

Observations on the State of Indigenous Human Rights in Papua New Guinea

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Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*, and on its website: www.cs.org.

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I. Executive Summary

Despite recommendations in the first and second cycle aimed at improving the conditions and self-determination of Indigenous Peoples in Papua New Guinea, the government has failed to adequately address rights violations, including inadequate access to basic services such as healthcare. Indigenous women and people with disabilities face disproportionate violations to their human rights. Most concerning, the extraction of natural resources by foreign private industries continues to be prioritized over the health and well-being of the citizens of Papua New Guinea and their ecosystems, despite numerous recommendations to address this issue over more than a decade.

II. Background

Papua New Guinea is a relatively young country, having only gained full independence from colonial rule in 1975.ⁱ Colonization first began with the Dutch in 1828, as they took control of the New Guinea island.ⁱⁱ Germany and Great Britain eventually annexed the eastern portions of the island, which became modern-day Papua New Guinea.ⁱⁱⁱ After nearly two centuries of colonization and various land transfers among foreign countries, Papua New Guinea achieved full independence on September 16, 1975.^{iv} The country consists of the eastern portion of the New Guinea island, as well as fifty surrounding pacific islands; the country's western neighbor, West Papua, is under Indonesian rule and is currently fighting for its own independence.^v

Papua New Guinea is a culturally rich nation.^{vi} It has an estimated population of 8.7 million.^{vii} Most of the population is Indigenous, most of whom are Melanesian, Bougainvillean, Negrito, Micronesian, and Polynesian.^{viii} Over 820 different languages are spoken in the country, and there are hundreds of Tribal or Indigenous communities.^{ix} Given the remoteness of location and diversity of its population, many Indigenous Peoples remain isolated.^x

The nation also has abundant natural resources and biodiversity.^{xi} Covered with thick jungle, Papua New Guinea has a robust logging industry exporting timber.^{xii} Additionally, the land is rich in precious metals, including gold, silver, and nickel, which has historically and currently attracted international mining industries.^{xiii} The government of Papua New Guinea provides little regulatory oversight to these extractive industries, which mine on or near Indigenous lands.^{xiv}

Although it has signed various international treaties, Papua New Guinea has not ratified ILO Convention 169, nor has it effectively implemented the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

III. Past UPR Recommendations and Responses Pertaining to Indigenous Peoples

In 2016, during cycle two of the Universal Periodic Review, Papua New Guinea received three recommendations specific to Indigenous rights; Papua New Guinea officially supported all three recommendations, an improvement over the 2011 cycle in which all but one recommendation on Indigenous Peoples was rejected.^{xv} However, these recommendations have not been sufficiently implemented since the last review.

- (a) Mexico recommended that Papua New Guinea, “*Take measures to guarantee full respect of human rights to indigenous peoples, in particular through the establishment of mechanisms for their prior and informed consent on issues that affect them.*”
- (b) Chile recommended that Papua New Guinea, “*Review the state policy that affects Indigenous lands, known as the “Plan of Agricultural and Industrial Lessess” regarding non-indigenous companies, reinforcing the work of the Commission of inquiry that has found irregularities in many of the lease investigated.*”
- (c) Malaysia recommended that Papua New Guinea, “*Dedicate more resources to ensuring access to basic facilities to indigenous peoples including clean water, healthcare and education.*”

IV. Continuing Rights Violations

A. Erosion of Indigenous land rights by extractive industries (UNDRIP Articles 8, 10, 12, 26, 28, 29)

Following art. 18 of the UNDRIP, “states shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.” Such reasoning also applies in the cases of relocation (art. 10), seizing of religious and spiritual property (art. 11(2)), seizing or occupation of traditionally owned territories (art. 28(1), the storage or disposal of hazardous materials (art. 29(2)), or carrying out projects in connection with the development, utilization or exploitation of minerals, water or other resources (32(2)).

1. Nickel and Natural Gas

Papua New Guinea has failed to protect the rights of Indigenous Peoples impacted by the Ramu nickel-cobalt mining disaster. Since at least 2012, the Ramu mine in the Madang province has dumped hundreds of thousands of tons of mine tailings into the ocean and surrounding coastal lands.^{xvi} Despite years-long litigation and grassroots efforts to stop the mine and

accompanying pollution, the Papua New Guinea government has permitted the Ramu mine to continue extraction.^{xvii} As a result, Indigenous Peoples have been involuntarily removed from their lands, seen their sacred lands be polluted, experienced negative health outcomes, and been subjected to violence resulting from economic instability.^{xviii}

In 2008, mining company China Metallurgical Group Corporation chose the lands under the village of Kurubankari to be the Ramu mining site.^{xix} Although the mining company offered to pay for relocation, the Indigenous People refused to leave their ancestral lands.^{xx} Thus, without obtaining the free, prior, and informed consent of the villagers, the mining company forced the people off the land that has been the home to Indigenous Peoples for at least 6,500 years and is connected to the culturally sacred Ramu River.^{xxi} Responding to this violation, the landowners brought legal claims against the mine, but the Papua New Guinea government responded to the litigation by passing amendments to a law in 2010, which effectively exempted the mine from the government's environmental laws.^{xxii}

Since then, the government has endorsed the mine's continued operation, degrading the local environment, health, and eroding cultural identity. In 2019 the mine's refinery experienced slurry pump failures—resulting in the disaster of approximately 200,000 liters of slurry waste spilling into Basamuk Bay, on top of the years of waste intentionally deposited into the ocean.^{xxiii} The mining company denies any environmental impact.^{xxiv} Yet, the spill turned rivers red, visibly filled with toxic waste, and killed or contaminated fish that are critical to Indigenous Peoples' livelihoods, food security, and food sovereignty.^{xxv} For months, the local government banned people from fishing and, with a coalition of more than 5000 villagers, eventually sued Ramu NiCo.^{xxvi} The national government investigated the spill but has not taken any substantial measures to mitigate the damage to Indigenous communities or prevent more toxic spills in the future.^{xxvii}

Environmental and cultural degradation is not the only negative repercussion of the highly unregulated mining industry: violence is another byproduct. Indigenous women have reported an increase of violence, including rape, in towns near mining operations.^{xxviii} As these foreign corporations enter traditional areas, the receiving communities struggle with foreigners, often leading to violence and the exploitation of women.^{xxix}

The mining industry also exacerbates inter- and intra-tribal violence, which is increasing in part due to unfulfilled promises of economic vitality from mines. Violence has erupted in the Hela province where ExxonMobil has a large natural gas facility; the massacre left eighteen people dead, including ten women, two of whom were pregnant, and six children.^{xxx} Although the Prime Minister eventually deployed national soldiers to find the offenders, these actions are hardly sufficient to prevent future violence.^{xxxi} Furthermore, the extractive industry within the region denies any culpability, despite evidence that shows tension between local groups and the almost-militarized group of enforcement personnel that guards the company's physical assets.^{xxxii} The Papua New Guinea government has done little else to prevent continued violence.

2. *Timber*

Similar to issues surrounding regulation of the mining industry, by failing to enforce its extensive forest management laws, the government of Papua New Guinea also allows timber companies to exploit the rights of Indigenous Peoples. Despite Papua New Guinea's robust regulations regarding timber extraction, a recent study by Global Witness shows that blatant corruption and government indifference permeate forest regulation.^{xxxiii} In direct violation of law, forest management agencies provide permits to extractive industries without the consent of Indigenous communities.^{xxxiv} These agencies also shirk their oversight responsibilities and allow extraction outside the permits' parameters.

This lack of government oversight coupled with the pervasive poverty among Indigenous Peoples creates a situation ripe for exploitation. In Manus, a poverty stricken island in Papua New Guinea, Malaysian-owned logging company, Maxland (PNG) Limited, sought the right to clear-cut the tropical forest and sell the timber on the international market—which offers up to \$1,000 USD per tree.^{xxxv} In exchange, the Maxland promised to build a rubber tree plantation, which would create a sustainable industry to the island, and to pay royalties (a paltry \$45 USD per-tree^{xxxvi}) to the Indigenous Peoples.^{xxxvii} Papua New Guinea endorsed logging permits for the company, despite it failing to get the free, prior and informed consent of the Indigenous Peoples.^{xxxviii} Starting in 2018, Maxland began clearcutting the forest, but has yet to plant any rubber trees.^{xxxix}

This negligence threatens the livelihoods, cultural identity, and well-being of Indigenous Peoples and contributes to food insecurity.

B. Violations of the rights of Indigenous Women (UNDRIP Articles 18, 21, 22)

Women are severely underrepresented in Papua New Guinea politics and violence is committed against them at extremely high rates. Papua New Guinean women lack political representation and the ability to safely vote. As of 2021, there are no women in Papua New Guinea's 111-seat Parliament, despite the fact that 167 women ran for office in the most recent general election.^{xl} There are also gender-specific barriers to voting, including high rates of illiteracy, threats of violence, government corruption, and the perpetuation of harmful gender norms.^{xli} In the 2017 general election, women that vocally supported women candidates or opposed male candidates were sometimes violently attacked.^{xlii} In at least one woman's case, her house, farm, and animals were destroyed because of her opposition to a male candidate.^{xliii}

In addition to political violence, women face high rates of domestic violence. One study reports that 70% of women in Papua New Guinea face physical violence in their homes.^{xliv} For certain regions, like the Highlands of Papua New Guinea, nearly all women are subjected to domestic violence.^{xlv} Given the rural nature of the country—where most Indigenous Peoples live—women often lack resources and services to protect themselves and their families; they often have no other choice but to continue living with their abusers.^{xlvi} The few programs that do offer support also face threats of violence, sometimes directly from the abusers' family.^{xlvii}

Finally, violence against women also stems from the continued colonization of Indigenous lands by extractive industries.^{xlviii} Mining projects bring in an influx of outsiders, which Indigenous women report has led to increased teenage pregnancy and drug use.^{xlix} The industry also impacts Indigenous ways of life, changes to which often lead to domestic violence against women.¹ For example, mines often cause deforestation and environmental degradation that in turn reduces available food sources for Indigenous families.^{li} Because the women traditionally gather food for their families, they are having to travel further and further to find food.^{lii} The increased distance also increases opportunities for violence against women by different villages or clans.^{liii} Plus, the lack of food often results in domestic violence against the women, based on the perceived failure of women to provide.^{liv}

C. Impairment of health outcomes for Indigenous Peoples (UNDRIP Articles 3, 5, 6, 7, 10, 17, 31, 33)

Indigenous Peoples in Papua New Guinea—particularly Indigenous women and Indigenous persons with disabilities—have some of the worst health outcomes in the Pacific region.^{lv} According to the Human Rights Measurement Initiative, Papua New Guinea has only a 69.3% score for quality of life relating to health; this means that, compared to similarly situated countries, Papua New Guinea has “very bad” health outcomes.^{lvi} For example, it is estimated that only 40% of sexually active persons have access to contraception, and only 80% of people will live to their 60th birthday.^{lvii} Despite Papua New Guinea’s acceptance of Malaysia’s recommendation in the 2nd cycle to dedicate more resources to ensuring access to basic facilities to Indigenous Peoples, including healthcare, the situation has not improved.^{lviii} Although Papua New Guinea has seen an exponential increase in GDP since 2005, health indicators have remained stagnant, and in the case of contraceptive use, declined.^{lix}

Papua New Guinea’s negligence uniquely and disproportionately impacts Indigenous Peoples. From birth, Indigenous Peoples with disabilities face violence and discrimination.^{lx} Infanticide is common, and those with disabilities face higher rates of torture and ill-treatment.^{lxi} They lack access to culturally relevant education and safe housing.^{lxii} The PNG Assembly of Disabled Persons report that Indigenous Peoples with disabilities “are especially affected by climate change, as we are the first to suffer the effects of displacement. We also have less access to natural resources and we are directly affected by the exposure to hazardous waste from the mining and agro-chemical disposal.”^{lxiii} The government of Papua New Guinea continues to inadequately address the health needs of Indigenous Peoples, especially those with disabilities.

D. Impacts of climate change on Indigenous Peoples (UNDRIP Articles 12, 24)

The climate crisis disproportionately affects Indigenous Peoples in Papua New Guinea.^{lxiv} As global temperatures change, there are shorter growing periods and longer rain seasons, resulting in invariable farming seasons.^{lxv} Indigenous communities that have traditionally relied

on farming and fishing now face uncertainty in growing crops and fishing.^{lxvi} Furthermore, climate change impacts the cultural and traditional knowledge of Indigenous Peoples in Papua New Guinea.^{lxvii} A large majority of land will be impacted, affecting biodiversity and, reducing the presence of culturally significant species and plants.^{lxviii} Climate change affects multiple and varying aspects of Indigenous Peoples lives and may exacerbate each of the previous issues outlined.

V. Questions

1. What steps is the government of Papua New Guinea taking to increase political participation of Indigenous women?
2. What steps is the government of Papua New Guinea taking to implement the United Nations Declaration on the Rights of Indigenous Peoples and the Outcome Document of the World Conference on Indigenous Peoples?

VI. Recommendations

Cultural Survival and the American Indian Law Clinic of the University of Colorado urge member states to recommend the government of Papua New Guinea take the following actions:

1. Ensure that the Free, Prior and Informed Consent of Indigenous Peoples is achieved before approving any permits for extractive industries on or near their lands.
2. In consultation with affected communities, create policies to improve government regulation and oversight of existing extractive industries operating in the country, especially mining and logging industries
 - a. Conduct a thorough and independent review of logging and forest clearing permits, with the goal of invalidating any that have been issued illegally.
3. In consultation with affected communities, provide expedient and adequate remediation to lands, waters, and people affected by the 2019 Ramu NiCo spill and, review existing procedures to ensure better protection from spills of this nature in the future.
4. Engage with Indigenous communities to study and put in place culturally relevant efforts to combat intra-tribal violence.
5. Improve access to quality health care for Indigenous Peoples and people with disabilities.
6. Consult with Indigenous women to establish processes for improving their political participation, access to services for victims of domestic violence, and food security.
7. Consult with Indigenous Peoples develop mitigation strategies for the impacts of climate change.

8. Ratify International Labour Organization's Convention 169;
9. Adopt a national plan that will implement the principles outlined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and evaluate existing national programs and, as necessary, revise them to align with UNDRIP.
10. Invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit Papua New Guinea.
11. Implement the World Conference on Indigenous Peoples Outcome Document, beginning with drafting a National Plan of Action to achieve the ends of the UN Declaration on the Rights of Indigenous Peoples.

End notes:

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^{viii} Minority Rights Group International, Papua New Guinea (Feb. 2018), <https://minorityrights.org/country/papua-new-guinea/>.

^{ix} IGWIA, *supra* note 9.

^x *Id.*

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^{xii} *Id.*

^{xiii} *Id.*

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^{xv} Universal Periodic Review, Recommendation from Mexico to Papua New Guinea (May 2016), <https://upr-info-database.uwazi.io/en/entity/5cwbbvgj5f6?searchTerm=%22Papua%20New%20Guinea%22>; Universal Periodic Review, Recommendation from Chile to Papua New Guinea (May 2016), <https://upr-info-database.uwazi.io/en/entity/a9sm61psjz?searchTerm=%22Papua%20New%20Guinea%22>; Universal Periodic Review, Recommendation from Malaysia to Papua New Guinea (May 2016), <https://upr-info-database.uwazi.io/en/entity/m9n1aspueu?searchTerm=%22Papua%20New%20Guinea%22>.

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