PAPUA NEW GUINEA

Gender remains a critical development issue in Papua New Guinea. According to the 2013 UNDP Human Development Report, gender inequality in Papua New Guinea has led to a 61.7% loss in potential human development.¹

1. Discriminatory family code

The Marriage Act of 1963 created a dual system of marriage in Papua New Guinea: customary marriage and statutory marriage.² Section 3 of the Marriage Act states “a native, other than a native who is party to a subsisting [statutory] marriage…can enter…into a customary marriage in accordance with the custom prevailing in the tribe or group to which the parties to the marriage or either of them belong or belongs.” There is no “proof” required for customary marriage beyond compliance with custom.³

The minimum legal age of marriage is 21 both for girls and boys and the minimum marriage age under the ‘Marriage Act’ is 16 years for girls and 18 years for boys.⁴ Hence, in the event of any marriage under the age of 21 years, both parents’ consent is required. If the parents refuse the marriage, the intended parties may apply to the National Court and the judge decides whether to grant a judicial consent for the marriage.⁵ As the emphasis is on physical maturity rather than chronological age, a girl of 14 years of age who has the attributes of a physically ‘fit’ person may instead enter into a valid customary marriage.⁶ Her consent to the marriage is generally also irrelevant because her parents contract the marriage for her. Customary marriages are common in many traditional, isolated rural communities. Child brides are frequently taken as additional wives or given as brides to pay family debts. Lack of resources and access to remote regions hamper the government’s ability to take steps to prevent early marriage and enforce the law.⁷ Amnesty International reports that the payment of a ‘bride price’ is a major contributor to domestic violence in Papua New Guinea, as it perpetuates men’s belief that women are their own property.⁸

Both women and men can be the head of the household.⁹ Furthermore, married couples jointly share legal responsibility for financially maintaining the family’s expenses.¹⁰ While constitutional law grants parental authority to both parents, women’s actual rights in marriage are limited due to the lack of laws to regulate customary marriages.¹¹ Moreover, the position of the father as the head of

¹ UNDP (2013), p. 158
² World Bank (2012a), p. 85
³ CEDAW (2009), p. 91
⁴ Marriage Act 1963, Chapter 280
⁵ CEDAW (2010), p. 38
⁶ CEDAW (2009), p. 95
⁷ US Dept. of State (2013), p.16
⁹ World Bank Data, (2013)
¹⁰ Married Women’s Property Act 1953, Art. 17
¹¹ World Bank (2012a), p. 86
the family is deeply embedded in the complex system of family relationships. In compliance with the UN Committee on the Elimination of Discrimination against Women (CEDAW), Papua New Guinea has adopted the ‘best interests of the child’ as the paramount consideration in custody disputes after separation and divorce. However, a lack of economic independence, or an inability to gain custody of their children upon separation forces many women to stay in violent or difficult relationships.\textsuperscript{12}

National legislation guarantees equal inheritance rights to property to sons and daughters. Female and male surviving spouses have equal inheritance rights.\textsuperscript{13} However, this does not apply to customary land, for which inheritance is based instead on patrilineal lines and can discriminate against women.\textsuperscript{14} There are some communities where land is inherited through the maternal line, but even there, most of the decisions regarding land usage are made by males in the family.\textsuperscript{15}

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New legislation was passed in 2014 to outlaw polygamy in Papua New Guinea. The Civil Registration (Amendment) Bill 2014\textsuperscript{16} makes it compulsory to register all marriages, including customary ones, with the exception of those involving more than one spouse.\textsuperscript{17} In the past, a man could marry more than one wife.\textsuperscript{18} Polygamy is still practiced today in all four regions of Papua New Guinea, with the percentage of women in polygamous marriages ranging from 10\% in the Southern region to 28.6\% in the Highlands region; the percentages in the Islands and the Momase region are 11.4\% and 11.7\%, respectively.\textsuperscript{19} In most Papua New Guinea societies, polygamy functions as a way to enlarge a man’s access to productive resources—i.e., more gardens, pigs and, children—as well as to satisfy his sexual needs during pregnancy and post-partum abstinence.\textsuperscript{20} However, the right of men to have several wives has become distorted in the cash economy, as there is evidence that men take on other wives and girlfriends without supporting them all.\textsuperscript{21} Due to the practice of polygamy, a common form of family violence in many communities is between co-wives, or between a woman and her husband’s girlfriend.\textsuperscript{22} The 2014 change in legislation with regards to polygamy is welcomed as a step to decrease cases of domestic violence and increase the registration of births.\textsuperscript{23}

Currently, Papua New Guinea’s ‘Marriage Act’ and ‘Matrimonial Causes Act’ are based on the old fault-based model of divorce, inherited from Australia in the 1960’s. This requires the spouse petitioning for a divorce to prove that the respective partner has committed adultery or acts of abuse. In most cases women do not have the resources to prove in court that their husbands have committed adultery or abuse.\textsuperscript{24}

\textsuperscript{12} CEDAW (2009), p. 49
\textsuperscript{13} Wills and Probate Administration Act of 1966, Art. 84
\textsuperscript{14} CEDAW (2009), p. 95
\textsuperscript{15} World Bank (2012a), p. 10
\textsuperscript{16} National Parliament of Papua New Guinea (2014)
\textsuperscript{17} Inter Press Service (2014),
\textsuperscript{18} Marriage Act 1963, sec. 3 [Ch 280]; World Bank (2012), p. 13
\textsuperscript{19} World Bank (2012a), p. 7
\textsuperscript{20} CEDAW (2009), p. 50
\textsuperscript{21} World Bank (2012a), p. 13
\textsuperscript{22} US Dept. of State (2013), p.14
\textsuperscript{23} Inter Press Service (2014)
\textsuperscript{24} US Dept. of State (2013), p.13
2. Restricted physical integrity

Violence against women, including gang rape and domestic violence, is a widespread problem in Papua New Guinea.\textsuperscript{25} There is no law that addresses all aspects of gender-based violence, and domestic violence in particular.\textsuperscript{26} Criminal offences are generally governed by the Criminal Code 1974. That Code, which sets out a number of offences dealing with violence, applies equally to violence against women as it does to violence against men. However, in 2002 the Government saw the need to introduce more specific legislation dealing with sexual offences, extending sexual penetration to all orifices by the penis or any other object. In that year, amendments were made to the Criminal Code through the 2002 Sexual Offences and Crimes against Children Act.\textsuperscript{27} There is no conclusive data on the exact number of victims of various forms of violence against women.\textsuperscript{28}

No distinction is made in the statute between violence that occurs in the context of a family relationship and violence that occurs in the context of wider community life.\textsuperscript{29} Domestic violence exists throughout the country and is generally committed with impunity.\textsuperscript{30} Since most communities view domestic violence as a private matter, few victims press charges, and prosecutions are rare. In April 2013, the National Executive Council endorsed the Family Protection Bill, subsequently enacted in September.\textsuperscript{31} The act is the first to make all forms of domestic violence criminal offences. It gives legislative backing for interim protection orders; allows neighbours, relatives, and children to report domestic violence; and gives the police the power to remove perpetrators from their homes to protect the victim. According to Amnesty International, approximately two-thirds of women in the country had been struck by their partners, with the number approaching 100% in parts of the Highlands.\textsuperscript{32} The NGO reported that there were only three shelters for abused women in Port Moresby, all privately run; rural areas had significantly less resources and infrastructure to protect women. Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygamy was customary, authorities charged an increasing number of women with murdering one of their husband’s other wives. Independent observers indicated that approximately 90% of women in prison had been convicted for attacking or killing their husbands or another woman.\textsuperscript{33} There is no available data on conviction rates related to domestic violence.

Following the 2002 Sexual Offences and Crimes against Children Act, rape, including spousal rape, is a crime punishable by imprisonment ranging from 15 years to life, and prison sentences are imposed on convicted assailants.\textsuperscript{34} The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution makes the crime difficult to combat. The legal system allows village chiefs to negotiate the payment of compensation in lieu of trials for rapists.\textsuperscript{35} A UNDP study of 10,000 men in Asia and the Pacific found that around 62% of male Papua New Guineans interviewed reported perpetrated some form of rape against a woman or girl in their

\textsuperscript{25} US Dept. of State (2013), p.13
\textsuperscript{26} Amnesty International (2009), p. 5
\textsuperscript{27} CEDAW (2010)
\textsuperscript{28} CEDAW (2010)
\textsuperscript{29} Amnesty International (2009), p. 5
\textsuperscript{30} US Dept. of State (2013), p.14
\textsuperscript{31} US Dept. of State (2013), p.14
\textsuperscript{32} Amnesty International (2010)
\textsuperscript{33} US Dept. of State (2013), p.14
\textsuperscript{34} Criminal Code Amendment, 2003
\textsuperscript{35} US Dept. of State (2013), p.13
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. Following the 2012 visit by the UN Special Rapporteur on violence against women, civil society groups urged the government to take more serious action against perpetrators of violence against women. There is no available data on conviction rates related to rape.

Both the World Bank and the US Department of State report that sexual abuse of women by police is a serious problem in Papua New Guinea. The United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has also raised concerns about sexual abuse of women in custody where arresting officers demanded sex in exchange for release for custody or where women were arrested for minor offences with the intention of sexually abusing them. Amnesty International reports that perpetrators of these crimes enjoy a culture of impunity, with only a small number of police being charged and prosecuted.

Sexual harassment is not illegal in Papua New Guinea.

A key factor contributing to the high levels of violence against women is the normalisation of these acts in the community. Women do not report violence due to shame or fear of further violence. Further, it has been reported that the police does not comprehensively investigate or prosecute these crimes, based on the idea that violence against women is a ‘private’ matter. Village courts offer no protection to beaten wives and treat rape as a matter for compensation to the victim’s male relatives. There is also a lack of adequate support services, such as emergency accommodation, for women who experience violence.

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 Violence against women accused of sorcery is also reported to be a serious problem in Papua New Guinea. In January 2009, Papua New Guinea police reported that the number of people killed for alleged involvement in sorcery had increased compared to previous years. Amnesty International documents that the provinces of Eastern Highlands and Chimbu reported more than 50 cases of sorcery-related deaths in 2008. Accused women face inhumane treatment such as beatings with barbed wires, having their bones broken, burning with red hot metal, rape, suspending people over fire, cutting of body parts, amputation of limbs and dragging victims behind moving vehicles. Amongst murders reported to the police were those where victims had been buried alive, beheaded, choked to death, thrown over a cliff or into rivers or caves, starved, axed, electrocuted, suffocated with smoke, forced to drink petrol, stoned or shot. Women are six times more likely to be accused of sorcery than men, according to Papua New Guinea authorities.

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36 UNDP, UNFPA, UN Women, UN Volunteers (2013), p. 2
37 US Dept. of State (2013), p.16
39 Amnesty International (2010), p. 5
40 Amnesty International (2010), p. 5
42 Amnesty International (2010)
43 Freedom House (2013)
44 CEDAW (2009), p. 80
45 Amnesty International (2010)
46 Amnesty International (2010), p. 8
47 Amnesty International (2010), p. 9
In Papua New Guinea, abortion is permitted only to save a woman’s life.\(^{48}\)

### 3. Son bias

The Central Intelligence Agency (CIA) reports that Papua New Guinea (Papua New Guinea) has a male-to-female sex ratio at birth of 1.05 in 2013. This drops to 1.04 for the age-range 0-14 and reaches 1.06 for the working age population (15-64).\(^{49}\) UNICEF reports that an explanation for the sex ratio could be deliberate infanticide or “infanticide by neglect”, based on discriminatory attitudes towards daughters.\(^{50}\) Analysis of sex ratios across age groups provides substantial evidence that Papua New Guinea is a country of concern in relation to missing women, although the situation has been improving.

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The government of Papua New Guinea reports that since sons are considered future heads of families, the position of sons and male children in the family is more highly valued.\(^{51}\) Many communities consider education to be more important for boys than girls, partly because girls cease to be regarded as a resource for family and clan once married.\(^{52}\) UNICEF data show that for most provinces, more boys than girls are enrolled at every level of education.\(^{53}\) The drop-out rates for girls are higher than those for boys. In primary schools, there are 85 girls to every 100 boys. In secondary schools, only 67 girls are enrolled for every 100 boys and in college and university, this estimate drops to 63 women per 100 men.\(^{54}\)

### 4. Restricted resources and assets

Although national legislation does guarantee equality to men and women in matters of inheritance, customary land is outside the scope of the law.\(^{55}\) Hence, customary rules of inheritance may lawfully operate in conflict with the legislation even if they discriminate against women. About 90% of land is under customary tenure.\(^{56}\) Women have historically exercised very limited rights over land that is held under customary tenure. In systems of traditional tenure, differences between the rights of men and women might best be understood in relation to authority over land and fixed assets. Rights of control generally reside with men, regardless of whether the social system of descent and inheritance is matrilineal or patrilineal.\(^{57}\) Where land has been commercially exploited (for example, for logging or mining leases, and other commercial purposes) women have generally had little say in the decision-making process and have reaped few direct benefits.\(^{58}\) When customary land is leased for plantations, logging or mining, women seldom take part in negotiations, nor are they usually considered to have the right to claim a direct share of leases, royalties or compensation payments.\(^{59}\) Despite these limitations, many women, as producers of food, could be considered to have usage

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\(^{48}\) United Nations Department of Economic and Social Affairs (2013)

\(^{49}\) Central Intelligence Agency (2013)

\(^{50}\) UNICEF (2006), p. 7

\(^{51}\) CEDAW (2009), p. 47

\(^{52}\) CEDAW (2009), p. 66

\(^{53}\) UNICEF (2012), p. 2

\(^{54}\) UNICEF (2012), p. 2

\(^{55}\) World Bank (2012a), p. 10

\(^{56}\) World Bank (2012a), p. 59

\(^{57}\) JICA (2010), p. 23

\(^{58}\) World Bank (2012a), p. 56

\(^{59}\) World Bank (2012a), p. 61
rights to land.⁶⁰ Women produce over 80% of the country’s food and account for doing 60-70% of the work related to food crop production.⁶¹

Women have equal rights regardless of their marital status to conclude contracts related to credit, real estate and other property (non-land assets), as well as commercial transactions. Women also have a right to administer property without interference or male consent, regardless of whether they acquire it during marriage, bring it into a marriage or are unmarried.⁶²

There is no legislative barrier to women in Papua New Guinea from accessing financial services, including opening bank accounts, accessing credit or bank loans. However, not having control or ownership of land or other substantial resources creates high barriers for women, as banks generally require collateral for loans.⁶³ Papua New Guinea ranks poorly (at 101 out of 183 countries) on the World Bank’s Doing Business index.⁶⁴

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As a result of governmental efforts, women’s participation in the micro-finance sector is high and they are more likely than men to translate their loans into benefits for their families.⁶⁵ Recently the Papua New Guinea (Papua New Guinea) Government has set in place strategies that promote gender equality and equity programs. The Government, through the Ministry of Commerce and Industry, has allocated PGK10 million (US$3.3 million) as capital for women to access for informal sector business including micro-credit activities. Moreover, through the Government ‘Public-Private Partnership Program’, a number of Micro Finance Banks have been established throughout the country as a way to extend micro credit to women entrepreneurs nationally.⁶⁶ The Government is also providing funds to women to enhance and encourage their participation in economic developments. Despite most efforts, the microfinance sector has seldom seen micro-business success stories on the part of women. One reason is that most women who are engaged in micro-businesses do so to meet the immediate household needs, such as school fees and family support.⁶⁷

In the area of vocational training, under the ‘Technical and Vocational Education Training Program’, girls and women are now given opportunity to take up various training programmes in domains that have predominantly been male-dominated, such as carpentry, welding, mechanic, plumbing, joinery and electrical services.⁶⁸ In the agriculture sector, in collaboration with various Government line agencies and international development partners have been conducting various training for rural and urban women to enhance farming skills such as backyard vegetable gardening, floriculture, livestock farming, aquaculture and apiculture, as part of the livelihood and poverty alleviation programs.⁶⁹
5. Restricted civil liberties

Papua New Guinea grants women equal rights in all areas of citizenship and nationality and is in full compliance with the UN Committee on the Elimination of Discrimination against Women (CEDAW) in these areas.\textsuperscript{70} Women have equal rights to acquire and obtain citizenship and to obtain a passport.\textsuperscript{71} The Constitution provides for freedom of assembly and association to both men and women.\textsuperscript{72} Freedom of assembly, movement, access to public space and choice of residence are granted to both men and women on an equal basis, and marriage does not limit a woman’s right to choose her residence.

Freedom House confirms that Papua New Guinea provides for freedoms of assembly and association for both men and women, and the government generally observes these rights in practice. Marches and demonstrations require 14 days’ notice and police approval. Many civil society groups provide social services and advocate for women’s rights, the environment, and other causes. The government further recognizes workers’ rights to strike, organize, and engage in collective bargaining. According to the Freedom in the World 2013 ranking, Papua New Guinea scores 3 out of 7 (1 = best, 7 = worst) in terms of “Civil Liberties” and 4 out of 7 in terms of “Political Rights”.\textsuperscript{73}

There is no legal barrier to the participation of women in all courts or tribunals, and there is no specific legislation that states that all contracts and all other private instruments with a legal effect directed at restricting the legal capacity of women be deemed null and void. A woman can also sue and be sued in her own name. According to the 1975 Constitution, men and women have equal rights to vote and equal eligibility for political representation.\textsuperscript{74} However, the discriminatory social norms impede women’s full participation in political life. The political participation of women is often limited, either because they are barred from voting by their husbands or because they are expected to vote along tribal and family lines.\textsuperscript{75}

Papua New Guinean women are poorly represented in decision-making systems.\textsuperscript{76} In the 2007 General Elections, 101 of the 2,759 candidates for the 109 seats were women, but only one was successful, serving as the Minister for Community Development. In 2012, 136 women out of 3,435 candidates stood for election for the 111 seats and three were successful.\textsuperscript{77} 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 also two female Judges in the National and Supreme Courts, out of the 27 national-level judicial positions.\textsuperscript{78} In 2009 there were no Provincial Governors and just one National Court Judge\textsuperscript{79}. So far, there is no legislative provision for minimum quotas of women in Parliament.\textsuperscript{80} However, some activists and politicians are working to pass a bill that would allow for the creation of 22 reserved seats for women, one per province.\textsuperscript{81} In 2011, Australia funded training and awareness programs to increase female participation in Papua New Guinea’s

\textsuperscript{70} CEDAW Legislative Compliance Review (n.d), p. 270
\textsuperscript{71} Passports Act 1982, s. 5
\textsuperscript{72} Papua New Guinea Constitution 1975, Art. 47
\textsuperscript{73} Freedom House (2013)
\textsuperscript{74} CEDAW Legislative Compliance Review (n.d), p. 282
\textsuperscript{75} US Dept. of State (2013), p.10
\textsuperscript{76} JICA (2010), p. ii
\textsuperscript{77} Global Education (2012)
\textsuperscript{78} US Dept. of State (2013), p.11
\textsuperscript{79} CEDAW (2009), p. 55
\textsuperscript{80} CEDAW Legislative Compliance Review (n.d), p. 282
\textsuperscript{81} Global Education (2012)
parliament. Moreover, UN Women funded a 'Know Your Woman Candidate 2012: Vote Women' campaign.\(^{82}\)

At the local level, there are currently 1,400 Village Courts in Papua New Guinea with approximately 14,000 officials.\(^{83}\) Village Courts use customary law and mediation to resolve disputes and deal with offences, predominantly minor in nature. They deal with 80% of crimes in Papua New Guinea. For many villages in remote areas, the Village Courts may be the only accessible system of justice. All of the magistrates were men until 2000, when new policies to include women were introduced. An awareness and training program has increased the number of women magistrates. In 2004, 10 women had been appointed to ten Village Courts and by the end of 2011, there were 700 women working as magistrates and 300 as clerks and peace officers. There is evidence that with more women magistrates, women have brought a higher number of cases to the Village Courts and experienced more equitable justice.\(^{84}\)

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Closely related to the lack of visibility of women in leadership and public life is the notion of ‘big man’ leadership. The ‘big man’ leadership system is commonly founded upon the model of ‘Warrior, Feast Giver and Priest’ roles.\(^{85}\) Big man leaders proved themselves as leaders through distribution of wealth and a caring attitude towards their people. The ‘big man’ leadership system is strongly associated with masculinity, strength, power and wealth and therefore leaders are expected to be men. Even in matrilineal societies, there is a dominance of men who do esteem women and include their views in decision-making, yet ultimately hold the power. In Bougainville, for example, men who ran the modern institutions overlooked women’s contributions to the peace process and domestic and local economies. Men in matrilineal societies are patriarchal in their ways because they are still leaders, so while descent and the custody of land is traced through women, the right to rule still remains the prerogative of the men.\(^{86}\)

Women’s civil liberties in the field of employment are restricted by the absence of anti-discrimination provisions in the employment legislation that prohibits women from working at night in mines and from engaging in heavy labour.\(^{87}\) In the area of maternity leave, the public service sector in Papua New Guinea (Papua New Guinea) offers more generous allowances than the minimum standards granted in the private sector. However, neither sector fully meets the standards of 14 weeks paid maternity leave recommended by the UN Committee on the Elimination of Discrimination against Women (CEDAW) and the International Labour Organisation (ILO). The public service entitles female civil servants to 12 weeks of maternity leave of which 6 are on full pay. The private sector also provides 12 weeks leave but this is unpaid.\(^{88}\)

Neither primary nor secondary school is compulsory for boys or girls in Papua New Guinea. Further, discrimination is still prevalent in schools where girls and women face expulsion because of their pregnant status. An absence of a prohibition on the expulsion of pregnant girls from school

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\(^{82}\) Global Education (2012)
\(^{83}\) CEDAW (2010), p. 23
\(^{84}\) CEDAW (2010), p. 22
\(^{85}\) CEDAW (2009), p. 53
\(^{86}\) CEDAW (2009), p. 54
\(^{87}\) CEDAW Legislative Compliance Review (n.d), p. 271
\(^{88}\) CEDAW Legislative Compliance Review (n.d), p. 271
perpetuates such discrimination. Women’s literacy rates remain low at 59.4% compared to 65.4% for men. In 2002 the government launched the Gender Equity in Education Policy to address this disparity, and is currently trying to provide universal basic education to all children. In line with this, the National Plan for Education 2005-2014 was also developed, aiming to eliminate gender disparities throughout the education system. However, in rural areas where nearly 90% of the population resides, many people have limited or no access to education due to the limited number of schools and the physical distance to schools.

Women have equal rights with men when they marry a non-national; they can determine their children’s citizenship and nationality equally with the fathers of their children.

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89 CEDAW Legislative Compliance Review (n.d), p. 270
90 Central Intelligence Agency (2013)
91 JICA (2010), p. 14
92 Legislative Compliance Review (n.d), p. 270
Sources


