

## Statement on Sorcery-related Killings and Impunity in Papua New Guinea

*“Sorcery and Witchcraft-related Killings in Melanesia: Culture, Law and Human Rights Perspectives Conference”*, The Australian National University, Canberra, 5-7 June 2013)

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*“The persecution and killing of individuals accused of practising so called ‘witchcraft’ is a significant phenomenon in many parts of the world, although it has not featured prominently on the radar screen of human rights monitors.”*

(Philip Alston, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 2009)

Abuses related to sorcery or witchcraft are not considered as such by international law. However, the resulting ‘sorcery-related violence’ is an emerging concept in the context of international human rights law. It can be tackled through a number of provisions under international human rights law, including the right to life, to non-discrimination, to liberty and security of person, to dignity, to effective remedies, to access to justice, and to not be subjected to torture or other cruel, inhuman or degrading treatment or punishment. These fundamental human rights are enshrined in the International Covenant on Civil and Political Rights (ICCPR; Arts. 2, 6, 7, 9, 14). Moreover, the Convention on the Rights of the Child (CRC) prohibits torture as well as capital punishment in its article 37. The Convention Against Torture (CAT) outlaws torture, defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person with the consent or acquiescence of a public official, in its article 2, which also constitutes *jus cogens*, a peremptory norm under international law. The Convention on the Elimination of Discrimination against Women (CEDAW) provides for women’s access to justice in its articles 2 and 15. CEDAW also stipulates in its article 5 that States parties shall take measures to “*modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.*”

Although sorcery-related violence is most often committed by non-state actors, the State is nonetheless obliged to respect, actively protect and fulfil the civil, political, economic, social and cultural rights of every human being. In this context, the State is held to comply with the principle of ‘due diligence’ under international law. According to the UN Special Rapporteur on Violence Against Women, Rashida Manjoo,<sup>1</sup> the standard of ‘due diligence’ means that the State is not held responsible for the acts of others, but it is held responsible for *its own* failure to prevent, investigate, prosecute or compensate for the commission of the act. Thus, under the obligation of ‘due diligence’, States are required to undertake effective investigations, prosecution and sanctions, guaranteeing *de jure* and *de facto* access to adequate and effective judicial remedies, ensuring comprehensive reparations, identifying certain groups as being at particular risk, and eliminating prejudices and (customary) practices based on the idea of inferiority or superiority of certain members of society. “*States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.*”<sup>2</sup>

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<sup>1</sup> Human Rights Council, Statement by Rashida Manjoo, Special Rapporteur on Violence against Women, Geneva, 25 June 2012.

<sup>2</sup> Committee on the Elimination of Violence against Women, General Recommendation No. 19, 11th session, 1992, para. 9. See also Human Rights Committee, General Comment No. 31 on “The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, 2004, para. 8. See also UN Declaration on the Elimination of Violence against Women (1993), Articles 4 (c) and (d), which note the responsibility of states to exercise due diligence to

The issue of sorcery-related killings is clearly not limited to Papua New Guinea. However, I will focus on PNG as one of OHCHR's priority countries. OHCHR has not received information on killings in relation to sorcery in other Melanesian countries, but does consider a broader Melanesian perspective on sorcery-related violence as a promising avenue of work in the future.

The Special Rapporteur on Violence against Women documented the link between sorcery-related killings and gender discrimination in her visit to PNG in 2012. While both men and women have been accused of sorcery and have fallen victim to violence, the number of women being tortured and murdered is higher than the number of men. She found that "Women are the first to be blamed and targeted when there is an unexplained death or misfortune in a family or village" and thus lived in constant fear of being accused of sorcery. The Special Rapporteur concluded that "*Gender-motivated killings of women are the final and the most serious consequence of a reality often characterized by pervasive discrimination, and acts of violence, which reflect women's subordination and perpetrators' impunity. In such contexts, women are confronted by a systematic disregard of their human rights as well as the failure of States to comply with their due diligence obligation to prevent, investigate, punish and provide compensation for all acts of violence against women.*"<sup>3</sup>

The CEDAW Committee recommended in its 2010 concluding observations on PNG "*to strengthen its awareness-raising and educational efforts, targeted at both women and men, with the support of civil society and the involvement of community and village chiefs and religious leaders, to eliminate this practice.*"<sup>4</sup> Subsequent to these recommendations at the international level, PNG has committed to taking steps to eliminate sorcery-related violence through awareness-raising programmes and law reforms. The recommendations issued by the Special Rapporteur on Torture after his visit to PNG in 2010, include "*establishing accessible and effective complaint mechanisms; and ensuring a comprehensive and structural reform of the Royal Papua New Guinea Constabulary.*"<sup>5</sup>

When PNG was reviewed under the Human Rights Council's Universal Periodic Review (UPR) in 2011, recommendations made included: to introduce and implement a comprehensive legal framework to protect women and girls against all forms of gender-based violence; to vigorously investigate all reports of sorcery-related killings to ensure that the perpetrators are brought to justice, and to develop and implement strategies, including for social and cultural change, to prevent further killings; and, finally, to undertake more effective measures to address the problems of impunity and violence against women and girls, including by strengthening law enforcement and the judicial system.<sup>6</sup>

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prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

<sup>3</sup> Special Rapporteur on Violence Against Women, Rashida Manjoo, Concept Note on Gender-related Killings of Women, New York, 8 March 2013,

[http://www.ohchr.org/Documents/Issues/Women/CSW/GenderRelatedKillingsWomen\\_ConceptNote.doc](http://www.ohchr.org/Documents/Issues/Women/CSW/GenderRelatedKillingsWomen_ConceptNote.doc).

<sup>4</sup> CEDAW Concluding Observations, CEDAW/C/PNG/CO/3, 30 July 2010, para. 28.

<sup>5</sup> Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to Papua New Guinea, A/HRC/16/52/Add.5, 7 February 2011.

<sup>6</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review - Papua New Guinea, A/HRC/18/18/Add.1, 30 September 2011, para. 43.

After examining the international human rights framework and mechanisms, a number of questions emerge: What exactly is happening in PNG through the lense of human rights law? What is the Government doing, and what has it failed to do?

Gruesome killings of women and men accused of using witchcraft have increasingly occurred in PNG during the past years. The PNG Constitution and Law Reform Commission estimated that as many as 150 people accused of sorcery are killed per year in just one of the PNG's 20 provinces.<sup>7</sup> The brutality of the assaults perpetrated against suspected sorcerers, which in many cases include harassment, maltreatment, rape, mutilations and murder, is shocking. Sorcery-related violence typically targets the most vulnerable and marginalized, often elderly, men and women with no male kin living nearby.

In response to the recent increase of sorcery-related attacks, PNG's Minister for Justice and Attorney-General, Mr. Kerenga Kua, stated: "*It has gone to a level where, I think, we have crossed the threshold in Papua New Guinea.*"<sup>8</sup> The killing of Leniata Kepari in February 2013, a sad and horrific example of what today happens nearly on a weekly basis in PNG, led to widespread public outrage.<sup>9</sup> Since February, at least nine more sorcery-related killings or attacks (including eight women) have been reported.<sup>10</sup> On 4 April 2013, human rights defender Helen Rumbali, the leader of the South Bougainville Women's Federation, was tortured and be-headed after being accused of sorcery.<sup>11</sup>

Despite the pervasive nature of violence stemming from accusations of sorcery across PNG, most acts are committed with impunity. The Special Rapporteur on Torture noted that "*violence against women appears to be socially legitimized and accompanied by a culture of silence and impunity.*"<sup>12</sup> This is coupled with the police's lack of skills, resources, and the capacity to prevent and investigate crimes related to sorcery. Police officers have stated in several incidents that they were "*unable to intervene to stop the angry mob.*"<sup>13</sup>

Historically, the response of the PNG's justice sector to violence against women has been relatively weak. Impunity is the norm.<sup>14</sup> Many women are dependent on community-based justice through village courts because of difficulty in physically accessing the formal justice system due to the distances, insufficient infrastructure, lack of resources for transport as well as access to police stations, and low levels of knowledge of their legal rights. In addition, many issues are traditionally dealt with by informal justice. According to the Special Rapporteur on Violence against Women, "[t]he Government [of PNG] has undertaken a number of legal and institutional initiatives to meet its

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<sup>7</sup> Statement by the Special Rapporteur on Violence Against Women, Rashida Manjoo, on International Women's Day, 8 March 2013.

<sup>8</sup> PACNEWS, 26 April 2013.

<sup>9</sup> A human rights group in Papua New Guinea says more than 1,000 people have marched on the streets of Buka to protest against the murder of an elderly woman accused of sorcery (<http://www.abc.net.au/news/2013-04-08/an-png-women-beheaded/4616488>).

<sup>10</sup> <http://www.islandsbusiness.com/news/papua-new-guinea/652/another-grusome-soccery-related-killing-in-png/>; <http://www.pina.com.fj/index.php?p=pacnews&m=read&o=1314311215515d01176805bb9361e3>; <http://www.bbc.co.uk/news/world-asia-22061825>; <http://www.fijitimes.com/story.aspx?id=230653>; <http://www.amnesty.org.au/action/action/31512/>.

<sup>11</sup> <http://www.telegraph.co.uk/news/worldnews/australiaandthepacific/papuanewguinea/9987294/Papua-New-Guinea-urged-to-halt-witchcraft-violence-after-latest-sorcery-case.html>; <http://www.amnesty.org.au/action/action/31512/>.

<sup>12</sup> Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to Papua New Guinea, A/HRC/16/52/Add.5, 7 February 2011.

<sup>13</sup> <http://www.amnesty.org.au/action/action/31512/>; <http://www.abc.net.au/news/2013-04-11/an-png-police-unable-to-stop-violence/4623874>.

<sup>14</sup> Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences – Mission to Papua New Guinea, A/HRC/23/49/Add.2, 13 March 2013.

*human rights obligations and address the situation of women and girls in the country. However, these have not translated into concrete improvements in the lives of the majority of women who remain marginalized, discriminated against and at high risk of being subjected to violence. [...] Other factors include economic dependency and societal reluctance to recognize numerous forms of violence against women as crimes and human rights violations that require serious attention.”<sup>15</sup> This impunity “not only intensifies the subordination and powerlessness of the targets of violence, but also sends a message to society that violence against women is both acceptable and inevitable. As a result, patterns of violent behaviour are normalized.”*

In February 2013, the Minister of Police endorsed the COMMIT Campaign to end all forms of violence against women and pledged to repeal PNG’s Sorcery Act. Yet, in spite of the commitments made at the national and international level, most cases are still not being considered by the formal justice system.<sup>16</sup>

PNG’s Sorcery Act of 1971 had acknowledged the existence of sorcery and criminalized both those who practiced it and those who perpetrated related crimes. The Special Rapporteur on Violence against Women observed that the Sorcery Act focused principally on the sorcerer as perpetrator and did not adequately address violence committed against alleged sorcerers. Hence, its mere existence legitimized the belief in sorcery as a means of harming or killing another person.

On 18 March 2013, the Constitutional Law Reform Commission (CLRC) submitted its “*Review of the law on sorcery and sorcery-related killings*” to PNG’s Minister of Justice and Attorney-General.<sup>17</sup> Following nationwide consultations, the Commission recommended repeal of the Sorcery Act which took place on May 28, 2013. Any case of assault or murder would be treated as such by the judiciary. The Office of the UN High Commissioner for Human Rights has welcomed its repeal.<sup>18</sup>

Let us now take a moment to review PNG’s obligations and commitments under international human rights law.

In 1995, PNG ratified CEDAW without any reservation. Thereby, it agreed to condemn discrimination against women in all its forms and to guarantee equal access to justice for every individual. The responsibility to prevent violence, protect against violence, provide remedies for victims, and to punish perpetrators for all acts of violence against women, is primarily an obligation of the State as the ultimate duty bearer. The CEDAW Committee urged PNG in its concluding observations in 2010 “*to take immediate and effective measures to investigate the incidences of torture and killings of women and girls, especially old women, based on accusations of witchcraft or sorcery, to prosecute and punish the perpetrators of such acts and to prevent their reoccurrence in the future.*”<sup>19</sup>

In 2008, PNG ratified the ICCPR which sets forth the most crucial rights in relation to sorcery-related violence, namely, as mentioned, the right to life, to non-discrimination, to liberty and security of

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<sup>15</sup> Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences – Mission to Papua New Guinea, A/HRC/23/49/Add.2, 13 March 2013.

<sup>16</sup> Chandler, Jo, “It’s 2013 and They’re Burning ‘Witches’”, The Global Mail, 15 February 2013 (<http://www.theglobalmail.org/feature/its-2013-and-theyre-burning-witches/558/>).

<sup>17</sup> <http://www.pina.com.fj/index.php?p=pacnews&m=read&o=19819949105146ae2eb9e0d7b3738>.

<sup>18</sup> <http://www.abc.net.au/news/2013-04-11/an-png-police-unable-to-stop-violence/4623874>.

<sup>19</sup> CEDAW Concluding Observations, CEDAW/C/PNG/CO/3, 30 July 2010, para. 28.

person, to dignity, to effective remedies, to access to justice, and to not be subjected to torture. According to the Human Rights Committee's General Comment No. 20, the prohibition of torture (ICCPR Art. 7) implies, "*the duty of the State party to afford everyone protection through legislative and other measures [...] The Committee notes that it is not sufficient for the implementation of article 7 to prohibit such treatment or punishment or to make it a crime. States parties should inform the Committee of the legislative, administrative, judicial and other measures they take to prevent and punish acts of torture and cruel, inhuman and degrading treatment in any territory under their jurisdiction.*" PNG gave the prohibition of torture a prominent position in its Constitution (section 36). This, however, was not reflected in PNG's ordinary law, which contains no explicit definition of the crime of torture or other cruel, inhuman or degrading treatment. PNG needs to step up and make further commitments to ensure accountability of the perpetrators of sorcery-related crimes. Such steps would enhance PNG's compliance with international standards and principles. Measures need to be taken to domesticate international human rights standards and to enforce existing legislation.

On 15 February and 12 April 2013, the UN system in PNG issued press releases condemning the attacks and killings related to sorcery that were increasingly occurring throughout the country.<sup>20</sup> The mostly vigilante killings of persons accused of practicing sorcery constitute murder and should thus be pursued through the judicial system as a priority concern. OHCHR has repeatedly urged the PNG Government to take action to protect its population from sorcery-related attacks. Further, it has called for 'due diligence' in the handling of sorcery-related cases in order to prevent incidents, protect individuals, investigate and prosecute cases, and provide remedy and services to the victims of these violations. The UN strongly advocates that cultural and traditional beliefs can never be used to justify murder, torture or brutal attack.

The Regional Office of OHCHR in the Pacific has been advocating against impunity for gender-motivated killings, especially by strengthening capacities of national actors. The Regional Office is currently working on a study on sorcery-related violence in PNG, and has supported a women's human rights defenders network in the PNG Highlands over the past years. This initiative aimed at enhancing their skills and expertise in monitoring and documenting cases of human rights violations, particularly in cases involving sorcery accusations. The network provides advice and counselling for women victims of violence, refers survivors to the police and to other service providers, and accompanies women during judicial processes. I am pleased that representatives from this network are here in Canberra with us to present their work and the challenges they face. The Regional Office is working on increasing the visibility of these human rights violations at the international level through high-level advocacy.

In conclusion, sorcery-related killings are culturally embedded and tolerated in PNG, while the State responsibility to protect every individual against interference with his/her rights by others, and to act with 'due diligence' is largely lacking. As a result, PNG needs to take further steps to meet its obligations under international law. As already noted in previous statements of OHCHR, it is my hope women's access to justice is strengthened through judicial reform and the provision of legal aid to women. Yet the great danger involved in public outcry to sorcery-related killings is the re-introduction of unacceptable measures of punishment, namely the death penalty. According to the Special Rapporteur on Extrajudicial, Summary or Arbitrary executions, "*While accountability and punishment is important in the context of the above gender-based killings, it is not clear that*

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<sup>20</sup> Statement by United Nations PNG on Extrajudicial Killings, 12 April 2013.

*increasing the punishment, however severe, will lead to prevention.*”<sup>21</sup> PNG’s laws and international as well as national commitments in relation to such crimes must be coupled with accountability and serious investigations into these violent acts. Thus, the enforcement of legislation that prohibits all forms of gender-based violence is the key to ending sorcery-related violence.

From OHCHR’s perspective, the protection needs of the victims and their families, notably investigation and prosecution of perpetrators, the provision of medical and psychosocial treatment as well as relocation to a safe place, and gender-sensitive remedies for the victims, must immediately be addressed.. Developing a multi-pronged, holistic approach to prevent sorcery-related violence is another urgent need. Both the individual needs of women, and the social, economic and cultural barriers that are the root cause of the phenomenon of sorcery-related violence need to be confronted. Addressing the systemic discrimination, oppression and marginalization of women at the political, judicial and community level is essential, through education, awareness raising and sensitisation programmes for the police, judiciary and general public; and by prosecuting these crimes in the courts.<sup>22</sup>

This conference can serve as a catalyst and a call to action in the international fight against sorcery-related violence.

*“Violence against women is one of the most pervasive violations of human rights. And yet the authorities responsible for protection and prosecution too often meet such acts with indifference.”*  
(Navi Pillay, Statement on International Women’s Day 2013)

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<sup>21</sup> Christof Heyns, UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Press Statement - Country Mission to India, 19 – 30 March 2012, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12029&LangID=E>.

<sup>22</sup> See Statement by OHCHR Pacific on International Women’s Day, 8 March 2013.