

# PAPUA NEW GUINEA 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Papua New Guinea is a constitutional, federal, multiparty, parliamentary democracy. On August 3, Peter O'Neill became prime minister again after national parliamentary elections in June. Citizens generally accepted election results, but election observers expressed concern about instances of violence, fraud, and significant, widespread procedural deficiencies that they believed affected the results in some provinces. Security forces reported to civilian authorities, but there were some instances in which they acted independently of civilian control.

The principal human rights abuses were severe police abuse of detainees; violence and discrimination against women; and vigilante killings and abuses, some related to alleged involvement in sorcery and witchcraft.

Other human rights problems included poor prison conditions; lengthy pretrial detention; infringement of citizens' privacy rights, particularly in highland areas; government corruption; abuse and sexual exploitation of children; trafficking in persons; discrimination against persons with disabilities; intertribal violence; and ineffective enforcement of labor laws.

Despite minor reforms to the justice system, the government frequently failed to prosecute or punish officials who committed abuses, whether in the security services or elsewhere in the government. Impunity was pervasive.

### **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 arbitrary or unlawful killings however, public concern about police violence persisted.

In August the *National* newspaper reported police allegedly beat a primary school teacher in Port Moresby after he sent a student home for failing to wear a proper uniform. The student's father, a policeman, reportedly punched the teacher in front of other teachers and students on the school grounds, and his police colleagues also assaulted the teacher after they detained him. Police detained the teacher for more than two hours and released him after he was forced to apologize to the policemen

and pay them K100 (\$50). At year's end police neither conducted an investigation nor brought charges against any of the officers involved. In October 2011 a group of traditional landowners in the East New Britain Province opposed to a controversial oil palm project told the media that they had been assaulted by drunken police officers. The police commissioner ordered an investigation into the allegations. At year's end no results had come out of the investigation.

In December 2011 the police commissioner issued an order withdrawing all police from logging camps after allegations that police were abusing their powers in dealing with opponents of logging. There were claims police in logging camps had been involved in beating people with iron bars and fan belts, raiding villages in the middle of the night, and drunkenness. At year's end authorities had not conducted an investigation brought no charges against any officers.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

Although the constitution prohibits torture, individual police members frequently beat and otherwise abused suspects during arrests and interrogations and in pretrial detention. There were numerous press accounts of such abuses, particularly against young detainees.

### **Prison and Detention Center Conditions**

Despite minor improvements to existing cells and increased capacity, prison conditions remained poor, and the prison system continued to suffer from serious underfunding. Neither prisons nor police detention centers had proper medical care facilities. Overcrowding in prisons and police cells remained a serious problem in some facilities.

Physical Conditions: At year's end there were 4,134 inmates, with overcrowding existing in some of the prisons. According to the correctional services commissioner, all but five of the country's prisons experienced overcrowding during the year. The holding capacity of the country's prisons was 4,366 beds. Of the total number of inmates, almost one-third were pretrial detainees. There were 259 female inmates. Within the inmate population, there were 2,840 convicted

prisoners, 1,140 pretrial detainees, and 154 male juveniles, consisting of 90 convicted prisoners and 64 pretrial detainees. Australian assistance continued toward upgrading these facilities. Despite minor maintenance work underway, two prisons, in Tari, Southern Highlands, and Daru, Western Province, remained closed during the year due to tribal conflicts and unresolved health issues, respectively.

In some areas infrequent court sessions, slow police investigations, and bail restrictions for certain crimes continued to exacerbate overcrowding. Authorities usually held male and female inmates separately, but some rural prisons lacked separate facilities, and there were reports in the past of assaults on female prisoners. Authorities held pretrial detainees in the same prisons as convicted prisoners but had separate cells.

During the year, 13 of the country's 19 prison facilities had separate accommodations for juvenile offenders; the remaining six did not. The Catholic Church operated three juvenile reception centers to hold minors awaiting arraignment prior to posting of bail. Human Rights Watch (HRW) reported that authorities routinely held juveniles with adults in police detention cells, where they were often assaulted by older detainees. Police denied juvenile court officers access to police cells.

Death in prisons or pretrial centers was not prevalent during the year, and prisoners had reasonable access to potable water. A number of prisons experienced problems with lack of adequate ventilation and lighting.

Administration: Prison authorities permitted prisoners reasonable access to visitors and permitted religious observance. Authorities allowed prisoners and detainees to submit credible complaints of inhumane conditions without censorship to the Ombudsman Commission for investigation or directly to the judicial authorities. The government mandated the Ombudsman Commission to visit prisons but could not effectively monitor and investigate prison conditions due to lack of adequate funds and staff. There were no known steps taken to improve recordkeeping or use alternatives to sentencing for nonviolent offenders.

Monitoring: The government permitted monitoring visits by independent human rights observers, but no visits occurred 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**

The national police force maintains internal security in all regions of the country. Special autonomy provisions apply to the Autonomous Region of Bougainville. The commissioner who directs the national police force reports to the minister for police. The government allows the national police force to enforce national law on Bougainville. In addition, the Autonomous Region of Bougainville maintains its own police force which reports through its head to the minister of police of the Autonomous Region of Bougainville. The national police force has authority to ensure that the Bougainville Police is enforcing national law. Divisions related to clan rivalries and a serious lack of resources diminished police effectiveness and hampered internal security activities. Police impunity was also a serious problem.

The police department's Internal Affairs Office investigates and a coroner's court reviews police shootings. If the court finds that the shooting was unjustifiable or due to negligence, authorities try the police officers involved. 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. A coroner's court also investigates and reviews cases of police shootings of bystanders during police operations. Despite these prescribed procedures, in many cases investigations remained unresolved. This was largely due to a lack of funding and resources to complete investigations, especially in rural areas where the shootings often occurred; police officers' reluctance to give evidence against their own; and public fear of retribution from police, resulting in a lack of credible witnesses coming forward. An ombudsman commission deals with public complaints and concerns about members of the police force. The Australian Federal Police provided assistance to the national police force designed to improve professional capacity. Training provided under this reform-oriented program included units designed to improve police respect for human rights.

Societal violence, particularly between tribes, is commonplace. Police frequently lacked sufficient personnel or resources to prevent or respond effectively. Warring tribal factions in rural areas had better arms than local police, and authorities often tolerated inter-tribal violence in isolated rural areas until the tribes themselves agreed to a negotiated settlement.

### **Arrest Procedures and Treatment While in Detention**

Under the law, to make an arrest police must have reason to believe that a crime was committed, is being committed, or will be committed. A warrant is not required, and police made most arrests without one. 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, 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.

Pretrial Detention: Approximately 29 percent of the prisoner or detainee population was in pretrial detention. No reliable statistics existed on the average length of time an inmate is held in pretrial detention. Anecdotal evidence indicated that detainees, who are unable to obtain bail, have been held for up to two years awaiting trial. 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, particularly in locating witnesses, and occasional political interference or police corruption frequently delayed cases for months. In addition circuit court sittings were infrequent because of shortages of judges and travel funds. Police held some detainees for up to two years because of the shortage of judges.

#### **e. Denial of Fair Public Trial**

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

#### **Trial Procedures**

The legal system is based on English common law. The law provides for a presumption of innocence and due process, including a public trial, and the court system generally enforced these provisions. The country does not have a jury system, and judges conduct trials and render verdicts. Defendants have the right to an attorney, the right to be informed promptly and in detail of the charges against them, and the right not to be compelled to testify or confess guilt. The Public Solicitor 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 law extends these rights to all citizens. 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, from which individuals and organizations may seek civil remedies for human rights violations. District courts may order “good behavior bonds,” commonly called “protection orders,” in addition to ordering that compensation be paid for violations of human rights. Courts had difficulty enforcing judgments. In addition, village courts, which were largely unregulated, handled many human rights matters. Village and district courts often hesitated 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**

Although the constitution prohibits such actions, 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 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, although newspaper editors complained of intimidation tactics aimed at influencing coverage.

Violence or Harassment: There were some examples of police officers targeting journalists who negatively covered police activities.

In July an angry mob of supporters led by then East Sepik Governor Peter Wararau Waranaka confronted newsroom staff members at a provincial head office for the National Broadcasting Commission (NBC). The governor, his driver, and a group of supporters reportedly converged on the NBC East Sepik broadcast compound and singled out news journalists for verbal abuse and threats. The incident came a day after a reporter had filed a report on a petition signed by 12 candidates in East Sepik Province, listing allegations of fiscal and official abuse of position. The reporter said he had been invited to meet with the governor since the incident but was again verbally abused.

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

### **Academic Freedom and Cultural Events**

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

### **b. Freedom of Peaceful Assembly and Association**

The constitution provides for freedom of assembly and association, but the government often limited these rights in practice due to threats of persons with criminal intent taking advantage of large gatherings to create public disturbances.

### **Freedom of Assembly**

The constitution provides for freedom of assembly; however, the government often limited this right. Public demonstrations require police approval and a 14 day notice. Asserting a fear of violence from unruly spectators, police rarely gave approval. If public demonstrations occurred without approval from police, police normally used loud hailers to request crowds to disperse; failing that, and if violence or public disturbances pursued, police used tear gas and fired shots in the air to disperse crowds.

## Freedom of Association

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

### c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/dr/irf/rpt](http://www.state.gov/j/dr/irf/rpt).

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

The constitution provides for freedom of internal movement, 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.

## Protection of Refugees

Access to Asylum: The country's law do not formally provide for the granting of asylum or refugee status. The government has, however, established an ad hoc system for providing protection to refugees and has registered individuals from West Papua residing in the East Awin as refugees under that system. On September 8, the government signed a formal agreement with Australia to allow for Australia to send asylum seekers to Manus Island for processing only. The media reported that approximately 181 asylum seekers had been transferred to Manus Island at year's end. According to media reports, the asylum seekers included Sri Lankans, Afghans, Iranians, Pakistanis, and Iraqis.

Durable Solutions: Authorities granted registered refugees residing in the East Awin refugee settlement a certificate of identity that allowed them to travel freely within the country and to West Papua.

Temporary Protection: The government provided temporary protection to individuals who may not qualify as refugees. With support from the UNHCR, the government continued to provide protection to approximately 2,300 persons residing at the East Awin refugee settlement who fled the Indonesian province of



West 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, and approximately 2,400 lived in urban areas, including the capital, Port Moresby.

### **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**

Recent Elections: The most recent general election took place in June. Bribery, voter intimidation, and undue influence were widespread in some parts of the country during the election. After the election the National Court registered 136 election petitions that alleged illegal practices. At year’s end all the petitions were still before the courts.

Political Parties: Political parties could operate without restriction or outside influence. However, tribal influences in politics often limited the political participation of women as many were expected to vote along tribal and family lines. In some areas tribal leaders determined which candidate a tribe would support and used their influence to ensure that the entire tribe voted for that candidate.

Participation of Women and Minorities: No law limits political participation by women, but the deeply rooted patriarchal culture impeded women’s full participation in political life. There were three women in the 111-seat parliament. One served as minister of religion, youth, and community development, one served as vice minister for treasury, and one served as a provincial governor. There were two female judges of the National and Supreme courts.

There were four minority (non-Melanesian) members of parliament. Of these, two were in the cabinet, and two were provincial governors.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption; however, the government did not always 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; poor leadership and governance; lack of transparency; politicization of the bureaucracy; and misuse of public resources to meet traditional clan obligations.

In September 2011 the government filed corruption charges against the former minister for national planning, Paul Tiensten, for misappropriation of funds, conspiracy to defraud the state, and abuse of office. Tiensten fled to Australia but returned and was arrested in November. Police rearrested him in the same month on further corruption charges for diverting state funds to his own private company. At year's end both cases were still before the courts and voters reelected Tiensten to parliament.

In 2010 the government suspended Finance Minister Patrick Pruaitch from office after the Supreme Court ruled that under the law an official referred to a leadership tribunal for allegations of official misconduct is automatically suspended from office. Pruaitch had been referred to such a tribunal. He appealed the referral, the suspension was overturned, and he was reinstated as minister for finance and treasury until August 2011 when there was a change in government. At year's end the case was pending the court's decision on Pruaitch's application for a stay order against the Ombudsman Commission's decision to refer his case to the public prosecutor. Voters returned Pruaitch to parliament during the national elections, leading to his appointment as minister for forest and climate change.

Public officials are subject to financial disclosure laws as stipulated in the leadership code of conduct. The Ombudsman Commission monitored and verified disclosures. The Ombudsman Commission's mandate included administration of the Leadership Code, which required leaders to declare, within three months of assuming office (to be repeated annually), their assets, liabilities, third-party sources of income, gifts and all beneficial interests in companies, including shares, directorships, and business transactions. Declarations are not made available to the public. Sanctions for noncompliance range from fines to imprisonment.

The Ombudsman Commission and Public Accounts Committee are key organizations responsible for combating government corruption. The Ombudsman Commission's is mandated to investigate alleged misconduct by governmental bodies, alleged discriminatory practices by any person or government body, and alleged misconduct in office by public officials under the Leadership Code.

The constitution provides for the Ombudsman Commission's independence. The Public Accounts Committee was a permanent parliamentary committee established by the Constitution with a mandate to examine and report to the parliament on public accounts and national property. The Ombudsman Commission met regularly with civil society and at times, initiated action based on input received. Although civil society organizations began to engage with individual members of the Public Accounts Committee, the committee was less receptive to public input and generally did not seek to engage with civil society. The Public Accounts Committee generally operated independently of government influence, but lack of trained staff hindered its effectiveness. Neither body had sufficient resources to carry out its respective mission.

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 5. 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.

Government Human Rights Bodies: The Ombudsman Commission is responsible for investigating alleged misconduct and defective administration by governmental bodies, alleged discriminatory practices by any person or body, and alleged misconduct in office by leaders under the Leadership Code. While it operated without government or political party interference, constraints in staffing resources often caused delays in investigations and thus in completion and release of reports.

On March 19, the Ombudsman Commission referred one of its own commissioners, John Nero, to the Office of the Public Prosecutor on charges of misconduct in office relating to manipulation of commission minutes, violation of commission procedures, and improper benefits claims for dependent children. On December 12, the Public Prosecutor's Office referred the matter to the Ombudsman Appointment Committee which requested the chief justice to

establish a leadership tribunal to investigate the allegations. Establishment of a tribunal was pending at year's end.

## **Section 6. 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**

Rape and Domestic Violence: Violence against women, including gang rape and domestic violence, was a serious and prevalent problem. Rape, including spousal rape, is a crime punishable by imprisonment ranging from 15 years to life 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 is criminalized yet existed at high levels throughout the country and was generally committed with impunity. There is no specific domestic violence provision in the Criminal Code. Two possible charges could be imposed in such cases: common assault, which carries a maximum penalty of six months' imprisonment, or aggravated assault, which carries a maximum penalty of 12 months' imprisonment. 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 unresponsiveness of these officials to complaints of sexual or domestic violence deterred reporting by both women and men. Traditional village mores, which often served as deterrents against violence, were weak and largely absent when youths moved from their villages to larger towns or to the capital. According to Amnesty International (AI), approximately two-thirds of women in the country have been struck by their partners, with the number approaching 100 percent in parts of the Highlands. AI reported that there were only three shelters for abused women in Port Moresby, all privately run; the situation was worse outside the capital. Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was customary, authorities charged an increasing number of women with murdering one of their husband's other wives. Independent observers

indicated that approximately 90 percent of women in prison had been convicted for attacking or killing another woman.

Sexual Harassment: Sexual harassment was not illegal, and it was a widespread problem.

Reproductive Rights: Under the country's family planning policy, couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children free from violence and coercion. However, in practice the decision of the husband or male partner on such matters usually prevailed over the wishes of the woman. Although women did not face barriers stemming from the law or government policy to accessing contraception and adequate prenatal, obstetric, and postnatal care, access in practice was hindered by logistical problems faced by the Health Department in distributing supplies. Medical facilities also were limited in their capacity to provide adequate services to the growing population. According to indicators published by the Population Research Bureau, 26 percent of married women between the ages of 15 and 49 used some form of contraception. The country's estimated maternal mortality ratio exceeded 250 deaths per 100,000 live births. This was due in part to traditional practices that encourage at-home births without skilled birth attendants, poor pre-natal care, and the unavailability of professional health care in isolated rural communities.

Discrimination: Although laws have provisions for extensive rights for women dealing with family, marriage, and property disputes, women did not have the same legal status and rights as men, and gender discrimination existed at all levels. Although some women achieved senior positions in business, the professions, and the civil service, 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 was 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. The law requires district courts to 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 being purchased as brides, women sometimes were given as compensation to settle disputes between clans, although the courts have ruled that such settlements denied the women their constitutional rights.

In March the UN special rapporteur on violence against women, Rashida Manjoo, visited the country and reported that violence against women was a “pervasive phenomenon” and cultural practices like bride price and polygamy exacerbated the problem. She found women lacked access to the justice systems as police and prosecutors did not have the resources or skills to deal with the issue. The Ministry of Religion, Youth, and Community Development is responsible for women’s issues and has considerable influence over the government’s policy toward women.

## **Children**

Birth Registration: Citizenship is derived through birth to a citizen parent. In practice birth registration did not occur immediately due to the remote locations in which many births took place. Failure to register did not generally impact access to public services such as education or health care.

Education: Primary education was free, but not compulsory or universal. Many children did not progress further than primary school. In 2011 the government abolished school fees for students up to grade 10 and introduced subsidies for grades 11 and 12, and for university and other tertiary colleges. Primary and secondary education completion rates tended to be slightly higher for boys than for girls. This is due to cultural and social barriers including the burden placed on girls of family care, domestic responsibilities and customary marriage. Recent reports confirm that girls were at high risk of domestic and sexual violence, sexual harassment in schools, commercial exploitation and HIV, which posed serious threats to their education.

Child Abuse: 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 in 2009. Incest is a crime and reportedly increased in frequency.

Child Marriage: 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. Lack of resources and

access to remote regions hampered the government's ability to take steps to prevent child marriages and enforce existing laws.

Sexual Exploitation of Children: The minimum age for consensual sex is 16. The maximum penalty for violators is 25 years' imprisonment or, if the child is under age 12, life imprisonment. Child pornography is illegal; penalties range from a minimum of five to a maximum of 15 years' imprisonment, but enforcement remained a problem. There were cases of commercial sexual exploitation of children in urban areas, including minors working in bars and nightclubs. There were reports that children were also exploited through the production of pornography and were trafficked both internally and from neighboring countries. HRW documented numerous instances of police abuse of children.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

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

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

Although the constitution prohibits discrimination against persons with physical or mental disabilities, there are no antidiscrimination laws. Persons with physical, sensory, intellectual, and mental disabilities faced discrimination in employment, education, access to health care, air travel and other transportation, and provision of other state services. No legislation mandates accessibility to buildings, and most buildings were not accessible. There were no policies or programs to assist persons with disabilities in obtaining access to communications and information. Generally families took care of persons with disabilities at home, and there were no reports of abuse in educational or mental health facilities. Children with disabilities suffered from the under-resourced educational system and attended school in disproportionately low numbers.

Through the National Board for the Disabled, the government granted funds to a number of nongovernmental organizations (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. During the year tribal fighting continued in the highlands provinces. Deaths resulting from such conflicts continued to rise due to the increased availability of modern weapons.

The government did not undertake prosecutions related to tribal violence that occurred in September and October of 2011 in the Eastern Highlands and Enga provinces, resulting in the deaths of at least 22 people. In September members of the Moge Komunuka clan in the Western Highlands Province killed a man from Enga Province after he reportedly raped an 11-year-old girl from the Moge Komunuka tribe. On November 3, the Moge Komuaka tribe paid more than K6,000 (\$2,450) to relatives of the man from Enga as compensation and an apology for his murder.

On November 28, police reported that settlers from the Sepik Province burned eight houses belonging to the Zinaba people of Morobe in an ongoing ethnic conflict between the two groups. In retaliation the Zinabas attacked the Sepiks on December 2, torching seven houses in the process. Police reportedly intervened to curtail the situation by advising both groups to retreat, but heavily intoxicated youth refused to listen and continued burning houses. Homemade guns were among the weapons being used in the fight, making it difficult for the undermanned police to effectively control the situation. Police could not confirm the main cause of the violence.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**



Consensual same-sex sexual relations and acts of “gross indecency” between male persons are illegal. The maximum penalty for same-sex sexual relations is 14 years’ imprisonment, and for acts of gross indecency between male persons (a misdemeanor), three years. However, there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender (LGBT) persons under these provisions during the year. There were no specific reports of societal violence or discrimination against LGBT persons, but they were vulnerable to societal stigmatization, which may have led to underreporting.

### **Other Societal Violence or Discrimination**

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. The nongovernmental Business Coalition against HIV/AIDS and other NGOs worked to combat discrimination against persons with HIV/AIDS.

There were numerous press reports during the year of vigilante killings and abuses, some of which were related to alleged involvement in sorcery and witchcraft. For example, in March bodies of two men suspected of being sorcerers were found at Gobadik village in the Nawaeb District of Morobe Province after they were killed by a large group of men. AI reported that women were six times more likely to be accused of witchcraft than men.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law, including related regulations and statutory instruments, protects the right of workers in the public and private sectors to form and join independent unions, conduct legal strikes, and bargain collectively; however, the government may intervene in strikes and collective bargaining processes. These laws do not cover workers in the informal sector.

The law requires that unions register with the Department of Labor and Industrial Relations (DLIR). Although the law provides the right to strike, the government may, and often did, intervene in labor disputes forcing arbitration before workers could legally strike. Under the law the government has discretionary power to intervene in collective bargaining by canceling arbitration awards or declaring wage agreements void when they are contrary to government policy.

The law prohibits both retaliation against strikers and antiunion discrimination by employers against union leaders, members, and organizers. However, that prohibition does not extend to workers in the informal sector. The law does not provide for reinstatement of workers dismissed for union activity. In the case of retaliation or unlawful dismissal for union activity, an employer may be fined and the court may order the reinstatement of the employee and reimbursement of any lost wages. If an employer fails to comply with such direction, the court may order ongoing imprisonment or fines until compliance is achieved.

The DLIR was responsible for enforcing labor laws but did so selectively. The DLIR did not always act to prevent retaliation against strikers or protect workers from antiunion discrimination. The ineffectiveness can be attributed to lack of sufficient manpower and resources in the Labor Department.

Workers exercised the right to form and join unions in practice. The government did not use registration to control unions; however, an unregistered union has no legal standing and thus cannot operate effectively. Unions were independent of both the government and political parties.

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 due to temporary agreements reached between the government and workers.

Workers in both the public and private sectors engaged in collective bargaining. The DLIR and the courts were involved in dispute settlement. There were no reports of violations of collective bargaining rights.

During the year antiunion practices were widespread in the logging industry, which was known for extremely low wages and poor working conditions, including debt bondage and cramped and nonhygienic accommodation of workers.

## **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits all forms of forced or compulsory labor, but the government did not effectively enforce such laws, and there were reports that forced labor occurred in practice. There were no significant government efforts to prevent and eliminate forced labor during the year.

There were instances of women and children forced into involuntary domestic servitude (see section 7.c.), often by members of their immediate family or tribe, and of men forced to work in logging and mining camps. There were also reports of a growing number of foreign workers, particularly from China and other Pacific nations, entering the country illegally and being subjected to conditions of forced labor in mines and logging camps and in commercial sexual exploitation. The Foreign Seafarer's Act provides that noncitizen crew of a foreign registered ship who fail to join a ship during its time in the country may on order of a judge or magistrate apprehend the crew member and place the crew members at the disposal of the diplomatic representative of the country in which the ship is registered (or if no such representation exists in the country, the ship's owner or representative) for the purpose of returning him to the ship.

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law establishes the minimum working age as 16; for hazardous work, which is still undefined in the law, the minimum age is 18. 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. The DLIR is responsible for enforcing child labor laws; however, enforcement was not effective due to lack of resources and weak penalties. The Minimum Age (Sea) Act is in force but its provisions on age are superseded by provisions of other laws. The minimum age for all work, including on boats is 16 (or 18 for undefined hazardous work).

There were children selling cigarettes, food, CDs, and DVDs on the street and in grocery stores near mining and logging camps. Some children (primarily girls) worked long hours as domestic servants in private homes, often to repay a family debt to the "host" family. In some cases the host family was a relative who had informally "adopted" the child. There were reports of child prostitution.

Also see the U.S. Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

### **d. Acceptable Conditions of Work**

The minimum wage was K100.80 (approximately \$40.00) per week for workers in all sectors, including new entrants into the labor force between the ages of 16 and 21. 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. There is no prohibition on excessive compulsory overtime. The law provides for at least one rest period of 24 consecutive hours every week. Labor laws do not apply to workers in the informal sector.

The DLIR is responsible for enforcing the laws on minimum wage and hours of work, 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. During the year there were 18 occupational health and safety and 15 industrial relations inspectors. Although the DLIR and the courts attempted to enforce the laws on minimum wage and hours of work, they were not effective, in part due to insufficient penalties to deter violations. The penalty is a fine not exceeding K100 (\$41.00). In the case of a second or subsequent offence, that is a continuing offence, the person will be liable for a fine not exceeding K10 (approximately \$4.00) for each day or part of a day for which the offense continues. Where a person fails to obey an order, direction, or requirement lawfully made or given under the Industrial Relations Act, the court imposing the penalty may, in its discretion and in addition to any penalty imposed, order the individual to be imprisoned until the order in respect of which the penalty is imposed is obeyed.

Violations of wage, overtime, and occupational safety and health laws and regulations were common in the logging, agricultural, and construction sectors due to the government's lack of manpower to continuously monitor working conditions in these sectors. Workers in these sectors were also subject to hazardous and exploitative conditions. There were a total of 108 inspectors during the year.