

# PAPUA NEW GUINEA

## EXECUTIVE SUMMARY

Papua New Guinea is a constitutional, federal, multiparty, parliamentary democracy. On August 2, Peter O'Neill was elected prime minister when the speaker of Parliament declared the premiership vacant due to the prolonged illness and absence of former prime minister Sir Michael Somare. On December 12, the Supreme Court declared O'Neill's election unconstitutional and restored Somare as prime minister. On the same day Parliament disqualified Somare as a member of Parliament (MP) and reelected O'Neill as prime minister. 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 arbitrary or unlawful killings by police; 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, and 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 any politically motivated killings; however, police killed a number of persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. However, public concern about police violence persisted.

In October 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. On December 8, 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 no investigation was conducted and no charges brought against any officers.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices; however, 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. On June 29, the Supreme Court introduced human rights rules to fast track human rights cases through the justice system by making it easier for the public to begin court proceedings.

In May 2010 the UN special representative on torture, Manfred Nowak, visited the country on a fact-finding mission at the invitation of the government. He reported systemic beatings of detainees by police upon arrest and within the first hours of detention, including during interrogation. He also reported severe punishment of prison escapees that he characterized as amounting to torture, including brutal beatings with bush knives and gun butts, shooting detainees at close range, and cutting detainees' tendons with axes and bush knives after they were apprehended with the intent of disabling them. He further reported that the victims usually were kept in cells without any medical treatment, a practice that occasionally led to their deaths.

### **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. In 2011 Australian assistance continued toward upgrading these facilities. Two prisons--in Tari, Southern Highlands, and Daru, Western Province--remained closed during the year due to tribal conflicts and unresolved health

issues, respectively. Neither prisons nor police detention centers had proper medical care facilities.

Overcrowding in prisons and police cells remained a serious problem in some facilities. 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

At year's end there were 4,134 inmates, with overcrowding existing in some of the prisons. Of the total number of inmates, almost one-third were pretrial detainees. There were a total of 259 female inmates. Within the inmate population, there were 2840 convicted prisoners, 1140 pretrial detainees, and 154 male juveniles -- consisting of 90 convicted prisoners and 64 pretrial detainees.

In some areas infrequent court sessions, slow police investigations, and bail restrictions for certain crimes continued to exacerbate overcrowding.

Male and female inmates usually were held separately, but some rural prisons lacked separate facilities, and there were reports in the past of assaults on female prisoners. Pretrial detainees were held 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 five 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 juveniles routinely were held with adults in police detention cells, where they were often assaulted by older detainees. Police denied juvenile court officers access to police cells.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted 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 Ombudsman Commission was mandated 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.

The government permitted monitoring visits by independent human rights observers, but no visit was made 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 commissioner who directs the national police force reports to the minister for internal security. 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.

Police shootings are investigated by the police department's Internal Affairs Office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. 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's Office. 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 colleagues involved in shootings; and public fear of retribution from police, resulting in a lack of credible witnesses coming forward.

An Ombudsman Commission deals specifically with public complaints and concerns about members of the police force.

#### **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 in the course of 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: 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. Some detainees were held in jail 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 in practice.

#### **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. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to an attorney. The Public Solicitor's Office 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. District courts may order "good behavior bonds," commonly called "protection orders," in addition to ordering that compensation be paid for violations of human rights. However, courts had difficulty enforcing judgments. In addition, many human rights matters were handled by village courts, which were largely unregulated. 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**

The constitution prohibits such actions; however, 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.

At year's end there was no further information on the status of a 2009 lawsuit filed by landowners in Porgera against the police, charging that, during an operation against alleged illegal mining and criminal activity in the area, police also destroyed more than 300 homes of legal residents.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

##### **Status of 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; however, newspaper editors complained of intimidation tactics aimed at influencing coverage.

##### **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. 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**

#### **Freedom of Assembly**

The constitution provides for freedom of assembly; however, the government often limited this right in practice. Public demonstrations require police approval and 14 days' notice. Asserting a fear of violence from unruly spectators, police rarely gave approval.

#### **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/irf/rpt](http://www.state.gov/j/irf/rpt).

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

The constitution provides for freedom of movement within the country, 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 laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum.

Durable Solutions: In February during a special operation headed by the police, approximately 170 illegal border crossers who lacked proper documentation--including men, women and children from West Papua--were peacefully repatriated from Vanimo, West Sepik Province, following a police sweep of seven suspected Operesi Papua Merderka camps.

Registered refugees residing in the East Awin refugee settlement were granted 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.

On April 4, Deputy Prime Minister Sam Abal was appointed acting prime minister after then Prime Minister Michael Somare was found guilty of tax-related offenses (see section 4). On August 2, Peter O'Neill was elected prime minister when the speaker of Parliament declared the premiership vacant due to Somare's prolonged illness and absence. On December 12, the Supreme Court declared O'Neill's election unconstitutional and restored Somare as prime minister. On the same day Parliament amended the legislation to disqualify Somare as a member of Parliament for the second time and reelected O'Neill as prime minister. A political impasse ensued when the governor general failed to recognize O'Neill and instead swore in Somare's minority government. On December 21, the governor general reversed his earlier decision, citing flawed legal advice, and recognized O'Neill as prime minister based on Parliament's decision of December 12. At year's end Somare maintained that he was still the rightful prime minister despite having a

minority government and indicated he was seeking further clarification from the courts.

### **Elections and Political Participation**

Recent Elections: The most recent general election was held in 2007. Bribery, voter intimidation, and undue influence were widespread in some parts of the country during the election. After the election the National Court registered 53 election petitions that alleged illegal practices: by year's end, 33 petitions had been dismissed and 14 withdrawn. Two by-elections and four judicial recounts were ordered.

In May 2010 presidential and parliamentary elections were held for the government of the autonomous Bougainville Province. International observers deemed the elections generally free and fair.

Political Parties: Political parties could operate without restriction or outside influence. In February 2010 the governor of the National Capital District launched a new political party, the United Democratic Front, with a stated goal of fighting government corruption.

Participation of Women and Minorities: There is no law limiting political participation by women, but the deeply rooted patriarchal culture impeded women's full participation in political life. There was one woman in the 109-seat Parliament. She served as minister of community development until August 2, when the government changed, and was reappointed to the position after the Supreme Court decision on December 12 restoring Sir Michael Somare as prime minister. There were no female provincial governors. Unlike in previous years where there was only one female judge, as of March 18, there were three female judges of the National and Supreme courts. All judges sit on both courts.

On November 23 Parliament passed a bill for a constitutional amendment to allow for up to 22 reserved seats for women in Parliament. At year's end Parliament had yet to muster the required two-thirds majority vote required to allow for amendments to other related laws to determine the number of reserved seats and entitlements of those occupying the seats.

There were six minority (non-Melanesian) MPs. Of these, one was in the cabinet, and three were provincial governors.

#### **Section 4. Official Corruption and Government Transparency**

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

In September the government filed corruption charges against the former minister for national planning, Paul Tientsen, for misappropriation of funds, conspiracy to defraud the state, and abuse of office. Tientsen fled to Australia but returned and was arrested in November. He was re-arrested 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.

In June 2010 Finance Minister Patrick Pruaitch was suspended 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 and the suspension was overturned and he was reinstated as Minister for Finance and Treasury until August 2, 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.

On November 3, the National Court dismissed charges against the operations chief of the National Capital District, Andy Bawa, who was then reinstated.

A trial remained pending in the case of MP Tonny Puana, who in November 2010 was arrested and charged with misappropriation of funds and false pretenses.

Public officials are subject to financial disclosure laws as stipulated in the leadership code of conduct. The Ombudsman Commission, Leadership Tribunal, and Public Accounts Committee are key organizations responsible for combating government corruption.

On March 21, a leadership tribunal made up of three foreign judges found former prime minister Sir Michael Somare guilty of 13 counts of filing late and for turning

in incomplete financial returns to the Ombudsman Commission. Somare was suspended from office without pay from April 4-18. He did not return to office following his suspension due to his prolonged health condition. He was replaced as prime minister in August and was dismissed as an MP in September.

In April 2010 Parliament took a preliminary vote to pass an amendment to the constitution that removes the power of the Ombudsman Commission to issue directives to individuals and organizations to preserve and uphold the conduct of public office holders. The Ombudsman Commission had used this power to issue directives preventing payments from public funds to officeholders it believed were using such funds improperly. A final vote on the bill proposing the amendment had not taken place by year's end.

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. The government did not act on the commission's 2009 report, which concluded that then prime minister Somare was complicit in illegal government actions in arranging the 2006 repatriation of a former Solomon Islands attorney general, who was facing criminal charges in Australia.

### **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, 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. 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 their unresponsiveness to complaints of sexual or domestic violence deterred reporting by both women and men. Traditional village mores, which 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 even worse outside the capital.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was customary, an increasing number of women were charged 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 is 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. Access in practice to contraception and adequate prenatal, obstetric, and postnatal care 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.

Discrimination: Although laws have provisions for extensive rights for women dealing with family, marriage, and property disputes, gender discrimination existed at all levels. Although some women have 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 is 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. By law a district court must 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 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.

According to statistics published by the UN Educational, Social, and Cultural Organization, women continued to lag behind men in literacy and education; 53 percent of women were literate, compared with 62 percent of men. The Ministry of Community Development, Religion and Family Affairs was responsible for women's issues and had considerable influence over the government's policy toward women.

## **Children**

Birth Registration: Citizenship is derived through birth to a citizen parent.

Education: Primary education was not free, compulsory, or universal. Substantial fees were charged and posed a significant barrier to children's education. Many children did not progress further than primary school. With foreign funding assistance, the government abolished school fees for students in grades one and two in an effort to increase primary school enrollment.

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.

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. There were cases of commercial sexual exploitation of children in urban areas, including minors working in bars and nightclubs. 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, 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.

Through the National Board for the Disabled, the government granted funds to a number of nongovernmental organizations 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. The number of deaths resulting from such conflicts continued to rise due to the increased availability of modern weapons.

On September 30, 15 people were killed during a tribal clash between the Agarabi and Kamano tribes of the Eastern Highlands Province. Police said guns and knives were used in the fighting and a whole settlement was burned to the ground. On October 19 police reported that seven people had been gunned down and several others wounded in a tribal fight in Enga province as a result of an ongoing conflict between two tribes from the Porgera area, which has claimed numerous lives and led to the destruction of property over the last few years.

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

Sodomy and acts of "gross indecency" between male persons are illegal. The maximum penalty for sodomy is 14 years' imprisonment, and for acts of gross

indecenty 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.

### **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 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 October three men were tortured and killed by villagers in the Pangia District in the Southern Highlands Province for allegedly using sorcery to kill a young man. In December six people in the West Sepik Province were killed after being accused of witchcraft and sorcery.

In December, upon completion of a review of the Sorcery Act of 1971, the Constitutional and Law Reform Commission recommended to Parliament that the act be repealed by the end of 2012. The government had ordered the review in 2009.

## **Section 7. Worker Rights**

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

The law provides for 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. Workers in the informal sector are not covered by these laws.

The law requires that unions register with the Department of Labor and Industrial Relations (DLIR). Although the law provides for the right to strike for workers, the government may and often did intervene in labor disputes to require 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.

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.

Workers in both the public and private sectors engaged in collective bargaining. The DLIR and the courts are 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. In July 2010 the International Transport Workers' Federation (ITF) reported that members of the ITF-affiliated Papua New Guinea Maritime and Transport Workers' Union employed by the fishing company *Frabelle* reportedly were told by their employer that they would lose their jobs unless they agreed to sign a petition giving up their union membership.

## **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.

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, the minimum age is 18. However, 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.

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/ocft/tda/htm](http://www.dol.gov/ilab/ocft/tda/htm).

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

The minimum wage was 100.80 kina (approximately \$41.06) 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. 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.

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.

Workers' ability to remove themselves from hazardous working conditions depended on their workplace. Unionized workers had some measure of protection in such situations. The law protects legal foreign workers but many illegal foreign workers lacked full legal protection and were vulnerable to exploitation and abuse. Informal sector workers were similarly excluded.