize and Bargain Collectively

The law provides for the right to engage in collective bargaining and to join industrial organizations, 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 International Labor Organization has criticized this law. The Department of Labor and Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage are set through negotiations between employers and employees or their respective industrial organizations.

The law provides for the right to strike, although the government can and often does intervene in labor disputes to require arbitration before workers can legally strike. The law prohibits retaliation against strikers; however, it was not always enforced. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies. These strikes were brief and ineffective. In December more than four thousand nurses nationwide went on strike after the government failed to respond to a May proposal by the nurses' association for higher pay and other benefits. The government declared the strike illegal; the nurses' association asserted that the strike was legal. The dispute was ongoing at year's end.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law forbids slavery and all forms of forced or compulsory labor, including that performed 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 (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment

The law establishes the minimum working age as 18. However, children between the ages of 11 and 18 may be employed in a family-related 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. Some children under 18 were working in bars and nightclubs (see section 5).

e. Acceptable Conditions of Work

The Minimum Wage Board, a quasigovernmental 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. During the year the minimum wage was increased to \$12.75 (37.50 kina) per week. Although it is above the national per capita income, the minimum wage 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. Although the Department of Labor and Industrial Relations and the courts attempted to enforce the minimum wage law, enforcement was not effective. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas. The law provides for at least one rest period of 24 consecutive hours every week; however, enforcement was lax. Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor and Industrial Relations. The law requires that work sites be inspected 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.

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