

**Observations on the State of Indigenous Human Rights in
Papua New Guinea
in Light of the
UN Declaration on the
Rights of Indigenous Peoples
Prepared for
United Nations Human Rights Council:
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CULTURAL SURVIVAL

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

Papua New Guinea currently faces a series of challenges in the realm of Indigenous human rights. Although Indigenous peoples, identified by clans, have customary rights to 97 percent of the land, the government has not respected a process of free, prior informed consent on those lands, and there are serious concerns about the impact of extractive industries and environmental policies. Papua New Guinea struggles with ensuring the safety of women, children, and immigrants.

II. Background

Papua New Guinea is famously one of the most diverse nations in the world, in flora, fauna, and human diversity. As much as 10 percent of the world's terrestrial species flourish in its tropical rainforests, and many of these species are found nowhere else. Its extensive coral reefs with over 600 reef-building coral species form part of the Coral Triangle, the area of highest marine biodiversity on Earth. Consisting of the eastern portion of New Guinea and the 50 surrounding Pacific islands, the country is home to hundreds of Indigenous groups and is the most linguistically diverse place in the world, with over 826 languages actively spoken. Highlanders native to Central New Guinea are typically agriculturalists, while lowlanders native to New Guinea's exterior and swamps are typically hunter-gatherers. The abundance natural resources also means Papua New Guinea is home to some of the biggest gold, silver and nickel reserves in the world, and for decades has been the center of attention for mining industries who rights to exploit resource while doing so in a highly deregulated environment.

Until 1975, Papua New Guinea was a territory under Australia's jurisdiction and still maintains a close relationship with the country today. Neighboring West Papua is currently fighting for autonomy from oppressive Indonesian rule, and Papua New Guinea's Prime Minister has advocated in favor of reduced Indonesian presence.

III. Past UPR Recommendations and Responses Pertaining to Indigenous Peoples

In May 2011, during the first cycle of Universal Periodic Review, Papua New Guinea received four recommendations related to Indigenous Peoples. Although much of Papua New Guinea's legislature is designed to account for the mass diversity of the nation, these recommendations suggested positive steps to further the protection and continuation of Indigenous autonomy. Only one of the four recommendations was accepted by Papua New Guinea, and the other three had been noted as of 2014.

a) Norway suggested, "*Consider ratifying International Labour Organization Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries and take operational steps to implement the United Nations Declaration on the Rights of Indigenous Peoples.*"

This recommendation was initially rejected in 2011 and was noted by 2014. However, Papua New Guinea still has yet to ratify ILO Co. No. 169 or implement UNDRIP.

b) Norway recommended, "*Work closely with its citizens, especially the Indigenous population, in order to promote environmental protection.*"

This is the only recommendation accepted by Papua New Guinea. Papua New Guinea was one of the earliest advocates of REDD+, and should take caution to ensure the employment of free, prior, and informed consent practices with local communities in order to ensure equitable benefits sharing from this process.

c) Holy See advised, “*Stop the increasing deforestation and indiscriminate exploitation of minerals since, on one hand, this limits the right of Indigenous peoples to live in their traditional agricultural lands and, on the other hand, it contributes enormously to the ecosystem's imbalance and accelerates climate change with the negative consequences it brings.*”

By 2014, this initially rejected recommendation had been noted. As stated above, Papua New Guinea has been active in the adoption of REDD+. In conjunction with REDD+, the Forestry Minister has stated that the exportation of round logs will have been terminated by 2020.

d) Norway proposed, “*Review the 2010 amendment to the Environment Act in order to ensure consistency with the objectives of the United Nations Declaration on the Rights of Indigenous Peoples.*”

There are many legal debates over the 2010 amendment, which prohibits challenges against ecologically unsound projects if they are seen as being in the nation’s best interest. In 2012, the O’Neill parliament moved to repeal the amendments. However, the Environment Act still needs to focus more actively on Indigenous rights.

IV. Continuing Rights Violations

Refugees

Papua New Guinea is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. This protocol ensures that refugees are able to assimilate comfortably into the contracting state and are afforded access to rights and resources. Under recommendation D of the Convention, it is suggested that “that Governments continue to receive refugees in their territories and that they act in concert in a true spirit of international cooperation in order that these refugees may find asylum and the possibility of resettlement” (1951 Convention p11). Papua New Guinea, as party to the Convention, is obliged to aid in the protection of West Papuan individuals who are fleeing to the country as refugees. Occupying the Western half of island, West Papua has been an Indonesian territory since the 1960s. Like Papua New Guinea, West Papua is home to hundreds of distinct Indigenous tribes. Since the beginning of Indonesian presence, West Papua has been victim to a media blackout, resulting in limited information and documentation on the state of Papuan human rights. Many West Papuans have fled to Papua New Guinea as refugees. In February 2015, Papua New Guinea’s Prime Minister Peter O’Neill declared that his nation will do more to support the Melanesian population, advocating against Indonesia’s oppressive tactics. In June 2015, the Melanesian Spearhead Group met to consider solidarity, discussing the contentious issue of West Papua’s independence. The summit received Indonesia as an associate member for the first time. However, the West Papuan organization lobbying for autonomy, the United Liberation Movement for West Papua, was given merely observer status as representatives of the Papuans living beyond the parameters of Indonesia. O’Neill announced the news, stating that Indonesia’s introduction to the Group should bring more harmony within Melanesia.

Infrastructural Development (UNDRIP Articles 3 and 32)

Many Indigenous communities exist in remote, rural areas, which has fomented the continuation of distinct cultural practices. However, this isolation has deprived individuals of access to crucial resources and public services, including clean water, healthcare, and education. Many—oftentimes abused women—walk for at least four days to access roads leading to urban centers.

The largest highway in the country, the Highlands Highway, connects the Indigenous-populated highlands to the metropolis of Lae. However, the Highway is in extremely poor condition and is known for being dangerous. Throughout the spring of 2015, the government has been placing more importance on the restoration of the highway. However, adverse feelings have emerged about its expansion. Prejudices against highland populations prevent many urban residents' support. Similarly, some highlanders have been protesting the expansion until they receive full compensation for damages caused during a landslide. In response, the military has been stationed along the Highway to ensure the passage of traffic, and its presence has helped to facilitate construction.

Violence and Threats to Physical Safety (UNDRIP Articles Articles 7 and 8)

A heavily emphasized topic in the 2011 Universal Periodic Review was the presence of violence and abuse in the country. Five years later, Papua New Guinea has attempted to confront the problem of abuse through legislation such as the 2013 Family Protection Act, which criminalizes family and sexual violence. Papua New Guinea is in the process of implementing more tangible measures to enable engagement with protective mechanisms, including active education about how to prevent abuse.

Despite these measures, Papua New Guinea still has an unacceptable amount of violence in various spheres of society, ranging from domestic to government-condoned. There have been various incidents of police corruption and brutality. Near the Porgera Mine, police violently evicted families in roughly 200 homes in 2009 after ignoring a process of free, prior, informed consent on relocation. This left hundreds of individuals entirely dispossessed. Again near the Porgera Mine, guards raped at least eleven women. In another instance, rather than arrest an individual, police allowed their dogs to maul him.

Women, despite the 2013 Family Protection Act, still commonly suffer from physical and sexual assault. On the island of Bougainville, a 2013 cross-departmental UN study found that 80% of men admit to using physical or sexual violence against a female partner. This finding proves the necessity of more tangible solutions. Women must have the capacity to engage with measures that will protect them and their families, and men must be educated about the human rights possessed by all individuals.

Sorcery and sorcery-related violence has been an ongoing concern that was also highlighted in the 2011 Universal Periodic Review. Papua New Guinea accepted the numerous recommendations and in response repealed the 1971 Sorcery Act in 2013. This Act essentially mitigated murder charges if the murder was provoked by suspicion of sorcery. Despite this repeal, women are still victim to gruesome murders galvanized by sorcery suspicions, and the government has taken minimal action to ensure that women are fully protected. At the end of May 2015, Mifila, a woman from a highlands village, was axed to death by individuals from a neighboring village who suspected her of sorcery and causing a lethal measles outbreak. A strong belief in sorcery is consistent throughout the highlands. Accusations often surface in periods of illness and fatality, which are supposedly spurred by the presence of malicious spirits inhabiting women and children's bodies. However, traditional beliefs in sorcery do not align with the fanaticism that currently surrounds its concept. The recent wave of violence reacting to sorcery have been products of hysteria triggered by discrimination.

There are many accounts of inter-tribal violence and warring occurring between rival communities. Tribal warring has shifted with the emergence of technology, warriors now utilizing modern weapons and cell phones while abandoning traditional war customs and tactics. During periods of fighting, the police are called in, although they are often too late. In November 2014, fourteen died in one

incident before 50 police officers arrived. Oftentimes children are included in the casualties of these bloody conflicts.

Extractive Industries and Environmental Concerns (UNDRIP Articles Articles 8, 10, 11, 19, 25, 26, 28, 29)

Papua New Guinea is well known for its abundance of natural resources, including its rainforests and minerals deposits. Mining has historically been a major source of income for the government as well as a major source of social and environmental conflict.

The Ramu Nickel Mine continues to be a source of conflict, due to a disrespect for environmental and regulations and a process of free, prior informed consent at every stage of its development. The Ramu Nickel Mine's excavation process has resulted in acid mine drainage. Since the mine became fully operational in May 2012, local residents have complained from the smell caused by excavation ([PNG Mine Watch](#), 2012). So far no proven technology prevents acid mine drainage, or eliminates its adverse effects, and sulphide mining has been shown in the past to be dangerous to the environment and have devastating social and economic impacts on the wider community. In December 2011, a 21-month legal battle between local Indigenous land owners concerned about environmental and health impacts of dumping hazardous mining waste into the sea at Ramu NiCo's refinery at Basamuk in Rai Coast district of Madang province ended with a ruling at the Supreme Court of PNG against the local communities, and Ramu Nickel Mine became fully operational in 2012.

On 9 October 2012, Prime Minister Peter O'Neill admitted the Ramu NiCo deal was not done in favour of the people of PNG, and that much needed to be learnt from it (Post-Courier, 2012). "We have not done a good deal with Ramu Nickel but I'm certain that we will learn from that mistake and for the other projects that are on-stream, I am certain that we will do a better deal... Our country is not going to disappear, but we will not let people come in and just take our resources away." In 2012, scientists conducted marine research, and confirmed the Ramu Nickel Mine's disposed industrial waste left pollutants going as deep as 1,000 meters. The mine also contaminated nearby staple crops, which were severely affected by acid and fumes produced in the mining process in 2014. The mine has continued to cause social upheaval, as evidence in an attack by armed villagers on the mine in August 2014, resulting in the burning of mining equipment. Papua New Guinea's government must take immediate steps to ensure a process of free, prior, informed consent before mining projects like Ramu Nickel Mine and many others continue to be approved in the interests of foreign companies at the expense of Indigenous Peoples' human rights, health, and environment. A weak regulatory environment enables a disregard for local communities' concerns and interests.

Recently Papua New Guinea has begun to extract natural gas. The country's largest project, the Papua New Guinea Liquefied Nitrogen Gas Project (PNG LNG), has been presented as an economic savior that is predicted to double the nation's gross domestic product. However, the project has not exclusively produced benefits. The government leased the territory to the project's operator without consultation of the Indigenous locals who have claims to the land. Not only has the project robbed people of their land, but it has also proven deadly. In January 2012, a PNG LNG quarry caused a landslide that killed 60 individuals and destroyed dozens of homes, devastating the native community that had resided there for over ten generations.

Mining industries are also implicated in disturbing human rights and environmental abuses. Often, guidelines about proper worker and environmental treatment are ignored or bypassed. The Porgera Mine is infamously recognized as the scene of repeated police brutality and land dispossession. Similarly,

the Ok Tedi copper and gold mine has polluted much of the surrounding area, especially the Ok Tedi and Fly River systems. Initially the mine ran on the stipulation of the presence of a filtration dam. However, when the dam washed away, the mine continued operations. The water pollution has affected at least 30,000 local Indigenous Peoples, such as the Yonggom People that live down river from the mine, depriving them of their livelihoods. There are over 50% less fish than before the mine's existence, and the surviving fish and agricultural produce are contaminated and therefore not vendible.

Three out of the four recommendations Papua New Guinea received in 2011 in regard to Indigenous Peoples pertain to environmental concerns. It is imperative that as environmental policies are being formulated, local Indigenous communities are involved in every step of the process. Particularly large-scale projects like mines, dams, and gas pipelines, as well as conservation projects like as REDD+ must be forced by government policies to conscientiously implement a process of Free, Prior Informed Consent.

V. Questions

1. What steps is the government of Papua New Guinea taking to create a National Action Plan to implement the UN Declaration on the Rights of Indigenous Peoples and the Outcome Document of the World Conference on Indigenous Peoples?

VI. Recommendations

1. Ratify International Labour Organization's Convention number 169 as to enhance Indigenous rights.
2. Establish a firmer stance on West Papuan independence, considering the treatment of the population by Indonesia.
3. Create more concrete local opportunities for Indigenous communities to protect themselves from internal and external violence and to be educated about physical and sexual abuse.
4. Implement stronger measures by which to terminate sorcery-related violence.
5. Increase weapon control.
6. Continue infrastructural development, such as the construction of roads, in order to connect rural communities to urban centers as to ensure that all individuals have equal access to resources and public services.
7. Establish stronger measures to guarantee that large-scale projects are following proper environmental standards.
8. Take operational steps to implement the United Nations Declaration on the Rights of Indigenous Peoples, including the recognition of the right to land and natural resources of all Indigenous peoples in Papua New Guinea
9. Evaluate and align all legislation and government programs with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)
10. Adopt a national action plan on UNDRIP implementation to ensure Indigenous peoples' effective and politically meaningful participation in the decision-making process and equal representation in the governance of the country as provided under UNDRIP.
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
12. Invite the Special Rapporteur on the Rights of Indigenous Peoples to visit Papua New Guinea.

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